

PART E

**GUIDANCE
AND
PROTOCOLS**

WEST DORSET DISTRICT COUNCIL

**CODE OF CONDUCT FOR COUNCILLORS
AND CO-OPTED MEMBERS**

Introduction

1. The Council has a duty under Section 27(1) of the Localism Act 2011 to promote and maintain high standards of conduct by its Members and co-opted Members.
2. Under Section 27(2) of the Localism Act the Council in discharging this duty must adopt a Code of Conduct dealing with the conduct that is expected of Council Members and co-opted Members when acting in that capacity (i.e. conducting the business of and representing the Council).
3. This Code was adopted by the Council on the 5th day of July 2012.
4. To comply with Section 28(1) of the Localism Act the Code must be viewed as a whole to be consistent with the principles set out in Appendix A (these include the specific seven principles set out in the Act).
5. In addition to all of the Council's policies protocols and other procedures relating to the conduct of Members they must also comply with the following.
 - (1) You must treat others with respect.
 - (2) You must not –
 - (a) do anything which may cause your Council 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, your 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 –
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the council; or
 - (b) prevent another person from gaining access to information to which that person is entitled by law.
6. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or council into disrepute.
7. 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 council –
 - (i) act in accordance with your council's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
8. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by –
- (a) your council's chief finance officer; or
 - (b) your council's monitoring officer,
- whether that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.
9. The Council's Monitoring Officer is required under Section 29 of the Localism Act to establish and monitor a register of members interests. Members must notify the Monitoring Officer of the following interests to be entered in the Council's Register. (see Appendix D)

10. Disclosable Pecuniary Interests – This is an interest prescribed in Regulations made by the Secretary of State under Section 30(3) of the Localism Act and set out in Appendix B.
11. Disclosable interests other than Pecuniary Interests and Hospitality & Gifts – Detailed information about these interests must be disclosed and are set out in Appendix C.
12. Any complaint received by the Monitoring Officer alleging misconduct by a Member under the Code will be considered by the Council's Standards Committee in accordance with arrangements under Section 28(6) of the Localism Act.
13. This Code will be kept under review by a Committee with a scrutiny roles which will make recommendations to the Council of any revisions to the Code as it considers necessary from time to time.
14. To the extent it is permitted by law, the Chief Executive may upon receipt of a written request grant a dispensation in relation to a restriction against participation / voting arising under the Member Code of Conduct in accordance with such procedure as the Monitoring Officer may from time to time adopt for this purpose (if any).

APPENDIX A

THE 10 GENERAL PRINCIPLES OF PUBLIC LIFE

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honest and Integrity

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their Authority, and should be prepared to give reasons for those actions.

Personal Judgement

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

7. Members should promote equality by not discriminating unlawfully for example against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the Authority's statutory officers, and its other employees.

Duty to Uphold the Law

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

10. Members should promote and support these principles by leadership and by example, and should always act in a way that secures or preserves public confidence.

APPENDIX B

DISCLOSURE BY MEMBERS OF PECUNIARY INTERESTS THE RELEVANT AUTHORITIES (DISCLOSABLE PECUNIARY INTERESTS) REGULATIONS 2012

1. In these regulations -

“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;

“M” means the person M referred to in section 30 of the Act;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) of the Act;

“relevant person” means M 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(b) and other securities of any description, other than money deposited with a building society.

Specified pecuniary interests

2. The pecuniary interests which are specified for the purposes of section 30(3) of the Localism Act 2011 are the interests specified in the Schedule to these Regulations.

SCHEDULE

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment of financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (a).</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
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 the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to M's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(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 the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class</p>

APPENDIX C

DISCLOSURE BY MEMBERS OF OTHER INTERESTS, HOSPITALITY & GIFTS, POSITIONS OF CONTROL OR MANAGEMENT (NON PECUNIARY INTERESTS)

The Member shall declare membership of or hold position of general control or management in the following bodies:

- (i) Bodies to which they have been appointed as a representative of West Dorset District Council Parish Council / Town Council:
- (ii) Public authorities or bodies exercising functions of a public nature:
- (iii) Companies, industrial and provident societies, charities or bodies directed to charitable purposes:
- (iv) Bodies whose principal purposes include the influence of public opinion or policy:
- (v) Trade unions or professional associations:

DECLARATION OF GIFTS & HOSPITALITY

The Member must reveal the name of any person or organisation from whom they have received a gift or hospitality with an estimated value of at least £50 which they have received in their capacity as a member of the Local Authority.

The Details required are:

Date / Receipt of Gift / Hospitality

Name of Donor

Reason and Nature of Gift / Hospitality

APPENDIX D

DISCLOSURE OF INTERESTS AND REGISTRATION OF MEMBERS INTERESTS

Disclosure of interests

If you as a member or co-opted member of the District Council are present at a meeting of the full District Council, any Committee, Sub Committee, Joint Committee or the Executive and have a disclosable pecuniary interest in any matter to be considered you must:-

- If the interest is not entered in the District Council's register, disclose the interest to the meeting (subject to the provisions on sensitive interests below).
- If the interest is not entered in the District Council's register and is not the subject of a notification already made to the Monitoring Officer, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
- You may not participate in any discussion of the matter at the meeting or participate in any vote taken on the matter at the meeting (unless you have obtained a dispensation).
- The District Council is adopting a procedure rule (Standing Order) to provide for the exclusion of a member or co-opted member from a meeting while any discussion or vote takes place in which you may not participate.

In accordance with the Localism Act 2011, an offence is committed if without reasonable excuse you fail to comply with any of the obligations regarding members' interests. An offence is also committed if you provide information that is false or misleading (knowingly or recklessly as to whether the information is true). The offence can be prosecuted by or on behalf of the DPP and can attract, if there is a conviction, a fine not exceeding level 5 on the standard scale.

Registration of members' interests

- (1) The Monitoring Officer must establish and maintain a register of both disclosable pecuniary interests and non-pecuniary interests of members and co-opted members of the District Council. This will be made available for inspection at all reasonable hours and be published on the website. A member or co-opted member of the District Council must, before the end of 28 days from the day they become a member, notify the Monitoring Officer of any disclosable pecuniary interests or non-pecuniary interests existing at that time. You, as a member, have a disclosable pecuniary interest if it is of a description specified in the Regulations and is either:-
 - Your interest or an interest of:-
 - Your spouse or civil partner;
 - A person with whom you are living as husband and wife; or
 - A person with whom you are living as if you are civil partners and you are aware of that other person's interest.
- (2) You as a member have a disclosable non-pecuniary interest if it is of a description specified in Appendix C.
 - (1) You are required to provide notice in writing (this will include an e-mail) to the Monitoring Officer who will acknowledge receipt in writing and confirm that the interest is being entered into the register.

Sensitive interests

Where a member or co-opted member of the District Council has an interest (whether or not it is a disclosable pecuniary interest) and the nature of the interest is such that the member and the Monitoring Officer consider the disclosure could lead to the member or a person connected with the member being subject to violence or intimidation, special rules apply to registration of the interest. The elements of the register of interests that are in the public domain must not include details of the interest but will instead refer to the details being withheld in accordance with section 32 of the Localism Act and if there is a need to disclose the interest at a meeting, the disclosure is limited to a statement that the member has a disclosable pecuniary interest, but without further details being given.

Member Complaint Process

The Code Of Conduct Complaints Process

Interpretation

Reference to:

- (a) "the Monitoring Officer" shall mean the person appointed to the post of Monitoring Officer or any other officer nominated by him to undertake code of conduct complaints
- (b) "Head of Paid Service" shall mean the person(s) appointed to the post of head of paid service or any other officer nominated by him to undertake determinations relating to code of conduct complaints
- (c) "Complaint" means a complaint received by the Council in relation to the Council's Member Code of Conduct or any other complaint relating to a councillor of a town or parish council which the Monitoring Officer considers to relate to that council's adopted code of conduct

Procedure

1. New Complaint arrives.
2. If the Complaint is considered by the Monitoring Officer to be relevant to the appropriate code of conduct the Monitoring Officer shall usually notify both the complainant and the person the subject of the complaint; provided that in the event that the Complaint relates to a matter that might give rise to a criminal prosecution including in particular disclosable pecuniary interests, then the Complaint will be normally be referred to the police for possible investigation.
4. The Head of Paid Service shall determine if the Complaint is to be investigated. For the purposes of determining whether a Complaint should be investigated the Head of Paid Service may in particular take into account whether the Complaint is considered frivolous or vexatious and/or whether the matter is being referred to the police.
5. Where the Complaint is to be investigated, the Monitoring Officer shall investigate and prepare a report (only the complainant and relevant party complained of will normally be interviewed).
6. A draft of the report with recommendation shall be sent to the parties and the Independent Person for comments and the Chairman of Full Council, or if the Monitoring Officer considers this might be inappropriate having regard to the Complaint / the Chairman is unavailable, then to either of the leader of the largest political party of the Council or the leader of the second largest political party (as the Head of Paid Service considers appropriate), or if the Monitoring Officer considers that neither of these would be appropriate / are unavailable then such other Member as the Monitoring Officer identifies; for comments. The Monitoring Officer shall determine the appropriate process and appropriate timescale for responses to be provided.
7. The final report shall be submitted to the Head of Paid Service for decision. No right for further comment after submission of the final report will normally be available.
8. There shall be no right to make oral or direct representations to the Head of Paid Service. The Head of Paid Service may allow a mechanism for oral or direct representation to him but only if first recommended by the Monitoring Officer.

9. The Head of Paid Service shall determine the Complaint. There shall be no automatic right of appeal against the decision of the Head of Paid Service. In exceptional circumstances only, the Monitoring Officer after considering written representation and after consultation with the Head of Paid Service may direct an appeal should take place against the decision made. In such rare cases, the appeal will be heard by another member of the Strategic Leadership Team. The process of any appeal will be the same as that for the original Complaint. The outcome of any appeal will be final.
10. A letter shall be sent to the complainant and person, the subject of the complaint, with confirmation of the decision and whether a sanction is to be imposed. In the event of a breach of the Code being determined against a Member, the sanction may include that Member being asked to apologise to the complainant in writing. In relation to a complaint relating solely to Parish/ Town Council councillor, if the Chief Executive decides there has been a breach of the Code the case at that point will be referred back to the Town or Parish Council to decide whether any sanction should be imposed against the Councillor concerned.
11. No press notice will normally be issued in relation to a decision but a copy of the decision notice will be placed on DorsetForYou. The Head of Paid Service may as a consequence of a decision refer the matter to Full Council or such other body/ person as s/he considers relevant with such recommendation as s/he considers appropriate.
12. The timetable for undertaking an investigation in relation to a complaint under this process will normally be 60 working days. The Monitoring Officer will usually seek to advise the complainant in writing in the event that this time may be exceeded.

Officer and Member Protocol

1. Introduction and Principles

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.
- 1.3 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.
- 1.4 It also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.5 This Protocol is a local extension of the Members' and Employees' Codes of Conduct. Consequently, a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 1.6 This Protocol should be read in conjunction with the Members' and Employees' Codes of Conduct, the Council's Constitution and any guidance issued by the Monitoring Officer.

2. The Relationship: General Points

- 2.1 Both Members and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council, its Committees and Sub-Committees.
- 2.2 At the heart of the Code, and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.
- 2.3 Inappropriate relationships can be inferred from language/style. To protect both Members and Officers, Officers should address Members as 'Councillor XX' save where circumstances clearly indicate that a level of informality is appropriate.

- 2.4 A Member should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with the objectives of this Protocol. This is a long-standing tradition in public service. An Officer has no means of responding to such criticisms in public. If a Member feels s/he has not been treated with proper respect, courtesy, or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, s/he should raise the matter with the a relevant Manager, Head of Service or Corporate Manager who will then look into the facts and report back to the Member. If the Member continues to feel concern, then s/he should report the facts to the Strategic Director / Assistant Chief Executive who heads the Directorate concerned, or if, after doing so, is still dissatisfied, should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint, will be in accordance with the provisions of the Council's Employment and Disciplinary Procedure Rules.
- 2.5 An Officer should not raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of a Section or Directorate at or in a manner that is incompatible with the overall objectives of this Protocol.
- 2.6 Where an Officer feels that s/he has not been properly treated with respect and courtesy by a Member, s/he should raise the matter with his/her Manager, Strategic Director / Assistant Chief Executive or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Manager, Strategic Director / Assistant Chief Executive or Chief Executive will take appropriate action either by approaching the individual Member and/or group leader or by referring the matter to the Monitoring Officer.

3. The Relationship: Officer Support to Members: General Points

- 3.1 Officers are responsible for day-to-day managerial and operational decisions within the Council and will provide support to all Councillors in their areas.
- 3.2 Certain statutory officers – the Chief Executive, the Monitoring Officer and the Section 151 Officer – have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members.
- 3.3 The following key principles reflect the way in which the Officers generally relate to Members.
- all Officers are employed by, and accountable to the authority as a whole;
 - support from Officers is needed for all the Council's functions including Full Council, Overview and Scrutiny, individual Members representing their communities etc;
 - day-to-day managerial and operational decisions should remain the responsibility of the Chief Executive and other Officers; and
 - all Officers will be provided with training and development to help them support the various Member roles effectively and to understand the new structures.
- 3.4 On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Member or Members. It must be recognised that it is the Officer, rather than the Member or Members, who takes the action and it is the Officer who is accountable for it.

3.5 Finally, it must be remembered that Officers within a Directorate are accountable to their Manager and their Strategic Director / Assistant Chief Executive and that whilst Officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Manager or Strategic Director / Assistant Chief Executive.

4. The Relationship: Officer Support: Members and Party Groups

4.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.

4.2 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.

4.3 The support provided by Officers can take many forms. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.

4.4 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

4.4.1 Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not present at meetings or parts of meetings, when matters of party business are to be discussed;

4.4.2 party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and

4.4.3 Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.

4.5 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Member Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, Officers may not attend and/or give advice to such meetings.

4.6 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.

- 4.7 Whilst any Member may ask a relevant Manager, Strategic Director/ Assistant Chief Executive or the Chief Executive for written factual information about a Directorate or service, such requests must be reasonable and not seek information relating, for instance, to case work of a similar nature, e.g., employment etc. Requests will be met subject to any overriding legal considerations (which will be determined by the Corporate Manager – Legal (or such other Officer as he may nominate for such a purpose) or if the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If a Member requesting such information is dissatisfied by such a response, s/he should raise the matter in the first place with the relevant Director, and if still dissatisfied should raise the matter with the Chief Executive who will discuss the issue with the relevant Group Leader(s).
- 4.8 In relation to budget proposals:
- (a) the Administration shall be entitled to confidential discussions with Officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of Committee/Council meetings, whichever is the earlier; and
 - (b) the opposition groups shall also be entitled to confidential discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee/Council meetings, whichever is the earlier.
- 4.9 It must not be assumed by any party group or Member that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.
- 4.10 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

5. The Relationship: Officer Support: Overview and Scrutiny

- 5.1 It is not Overview and Scrutiny's role to act as a disciplinary tribunal in relation to the actions of Members or Officers. Neither is it usually the role of Officers to become involved in what would amount to disciplinary investigations on behalf of a Council body. In most cases, this is the Chief Executive's function alone in relation to staff and the Monitoring Officer's role as regards the conduct of Members. This means:
- Overview and Scrutiny's questioning should be used to establish the facts about what occurred in the making of decisions or in the implementation of Council policies. However, questioning should not be directed towards the conduct of individual Members with the intention of allocating criticism or blame;
 - In these circumstances, it is for the Chief Executive to institute a formal enquiry, and Overview and Scrutiny may ask (but not require) him to do so.

- 5.2 Overview and Scrutiny should not act as a ‘court of appeal’ against decisions or to pursue complaints by individuals (Councillors, Officers or members of the public) as other procedures exist for this. These are internal, e.g. the Corporate Complaints Procedure, and external/statutory, e.g. Local Government Ombudsman or appeal to the Courts. That said,
- Overview and Scrutiny may investigate the manner in which decisions are made but should not pass judgements on the merits of a decision in individual cases;
 - they can comment, however, on the merits of a particular policy affecting individuals.
- 5.3 It would be unfair to invite someone to appear before an Overview and Scrutiny Committee without telling them in general terms what they will be asked, or not giving them adequate time to prepare. Overview and Scrutiny ought to provide written questions (‘Indicative Topics’) beforehand, so that the answers can form the basis of the questioning and discussion. In addition, speakers ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Overview and Scrutiny Committee had previously indicated.
- 5.4 Further information in relation to the exercise of functions by the Overview and Scrutiny Committee can be found in the Overview and Scrutiny Procedure Rules in Part B of this Constitution.

6. Support Services to Members and Party Groups

- 6.1 The only basis on which the Council can lawfully provide support services (e.g., stationery, typing, printing, photocopying, transport etc) to Members is to assist them in discharging their public duties as elected members. Such support services should never be used for private purposes or in connection with party political activity other than the business of recognized political groups within the Council.

7. Members’ Access to Information and to Council Documents

- 7.1 Members are to have the ability to ask for information pursuant to their legal rights to information. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council’s activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Manager or another senior Officer of the Directorate concerned. In cases of doubt, Members should approach the Corporate Manager - Legal for assistance.
- 7.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 7.3 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted by the Council. This right applies irrespective of whether the Member is a Member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items which may appear as a restricted item on the agenda for a meeting. The items in question are those which contain confidential or exempt information, e.g. relating to employees, occupiers of Council property, applicants for

grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations.

- 7.4 The common law rights of Members remains intact, are much broader and are based on the principle that any Member has a prima facie right to inspect Council documents so far as his/her access to the document is reasonably necessary to enable the Members to properly perform his/her duties as a Member of the Council. This principle is commonly referred to as the 'need to know' principle.
- 7.5 The exercise of this common law right depends, therefore, upon an individual Member being able to demonstrate that s/he has the necessary 'need to know'. In this respect a Member has no right to 'a roving commission' to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the 'need to know'. This question must initially be determined by the particular Manager whose Directorate holds the document in question (with advice from the Legal Services Unit). In the event of dispute, unless the law otherwise requires the question shall be determined by the Strategy Committee
- 7.6 In some circumstances (e.g. a Committee Member wishing to inspect documents relating to the business of that Committee) a Member's 'need to know' will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) the Member will normally be expected to justify the request in specific terms. Furthermore, there will be a range of documents which, because of their nature are either not accessible to Members or are accessible only by the political group forming the administration and not by other political groups. An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft Committee reports, the disclosure of which prematurely might be against the Council's and the public interest.
- 7.7 Whilst the term 'Council document' is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a 'need to know' and therefore, a right to inspect, a document which forms part of the internal workings of another party group.
- 7.8 Further advice regarding Members rights to inspect Council documents are contained in the Access to Information Procedure Rules in Part B of this Constitution.
- 7.9 Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as a Member of the Council. Therefore, for example, early drafts of Committee reports/briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied. This point is covered by paragraph 7 of the Member Code of Conduct in relation to confidential documents:

'You must not –

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 –

- (a) you have the consent of a person authorised to give it;
- (b) you are required by law to do so;

- (c) 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
- (d) the disclosure is –
 - (i) reasonable and in the public interest; and
 - (ii) made in good faith and in compliance with the reasonable requirements of the Council.

8. Correspondence

- 8.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of ‘silent copies’ should not be employed.
- 8.2 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain limited circumstances (e.g., representations to a Government Minister) for a letter to appear in the name of a Portfolio Holder or the Leader, but this should be the exception rather than the norm. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member

9. Publicity and Press Releases

- 9.1 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors and council tax payers. In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council’s activities is, in the words of the Government, to be welcomed.
- 9.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code is issued under the provisions of the Local Government Act 1986 as amended by the Local Government Act 1988 as amended which provides for the Secretary of State to issue Codes of Recommended Practice as regards the content, style, distribution and cost of local authority publicity, and such other matters as s/he thinks appropriate. That section requires that all local authorities shall have regard to the provisions of any such Code in coming to any decision on publicity.

9.3 Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, Officers and/or Members should initially seek advice from the Communications Unit who will refer the matter to the Legal Services Unit, if necessary/appropriate. Particular care should be paid to any publicity used by the Council around the time of an election. Particular advice will be given on this by the Legal Services Unit and / or the Monitoring Officer as appropriate.

10. Involvement of Ward Councillors

10.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. More generally, Officers should consider whether other policies or briefing papers, should be discussed with relevant Ward Members.

11. Conclusion

11.1 Mutual understanding, openness on these sort of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Members and Officers.

11.2 Questions of interpretation of this Protocol will be determined by the Corporate Manager - Legal and Monitoring Officer.

PROTOCOL – MONITORING OFFICER

1. The Monitoring Officer undertakes to discharge his responsibilities outlined in this paper with determination and a manner which will enhance the reputation of the Council. In general terms his ability to discharge these duties depends on excellent working relations with colleagues and Members but also the flow of the information and access to debate particularly at early stages.
2. The following arrangements and understandings between Monitoring Officers and colleagues and members are designed to help ensure the effective discharge of their functions:
 - (a) If not a member of the Senior Leadership Team, the Monitoring Officer will have advance notice of those meetings and agenda and reports and the right to attend and speak.
 - (b) Advance notice of meetings whether formal or informal between Chief Officers and Committee Chairmen will be given to the Monitoring Officer where any procedural, vices or other Constitutional issues are likely to arise.
 - (c) Chief Officers will alert the Monitoring Officer to all emerging issues of concern including legality, probity, vices and Constitutional issues.
 - (d) The Monitoring Officer or his staff will have copies of all the reports to members to the extent that s/he so requires.
 - (e) The Monitoring Officer is expected to develop good liaison and working relations with the District Auditor and the Ombudsman including the giving and receiving of relevant information whether confidential or otherwise.
 - (f) The Monitoring Officer will have a special relationship with the Chairman of the Council, Overview and Scrutiny Committee and will ensure the Head of Paid Service and Section 151 Officer have up-to-date information regarding emerging issues.
 - (g) The Head of Paid Service, Section 151 Officer and Monitoring Officer will meet regularly to consider and recommend action in connection with current governance issues and other matters of concern regarding probity.
 - (h) In carrying out any investigation (whether under regulations or otherwise) the Monitoring Officer will have unqualified access to any information held by the Council and any employee who can assist in the discharge of their functions.
 - (i) The Monitoring Officer will have control of a budget sufficient to enable him to seek Counsel's opinion on any matter concerning their functions.
 - (j) To the extent that s/he cannot make changes pursuant to his / her delegated powers, the Monitoring Officer will report to the Council from time to time on the Constitution and any necessary or desirable changes.

- (k) In consultation with the Chairman of Council the Monitoring Officer may defer the making of a formal report under section 5 LGHA 1989 where another investigative body is involved.
- (n) The Monitoring Officer will if s/he considers it necessary, submit a report to the Council from time to time as necessary on the staff, accommodation and resources s/he requires to discharge his or her functions.
- (o) The Monitoring Officer will appoint one or more deputies and keep him or her briefed on emerging issues.
- (p) The Monitoring Officer will make arrangements to ensure good communication between their office and Clerks to Parish Councils.

CODE OF CONDUCT FOR EMPLOYEES

1. Introduction

- 1.1. The public are entitled to expect the highest standards of conduct from all the Councils that make up the Dorset Councils Partnership (hereinafter collectively referred to as “the Councils of the DCP”) and their employees. Confidence in the integrity of employees will be threatened by any suspicion, whether well-founded or not, that employees may be influenced, in the performance of duties, by improper motives.
- 1.2. Whilst this Code is not in itself a disciplinary code, any failure to follow the standards it sets out may, depending upon the circumstances, constitute misconduct which could lead to disciplinary action, including dismissal.
- 1.3. For the purposes of this Code reference to Service Manager means Heads of Service and/or Corporate Managers.

2. Who is the Code aimed at?

- 2.1. The Code applies to all employees of the Councils of the DCP.
- 2.2. Inevitably some of the issues it covers will particularly affect senior, managerial and professional employees. However, the Code is intended to cover all employees under a contract of employment with the Councils of the DCP and where activities are carried out by any of their employees who, in that capacity, are acting as members of companies or of voluntary organisations, are also subject to the standards contained in this Code.

3. General Obligations

- 3.1. You should always act with good faith towards the business of the Councils of the DCP and should promote their interests. You should not knowingly do anything which is likely to adversely affect the reputation of the Councils of the DCP. You should also not knowingly place yourself in a position where your personal interests may bring you, or give the appearance of bringing you, into conflict with the interests and responsibilities of the Councils of the DCP.

4. Standards

- 4.1. Local government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to elected members and to fellow employees with impartiality. Employees will be expected, without fear of recrimination, to bring to the attention of their line manager any deficiency in the provision of service. Employees must report to their line manager any fraud, corruption or other malpractice, any impropriety or any breach of procedure. If you find yourself in difficulty in doing this, you should report this to a member of the Senior Leadership Team or refer to the Council’s whistleblowing policy for guidance on appropriate reporting.

Disclosure of Information

- 4.2. It is generally accepted that open government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The Councils of the DCP will generally wish to also be open about a variety of other types of information.
- 4.3. However, employees should not unless the information is already in the public domain knowingly disclose personal or financial information about any other person, which they obtain in the course of their duties to the Councils of the DCP, unless when dealing with that disclosure it is in accordance with existing legislation such as Data Protection and Freedom of Information.
- 4.4. Employees should respect the confidentiality of reports which are marked “Exempt” or “Confidential”, and any other information which they receive under an obligation of confidence.
- 4.5. Employees should not use any information obtained in the course of their employment for personal gain or benefit. Nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from an elected Member which is personal to that Member and does not belong to the authority for which that Member is an elected representative should not be divulged by the employee to external parties without the prior approval of that elected Member, except where such disclosure is required or sanctioned by the law.

5. Political Neutrality

- 5.1. Employees should seek to serve the Councils of the DCP as a whole. It follows that they must serve all elected Members and not just those of any controlling group.
- 5.2. Employees should not, in the course of their employment, attend meetings of political groups, unless their attendance has been specifically authorised by the Chief Executive or any other member of the Senior Leadership Team. They should take care not to compromise their political neutrality.
- 5.3. Some employees occupy posts which are “politically restricted”, under the provisions of the Local Government and Housing Act of 1989. This will be stated in their contract of employment. These employees are disqualified from membership of a local authority (other than a parish or community Council), and from being an MP or MEP.
- 5.4. Employees, whether or not politically restricted, must not allow their own personal or political opinions to interfere with their work.

6. Relationships

6.1. Elected Members

- 6.1.1. Employees are responsible to the Councils of the DCP through its senior managers. For some, their role is to give advice to elected Members and senior managers and all are there to carry out the work of the Councils of the DCP. Mutual respect between employees and elected Members is essential to good local government.

The Local Community and Service Users

6.1.2. Employees should always remember their responsibilities to the community they serve and should seek to provide courteous, efficient and impartial service delivery to all groups and individuals within that community.

6.2. Contractors

6.2.1. Any members of staff who are in a position to influence the award of a contract or a potential contract must make clear whether there is a relationship or potential relationship with the business or contractors who might receive the potential contract. Orders and contracts must be awarded on merit and in accordance with the relevant Contract Procedure Rules which set out arrangements to seek to secure fair competition against other tenderers in appropriate circumstances. No special favour in the tendering process should be shown to businesses run by, for example, friends, partners or relatives. No part of the local community should be discriminated against.

6.2.2. Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with a contractor, should declare that relationship in writing to the Monitoring Officer, with a copy to their Service Manager or Strategic Director.

7. Appointment and other Employment Matters

7.1. Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.

7.2. Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, or with whom they have a close personal relationship outside work.

8. Private Work

8.1. Full time employees may not, without the prior approval (such approval not to be unreasonably withheld) in writing of their Service Manager or a member of the Senior Leadership Team, hold any other paid appointment or conduct any paid business. Such approval will be considered upon the individual facts of each case and will be withheld if such work would conflict with or have a detrimental effect on the business of the Dorset Councils Partnership. In the event that the decision by the Service Manager or member of the Senior Leadership Team is to withhold the requested approval then the reasons for that decision will be put in writing to the employee.

8.2. Part-time employees must declare to their Service Manager or Director details of any other paid employment or business. Such employment, must not conflict with or have a detrimental effect upon the business of the Councils of the DCP.

8.3. No private work may be undertaken in the time of the Councils of the DCP, or on the premises or the Councils of the DCP, or on equipment of the Councils of the DCP, without the prior written approval of the appropriate Service Manager or member of the Senior Leadership Team.

- 8.4. In the course of their work with the Councils of the DCP if an employee creates a copyright work, that work becomes the property collectively of the Councils of the DCP. Similarly, if in the course of an employees work if that employee creates a patentable invention, or creates a design capable of registration, then this will also become the collective property of the Councils of the DCP, and the employee will be required to co-operate in all relevant registration formalities to secure these provisions.

9. Personal Interests

- 9.1. Employees at senior level (Team Leader /4th Tier and above) must declare in writing to the Monitoring Officer, with a copy to their Service Manager, any non-financial interests when they become aware of circumstances that are arising or are about to arise that they know or consider could bring about conflict with the interests of any of the Councils of the DCP
- 9.2. Employees must declare in writing to the Monitoring Officer, with a copy to their Service Manager or line manager, any financial interest when they become aware of circumstances that are arising or are about to arise that they know or consider could conflict with the authorities interests provided they should always be entitled to seek advice if they wish in relation to that declaration.
- 9.3. Under Section 117 of the Local Government Act of 1972, an employee must declare any financial interest which the employee or his/her spouse may have in any existing or proposed contract with any of the Councils of the DCP. Failure to do so is a criminal offence.
- 9.4. Similarly, all employees should also declare any relationships when they become aware of circumstances which are arising or are about to arise which could cause potential conflict e.g. acting as a school governor, or involvement with an organisation or pressure group which may oppose policies of any of the Councils of the DCP.
- 9.5. Employees should consider whether to declare to the Monitoring Officer or their Service Manager membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct. For example, employees should declare in writing to their Service Manager or Director membership of freemasonry.
- 9.6. The Monitoring Officer or such other Officer(s) as may be appointed by him for such purposes may from time to time maintain a Register of Outside Interests and Relationships for recording notifications provided by Officers.

10. Equality Issues

- 10.1. All local government employees should seek to ensure that policies relating to equality issues as agreed by the Councils of the DCP are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equality.

11. Separation of Roles During Tendering

- 11.1. Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Councils of the DCP. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

- 11.2. Employees in contactor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 11.3. Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
- 11.4. Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform the Head of Paid Service of the Councils of the DCP in writing and withdraw from the contract awarding processes.
- 11.5. Employees should ensure that no special favour is shown to current, to former employees or their spouses, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

12. Criminal Proceedings, Cautions and Convictions

- 12.1. Employees must recognise that by being involved in criminal processes that ultimately lead to arrest, the issue of bail conditions caution or conviction can have a direct bearing upon the reputation of the Councils of the DCP or a direct bearing upon the employees/offenders continued ability and suitability for the employment.
- 12.2. In the event that any employee is arrested or cautioned and charged by the Police for any offence with bail conditions the employee must inform their Line Manager immediately in confidence and also be prepared to then attend an interview with a member of the Senior Leadership Team and a member of Human Resources if required to investigate exactly what has occurred and to require the details of the matters involving the Police. A meeting or interview will be held in confidence.
- 12.3. During and/or after a criminal process concerning an employee which relates to a warning, the issue of bail conditions a caution or a conviction, the relevant Service Manager or member of the Senior Leadership Team may consider what further action (if any) needs to be taken and once that decision has been made the employee will be informed and granted the right of audience with a nominated representative.
- 12.4. A primary objective of the first interview and any subsequent interview is to obtain, in confidence, the appropriate facts and information and to enable a record to be made and kept on the employee's official personnel file.
- 12.5. As employers, Councils are naturally extremely concerned not only with the effect of the criminal processes on the Council's reputation if the information goes into the public domain but the employee's duty to continue with the position of employment and in particular the question of fitness for the job.
- 12.6. There can always be in such cases (but particularly, for example, when an employee is given a suspended or custodial sentence), the ability for the employing Council to dispose of the case as it sees fit by following any relevant part of the disciplinary procedure and then seeking to dismiss or suspend, remove to other work or downgrade if no other suitable post is available, (and in the less serious cases issuing for example a verbal or written warning over future conduct).
- 12.7. It is to be emphasised that prior to any formal disciplinary action being concluded or action taken against the employee, the employee will be given opportunity to make representations and have the assistance of a union representative or fellow worker before any final decision is made in accordance with the employing Council's relevant disciplinary procedures.

- 12.8. These arrangements apply to all criminal processes or proceedings; however, they should not conflict with any other arrangements being undertaken of a disciplinary nature involving the same employee.
- 12.9. In specific relation to cautions rather than convictions issued by the Police, where they are clearly relevant to the position of employment, the caution could still be strong evidence on which to take disciplinary action provided the process complies with the procedures referred to above and the Police have/ will be asked to supply a copy of the caution and any statement made in relation thereto.

13. Corruption / Bribery / Fraud

- 13.1. Employees must be aware that it is a serious criminal offence for them corruptly to receive or be given any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity.
- 13.2. The Chief Executive, Senior Leadership Team and Corporate Management Team have a zero-tolerance commitment to issues of bribery and corruption.
- 13.3. Employees should report to their Service Manager or any member of the Senior Leadership Team any corrupt offer that is made to them. Employees are also encouraged to report to their Service Managers any situation that they identify which they consider could create the potential of the Council being vulnerable to such matters.

14. Use of Financial Resources

- 14.1. Employees must ensure that they always use and endeavour to use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid whenever possible legal challenge to the authority.

15. Hospitality & Gifts

- 15.1. Subject as provided for below, employees should only accept offers of hospitality if there is a genuine need to impart information or represent any of the Councils of the DCP in the community. Invitations to attend purely social or sporting functions should be accepted only when these are part of the life of the community, where any of the Councils of the DCP should be seen to be represented or where the express written agreement of a member of the Senior Leadership Team (or Chief Executive in the case of it being a member of the Senior Leadership Team) has been secured.
- 15.2. When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the Councils of the DCP.
- 15.3. Having regard to the Council's commitment to a zero tolerance approach to fraud and corruption, employees should not accept any material personal gifts from contractors or outside suppliers. However it is recognised that occasionally employees may be given or receive insignificant items of token value such as pens, calendars, and diaries. Such an item may be accepted provided it does not exceed a value estimated to exceed £15.00.
- 15.4. When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the Councils of the DCP may be taking affecting those providing the hospitality.

- 15.5. Acceptance by employees of hospitality through attendance at relevant conferences, courses or meetings is acceptable where it is clear that the hospitality is corporate rather than personal or where a Service Manager or above gives consent in advance, provided that in either case no purchasing decisions are compromised. Where visits to inspect equipment, or other merchandise are required, employees should seek to arrange for the appropriate Councils of the DCP meet the cost of such visits so as to avoid jeopardising the integrity of subsequent purchasing decisions.
- 15.6. If an employee does accept a gift or hospitality in excess of £15.00, details should be recorded in a register maintained by the Corporate Manager – Democratic and Electoral Services or such other person(s) as s/he may nominate for such purposes.

16. Sponsorship – Giving and Receiving

- 16.1. Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, particular care must be taken when dealing with contractors or potential contractors.
- 16.2. Where any of the Councils of the DCP wish to sponsor an event or service, neither an employee or any spouse, relative or close associate must benefit from such sponsorship in a direct way without there being full written disclosure to the appropriate Service Manager or a member of the Senior Leadership Team of any such interest. Similarly, where any of the Councils of the DCP through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

17. Other Documents

- 17.1. Employees should seek to make themselves aware of the Contract Procedure Rules, any procedure manuals of his/her service or directorate and any policies and procedures relevant to his/her employment and should seek to be in compliance with them. The employee's Service Manager or a member of the Senior Leadership Team should be able to tell the employee about these. If in doubt, the employee should ask.

18. Generally

- 18.1. This Code cannot cover every eventuality. Its purpose is to show the standards expected of employees. It does not replace the general requirements of the law.
- 18.2. It is not enough to avoid actual impropriety. An employee should at all times seek to avoid any occasion for suspicion and any appearance of improper conduct.
- 18.3. If an employee is uncertain as to the conduct expected of him/her in a particular situation, s/he should consult his/her line manager. If this is impractical, the employee should consult their Service Manager or the Monitoring Officer.

**CODE OF CONDUCT FOR
MEMBERS &
OFFICERS DEALING
WITH
PLANNING MATTERS**

1. Introduction

- 1.1 This code applies to all Members irrespective of whether or not they are a Member of a Committee responsible for determining planning applications and to all Officers.
- 1.2 This Code of Conduct is supplemental to the Members' Code of Conduct. Consideration must therefore be had to the relevant provisions of that Code, including in particular, the obligation on a Member not to use their position as a Member improperly to confer on or secure for themselves or any other person an advantage or disadvantage or put themselves in a position where they appear to do so. In the event of a complaint being made against a Member under the Member Code of Conduct, as part of any investigation regard is likely to be had to whether there was compliance with the provisions of this code in circumstances where it is relevant.
- 1.3 Although this code principally deals with the processing of planning applications and similar matters, its provisions also apply to the determination of land use allocations in the Local plan.

2. Pre-Application and Post-Application Discussions

- 2.1 Pre and post-application discussion can be of significant benefit to both the potential applicant and the Council. However, it is easy for such discussions to become, or seem to become part of the lobbying process on the part of the applicant.
- 2.2 The Localism Act 2011 has sought to recognize that Members can have a role to play in certain pre- application discussions, particularly having regard to their likely greater knowledge of local community interests. This guidance does not therefore seek to prevent any Member involvement prior to a determination of a planning application taking place. However, it does seek to reduce the likelihood of allegations of pre-determination and generally encourages a "no-shocks" approach; this form of approach is supported by the Planning Advisory Service. For Members of a committee that determines a planning application, it is recognised that it can be difficult to try and strike the right balance between being an active local representative and fulfilling the duty to approach all arguments in an open-minded way. This guidance seeks to give assistance in this respect, but striking this balance is ultimately the responsibility of each Member.
- 2.3 In order to avoid any perceptions of pre-determination, it should be made clear at the outset of any pre-application discussions (or indeed any discussions about a planning application), that nothing said will bind the Council to make a particular decision, and that any views expressed are purely personal and provisional. By their very nature such discussions will take place in the absence of all the relevant information.
- 2.4 So far as reasonably practicable, as a general rule of good practice, a written note should be made of all potentially contentious meetings and other discussions including telephone discussions, and should be followed up by a letter if there is any likelihood of substantive disagreement over the issue in the future. The object of such records is to ensure that someone not involved with the application will understand what the decision was and how it was reached.

2.5 If any Member or Officer is approached to provide advice, in most instances the best course of action will be to refer the person seeking such advice to a relevant planning Officer. Members of a committee that determine planning applications should be particularly careful when engaging in conversations of this nature as it could easily be misinterpreted as suggesting a pre-determined opinion and Members will not have all relevant information available to them at the time of such discussions. Such Members should therefore usually aim to confine any discussions to giving procedural advice only. Where Officers seek to provide planning advice, it should be made clear that such advice is informal and not binding on the Council, it should be consistent and should be based upon the development plan and material considerations.

3. Lobbying

3.1 Of Members

- (a) Lobbying, whether by applicants or objectors, is accepted as being a normal and proper part of the political processes. Lobbying can take the form of meetings, both private and public, formal presentations or correspondence. However, clearly it is important that it does not take effect to such an extent that it calls into question the impartiality and integrity of the planning process.
- (b) Members of a committee that determine planning applications should remain impartial if they intend to participate in a decision involving that application. Members can of course test the validity of any concerns in reaching their own conclusion about the merits of the application when all the information is before them at the committee meeting.
- (c) Invitations aimed solely at Members appointed to a committee responsible for determining planning applications to attend a presentation or meeting give rise to a particular concern since, if accepted, they may encourage allegations that a Member is no longer impartial and appears to favour a particular person. Where appropriate official Site Visits will be arranged by Officers.
- (d) Public consultations, however, may be held in relation to an actual or proposed application to gauge public opinion, support etc and it is understandable Members of committees that determine applications would wish to attend and observe. Members are likely to be approached by applicants and objectors and they will wish to avoid expressing their views.
- (e) As a general principle, where a Member of a committee that determine planning applications is approached in person by an applicant or by a third party (including other Members), they should always have in mind the principles relating to Pre-Application and Post-Application Discussions and Lobbying set out above. If such a Member thinks that their involvement in a pre-application discussion would be beneficial to the planning application process, then the most appropriate course of action would be to seek to discuss with a relevant planning Officer the possibility of whether a meeting which includes that Officer might be arranged. To ensure a consistent approach, Members should not seek to get involved in negotiations relating to a planning application. Officers should ensure a note is taken of any such discussion and placed on the public file.

- (f) If under whatever circumstance a person does try to orally lobby a Member with responsibility for determining a planning application, then the most appropriate course of action to avoid allegations of bias or a breach of natural justice will usually be to suggest that person write to the relevant planning officer to express their views and politely decline to engage in any discussion on the merits of the matter.
- (g) Members may often receive correspondence or other documentation from an applicant to a planning application or a third party. If the Member is the primary named recipient of such communications it will normally be desirable for that Member to seek to make arrangements to notify receipt to the Head of Service for Planning or such other Officer as s/he may nominate from time to time. Inevitably there will be many circumstances when a Member is not the primary recipient. There is no absolute rule to cover every eventuality that might arise in relation to correspondence of this nature and in many cases it may well be reasonable to assume that the communication has been received by the relevant planning Officer (indeed the Officer may have been copied in on the correspondence as well). However, the general overarching principle is to seek to ensure that all relevant representations are considered as part of an application and that is something Members ought to have mind when considering how to approach such communications.

3.2 By Members

- (a) Members, particularly Ward Members, may often be approached to secure their support for a particular planning decision outcome.
- (b) Ward Members have an important role to play as representatives of their communities and to bring local information to the decision making process. Ward members may therefore become involved in discussions with Officers about individual applications. However, they should remember that it is very easy to create the impression that they are using their position to influence the progress of the application. Any discussions with Officers should be seen to be open and above board. So far as reasonably practicable, Officers should seek to make a written note on the file of any such discussion.
- (c) Members of the Council should not seek to approach Members of a committee that determines a planning application with a view to orally lobbying them towards a particular favoured outcome.
- (d) If any Member, whether or not a Member of committee that determines an application speaks on behalf of a lobby group at the decision-making committee, they should have regard to the Member Code of Conduct.

3.3 Political group meetings

- (a) Given that the point at which the determination of a decision on a planning application is made cannot occur before its consideration by the committee responsible for the determination of that planning application when all available information will be to hand and has been duly assessed, any political group meeting prior to the meeting of the Committee should not be used to decide how members should vote.

- (b) Furthermore, the Ombudsman takes the view that the use of political whips at group meetings in the way described above may be maladministration.

4. Scheme of Delegation

4.1 Outline of Scheme

The detail of the Officer Scheme of Delegation is set out in the Constitution, but in general terms most significant planning applications are likely to be determined by a committee with power to determine such matters. The Officer Scheme of Delegation will be subject to review from time to time.

4.2 Applications by the Council or in respect of Council owned land

Applications submitted by the Council or made by any person in respect of Council owned land are to be considered and determined in the same way as any other application for planning permission.

4.3 Applications by Members and Officers

- (a) Whilst it is perfectly legitimate for any Member or Officer to submit a planning application, it can easily give rise to suspicions of impropriety unless handled properly. Accordingly, all such applications will be reported to and determined by a committee with responsibility for determining planning applications.
- (b) Any application from a Member or Officer should usually be identified as part of the registration process. However, Members and Officers are encouraged to draw the fact that such an application has been submitted to the attention of the Head of Service of Planning or any other Officers nominated by him/her for such a purpose in case it is not identified.
- (c) No Member or Officer who submits a planning application should participate in the decision making process relating to that application.
- (d) No Member or Officer who acts as an agent for people pursuing a planning matter with the Council should take part in the decision making process for that proposal, nor seek in any way to influence it.

5. Reports to and minutes of a Committee responsible for determining Planning Applications

- 5.1 All planning applications falling to be determined by a Committee responsible for determining planning applications shall be the subject of a written report from the Head of Service for Planning or any other Officer nominated by him/her for such purposes. The report should aim to be as accurate as possible and include a summary of the substance of objections and representations received, the relevant policies, identify any other material considerations including site or related history, contain an appraisal of the application and give a recommendation. Where the recommendation is contrary to policy or is a departure from the development plan the report should identify this and provide reasoned justification.

5.2 Verbal reporting (except to update a report) should be avoided so far as reasonably practicable and carefully minuted when it does occur.

5.3 Committee minutes should summarise key discussion points in respect of contentious applications.

6. **Committee Site Visits**

6.1 It is the responsibility of each Member to familiarize himself/herself with the location of any proposed development. This might well include seeking to view the site from areas that are accessible to the public. In no circumstance should a Member enter onto private land without the permission of the owner and occupier. If the owner or occupier is present the Member should bear in mind the advice in paragraphs 2 and paragraph 3 above.

6.2 Due to the delay caused to the determination of planning applications, site visits by a whole committee responsible for determining planning applications should only be considered where there is a clear and substantial benefit to the decision making process. This will usually arise only where the impact of the proposed development is difficult to visualize from both the submitted plans and other supporting material including photographs taken by Officers or an Officer's presentation. With this in mind, committee site visits should only therefore generally occur as an exception rather than a rule and a Member proposing a site visit at committee should be able to identify at committee the reason(s) why s/he considers a site visit is necessary when called upon to do so.

6.3 To avoid being unduly intrusive and an inefficient use of the committee's time Officers will ensure that formal site visits are carefully organised with a clear purpose and format understood by all those who are present. Procedure notes to deal with such visits may be produced from time to time. Any extant procedure note produced for such purposes should normally be followed unless the Chairman or person presiding at the meeting determines otherwise.

6.4 The purpose of the committee site visit is for the Officers to point out relevant features of the site or adjoining sites, or other physical aspects relevant to the consideration of the application. No attending party if invited to attend should address Members other than to address factual matters at the request of the Chair or Officers. Members should channel any questions they have through the Member presiding at the formal site visit or in accordance with such other arrangements that may otherwise have been agreed by the person presiding with the most senior Officer present.

6.5 A record will be kept of the reasons for the committee site visit and of what happened during that site visit. This will normally be by a Democratic Services Officer (if present).

6.6 No discussion about the merits of the application will take place before, during or after the committee site visit until the committee has formally reconvened for the specific purpose of determining the application.

7. Decision Making

7.1 General Principles

The principles referred to in the Articles of this Constitution concerning “Decision Taking” apply to the determination of planning applications.

7.2 The legal framework

- (a) Legislation requires the Council to have regard to the provisions of the development plan, so far as material to the application and to any other material consideration. Furthermore, the application is to be determined in accordance with the provisions of the development plan unless material considerations suggest otherwise.
- (b) The courts are the final arbiters of what is a material consideration, but any consideration which relates to the use and development of land is capable of being a planning consideration. Whether a particular consideration is material in any given case will depend upon the circumstances of the particular application.

7.3 No pre-determination / bias

- (a) The determination of a planning application is an administrative act, and the courts will strike down a decision where it is shown that the Council or Members sitting on a committee that determines a planning application were or gave the appearance of being biased or of having pre-judged the application. However, this does not mean that such a Member may not hold strong views on a particular application or issue, or indeed, express those views. However, in doing so a Member should make it clear that they are keeping an open mind until they have heard all the relevant considerations. A Member who sits on a committee that determines planning applications should never indicate how they intend to vote in advance of a meeting.
- (b) When making representation on behalf of their residents Members should make it clear when it is their residents' views and not their own that are being expressed. Furthermore, the aim of Members should be to seek to express representations on behalf of constituents in such a way that no individual or group feels that they have been unfairly represented.

7.4 Determination of applications contrary to Officer's advice

- (a) Decisions should be based on any written report prepared by Officers. Members are not obliged however to accept and follow the professional advice given by Officers. Nevertheless, when members are minded to determine an application contrary to the officer recommendation they should ensure that they have sound planning-based reasons for doing so and clearly set them out in advance of voting. Such reasons must be capable of being justified objectively, including where relevant by reference to Development Plan policy. Where the reasons (i.e. the reason for departing from the Officer recommendation), being advanced are complex or need to be the subject of careful drafting/minuting, then consideration may be deferred to a later meeting. For the avoidance of doubt, this applies both

to those applications recommended for approval and subsequently refused; and to those recommended for refusal and subsequently approved.

- (b) Before a vote is taken, the person presiding at the meeting of the committee determining the planning application should ensure that the Officer is given the opportunity to explain the likely implications of any subsequent decision.
- (c) When members decide to determine an application contrary to the officer's recommendation a detailed minute will be taken, stating the reasons and if those reasons are based on development plan policies, identifying the relevant policies and stating in what way the application supports or infringes those policies.

8. Interests

8.1 Fundamental principle

It is a fundamental principle that those who have a significant interest in the outcome of a particular planning application or enforcement matter should not make decisions in relation to that application or matter. This applies to members and officers alike.

8.2 Declaration

- (a) The Member Code of Conduct forms part of the Constitution. Declarations and attendance at an item considering a planning application should be made in accordance with the Member Code of Conduct having regard to any relevant dispensations that may have been granted.
- (b) Notwithstanding the existence or otherwise of a dispensation, Members should still have regard to all relevant facts concerning their relationship to, or conduct in respect of, an application (or parties associated with it). Issues that could be relevant to such a consideration could include:
 - (i) a strong association with the application or applicant (e.g. the applicant is a close relative, or the Member has had previous acrimonious personal dealings with the applicant); and/ or
 - (ii) a Member's conduct specifically relating to a possible outcome of the application.

Where a Member of a committee that determines an application considers that having regard to all such facts a reasonable and fair minded observer could conclude that they were bias / had a closed mind to the application then the Member should not take part.

- (c) Officers who discover that they have an interest in a planning matter should cease to act and report the interest to their immediate manager who will reallocate the matter to an officer without an interest in it. The Officer having an interest will not take part in any part of the decision making process in respect of that matter.

8.3 Monitoring Officer to advise

Members who are unsure whether to declare an interest should seek advice from the Monitoring Officer, although the final decision whether to make a declaration and or to withdraw from the meeting will always be one for the member.

9. Post determination Reviews

9.1 The Head of Service for Planning or such other Officer as s/he may nominate may, from time to time select a sample of implemented planning permissions to be reviewed by a committee with a scrutiny role to assess the quality of the decisions made by both the Planning Committee and Officers under delegated powers. The review will focus upon whether policies or practices are being applied consistently and whether there is a need for policies and practices to be reviewed.

10. Member Training

10.1 Town and Country Planning is a specialized field and both the Local Government Association and the Royal Town Planning Institute place particular emphasis on the need for members to have an adequate knowledge of the planning process. Whilst the council will seek to provide some training, Members have a responsibility to ensure that they understand the fundamental principles and keep up-to-date with developments.

10.2 Seminars will usually be arranged for Members at such times as there is a change in the composition of the committee with primary responsibility for determining planning applications and at such other times as the Head of Service for Planning considers appropriate

10.3 The Head of Service for Planning will arrange when s/he considers it relevant for briefing papers to be prepared for Members so that Members are kept fully up-to-date on developments in the planning process.

11. Officers

11.1 Generally

Much of the planning officer's work is done behind the scenes before an application reaches committee. Officers engaged in dealing with planning applications carry a very heavy caseload that involves dealing on a day to day basis with applicants, objectors, members and professional agents. It is the sole responsibility of the Officers to deal with such operation matters.

11.2 Officers' professional obligations

Many planning officers are Chartered Town Planners and are bound by the Code of Professional Conduct of the Royal Town Planning Institute that imposes certain professional obligations including conflicts of interest and continuing training. Breaches of that code may be subject to disciplinary action by the RTPI.

11.3 Employees Code of Conduct

The Constitution contains an Employee Code of Conduct to which Officers should have regard whilst conducting business of the Council.