

Appendix 1 – W&P

Proposed Further Revisions to the Constitutions

ARTICLES OF CONSTITUTION

[All Councils]

1. Amend Article – relating to Officers/Employees of the Council to provide that:
“The recruitment, selection and dismissal of Officers will comply with the Employment Appointment and Dismissal Rules contained within the Procedures section of the Constitution.”

[REASON: to contain an appropriate cross reference to the procedural rules containing employment and dismissal procedures]

2. Amend Article – relating to Finance Contract and Legal Matters to update and align the position regarding the common seal of the Council by replacing the existing paragraphs with the following:
“The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer or Corporate Manager – Legal Services. A decision of Full Council, or otherwise pursuant to the exercise of any powers identified within the Constitution will be sufficient authority for sealing any document needed to give effect to the decision. The affixing of the Common Seal can be attested by any of the Monitoring Officer, Corporate Manager – Legal Services, the Chief Executive and such other Officers as may be provided for in the Officer Scheme of Delegation.”

[REASON: to clarify who may attest the Council Seal following the creation of the Dorset Councils Partnership]

3. Amend Article – relating to Review and Revision to the Constitution to allow for Monitoring Officer to have power:
 - (a) *to make amendments to the Constitution without referral to any body of the Council where s/he considers this is necessary and/or expedient to reflect legislative change, secure consistency, provide alignment with existing or emerging internal practices and procedures, address any legal ambiguity, and/or address any uncertainty in interpretation subject in all cases to prior consultation with at least two lead members being such members as the Monitoring Officer considers appropriate provided that one such member is the chairman of a committee with a scrutiny role unless unavailable or absent;*
and
 - (b) *to take direct reports to Full Council relating to other constitutional changes where s/he considers this appropriate.*

[REASON: to clarify power of Monitoring Officer regarding changes to Constitution and reporting to Full Council on such matters in part to better align existing powers across the DCP]

OFFICER SCHEME OF DELEGATION

4. Amend the existing *Officer Scheme of Delegations* to provide as follows:
 - (a) Update the North Dorset District Council and West Dorset District Council *Officer Scheme of Delegation* so that they replicate the current Weymouth &

Portland Borough Council *Officer Scheme of Delegation* which was updated to take account of the creation of the Dorset Council's Partnership;

[REASON: to seek to align all wording of the Officer Schemes of Delegations across the DCP]

(b) Introduce the following new / replacement powers/ alterations to the *Officer Scheme of Delegation* for the reasons identified in brackets:

(A) Add new paragraphs 11 onwards to the *Introduction and Interpretation* section, renumber remainder of Officer Scheme accordingly and remove similar definitions from Part B:

"11. In addition to specific powers of Officers identified in this Officer Scheme of Delegations the Financial Regulations also identifies various powers and duties of Officers. Where such additional powers and duties are identified then for the purposes of the Constitution they shall be interpreted as being included in and forming part of this Officer Scheme of delegation. As with all the other powers and duties identified in the Constitution these powers and duties are exercisable independent of any other powers or duties that are specified. "

12. In this Officer Scheme of Delegation unless the context otherwise requires the terms below shall have the following meanings attributed to them:

12.1 "Town and Country Planning Legislation":

- (i) the Town and Country Planning Act 1990;*
- (ii) the Planning (Hazardous Substances) Act 1990;*
- (iii) the Planning (Listed Buildings and Conservation Areas) Act 1990;*
- (iv) the Planning (Control of Advertisement) Regulations 1992;*
- (v) the Hedgerows Regulations 1997;*
- (vi) the Anti-Social Behaviour Act 2004 (in so far as it relates to high hedges);*
- (vii) the Planning and Compulsory Purchase Act 2004;*
- (viii) Department of the Environmental Circular 18/84;*
- (ix) Planning Act 2008; and*
- (x) all the Housing and Planning Acts.*

12.2 "undertake all action" includes, without prejudice to the generality of the term, as necessary:

- (i) the undertaking of any inspection;*
- (ii) to enter upon any premises for the purposes of exercising any function;*
- (iii) the giving of authority;*
- (iv) the preparation, signing, issuing and serving of any documentation (including any notice, license, permission, permit, consent, approval, registration or certificate);*
- (v) the making of any determinations (including for the avoidance of doubt a decision to grant, refuse, transfer, vary, modify, suspend, revoke, withdraw, renew or replace any such documentation as referred to above together with the determination of any conditions, obligations,*

limitations or any restrictions or requirements considered necessary in respect thereof);

- (vi) conducting reviews;*
- (vii) the exercise of any relevant powers of sampling, analysis, detention, seizure, purchasing, checking (including checking of records whether electronic or otherwise) certification and destruction;*
- (viii) the recording of information through whatever medium including photographic and digitally; and*
- (ix) the managing of any assessment process including without prejudice to the generality of that term the determination of the appropriate assessment to use and the scoring of any such assessment.*

13. *Reference in any delegation to the need for consultation with any officer post shall be deemed to include any other officer(s) with management responsibility for the work that would normally be undertaken by that post and in the event of any other relevant officer being unavailable or absent any member of the Senior Leadership Team.*

[REASONS: to avoid the need to duplicate all the powers and duties set out in the Financial Regulations within the Officer Scheme of Delegations; to avoid the need for undue repetition of defining common terms used in the Officer Scheme of Delegations; to ensure adequate cover in the event of the need to consult with named officers].

- (B) Amend existing paragraph 11 e. of the Officer Scheme of Delegations to read as follows:

"Any of:

- the Monitoring Officer, Corporate Manager – Legal, Chief Executive or in all their absence any Strategic Director may attest the Council Seal,*
- the Monitoring Officer, Chief Executive, any Strategic Director, any Head of Service or any Corporate Manager may sign any document on behalf of the Council save those required to institute legal proceedings,*
- the Monitoring Officer or Corporate Manager – Legal may sign any documents required to institute legal proceedings,*

provided further that for the avoidance of doubt any of the above may also nominate any other Officer to exercise any of their attesting / signing powers."

- (C) Add new paragraph 25 to *Functions and responsibilities of the Chief Executive*, remove similar power in Part B and renumber accordingly:

Power to determine whether to grant a dispensation:

- (a) under the Localism Act 2011 / Member Code of Conduct for the purposes of participating and/or voting at a meeting; or*
- (b) in relation to any actual or perceived conflict of interest.*

[REASON: to reflect update to the Member Code of Conduct and clarify the powers of the Chief Executive/Head of paid Service]

- (D) add new heading to Part A *Section 151 Officer*, insert the following paragraph after existing paragraph 52 and remove similar power from Part B:

53. To authorise the overspend of any approved business unit budget by up to but not exceeding £150,000 (one hundred and fifty thousand pounds) in any one instance (including the use of virements from reserves or working balances if necessary for such purposes) subject to:

- (a) the same being reported as soon as reasonably practicable to the next available meeting of such member(s) and/or body as the section 151 Officer considers appropriate; and*
- (b) the total amount of any approved overspend across the Council pursuant to this delegation not exceeding £150,000 in any one financial year without there having been prior consultation with the lead member responsible for finance and / or such other member(s) as the section 151 officer considers appropriate*

[Reason: to enable the section 151 Officer and SLT to manage unforeseen case by case issues subject to appropriate reporting]

- (E) Add new heading to Part A of "*Monitoring Officer*" and insert new paragraph as follows:

"to determine such changes to the Constitution as s/he considers necessary and/or expedient provided that it is for such purpose(s) and accords with such consultation(s) as is set out in the Article of this Constitution relating to Review and Revision to the Constitution

[Reason: to reaffirm previous resolution of W&PBC to allow the Monitoring Officer to introduce changes to Officer Scheme during the interim period pending full revision of Constitutions of all 3 Councils and to reflect proposals elsewhere in this report]

- (F) Head of Planning (Development Management and Building Control), insert new power 17 to replace existing paragraph 17 and similar power in Part B:

To undertake all action in connection with any proposal / application for the cancellation, revocation, deletion, modification or variation to agreements, deeds and any other documents entered into wholly or partly pursuant to any Town and Country Planning Legislation including, without prejudice to the generality of the foregoing:

- i. agreements made pursuant to section 52 of the Town and Country Planning Act 1971; and*
- ii. planning obligations pursuant to section 106 of the Town and Country Planning Act 1990;*

provided that such power does not extend to the approval of an application to modify, vary or revoke an agreement or planning obligation imposed by an express decision of a committee of the Council where, in the opinion of the Head of Planning (Development Management and Building Control) such approval would result in a material reduction of benefit to the community secured pursuant to such agreement or obligation (as the case may be).

[REASON: to better align existing delegations across the DCP and to clarify extent of power of HOP to determine the approach to various agreements]

- (G) Add the follow new powers to Head of Planning (Development Management and Building Control):

To undertake all action in order to regulate any actual, perceived or potential breaches of any of the Town and Country Planning Legislation, including but without prejudice to the generality of the foregoing:

- (a) action to regulate breaches of any notices, orders, agreements, obligations or other documents, conditions, restrictions or other limitations issued pursuant to such Town and Country Planning Legislation;*
- (b) the authorising and issuing of requisitions for information;*
- (c) the authorising and issuing of Planning Contravention Notices;*
- (d) the authorising and issuing of Enforcement Notices;*
- (e) the authorising and issuing of Breach of Condition Notices;*
- (f) the authorising and issuing of notices under s215 of the Town and Country Planning Act 1990;*
- (g) determining whether or not to take or to cease action where in the opinion of the Head of Planning (Development Management and Building Control) a breach is trivial, there is insufficient demonstrable harm or, it is not expedient to take / continue to take action; and*
- (h) the authorising and issue of temporary stop notices.*

[REASON: to seek to align current delegations across the DCP and facilitate the ability of all appropriate planning officers to issue various planning notices]

To undertake all action in connection with applications for certificates of lawfulness of existing or proposed use or development

[REASON: to seek to align current delegations across the DCP and facilitate the ability of all appropriate planning officers to deal with certificate of lawfulness applications]

- (H) Replace existing delegated powers relating to Tree Preservation Orders to provide as follows:

Power to undertake all action relating to making and/or confirming Tree Preservation Orders including (for the avoidance of doubt) power to amend, vary, modify and/or revoke the same subject to the ward member(s) of the ward affected by the Tree Preservation Order being notified as soon as reasonably practicable after any making, confirming, amending, varying, modifying and /or revoking (as the case may be).

[REASON: to seek to align current delegations across the DCP relating to TPOs]

- (I) Replace powers 1 and 3 of the Head of Service for Community Protection as follows and amend similar power in Part B to reflect change:

To undertake all action in connection with any matter arising in relation to the hackney carriage or private hire licenses (which for the avoidance

of doubt includes any application for a licence relating to drivers, vehicles, operators and proprietors) provided that:

- (a) such power does not extend to refusing any application contrary to any extant policy (if any) expressly adopted by the Council for such purposes (as may be amended from time to time); and*
- (b) in the case of a revocation or suspension of a licence any decision is notified to a committee with power to determine such licences as soon as reasonably practicable following any such decision being made.*

[REASON: to seek to adopt a standard approach to such matters across the DCP whilst still ensuring the involvement /awareness of members of more contentious / urgent decisions]

PROCEDURAL RULES

5. Insert *Officer Employment and Dismissal Rules* in Procedural Rules section of the Constitution as set out in Appendix 3 of this report.

[REASON: to provide for a standard Officer Employment and Dismissal Rules across the Dorset Councils Partnership that reflect current arrangements of the Shared Services Joint Committee and legislative requirements relating to dismissal of certain Officers]

6. Amend relevant Procedural Rules to provide a definition of a key decision (in the case of those partners exercising executive functions then such definition to apply to the exercise of executive decisions) as follows:

A key decision is a decision that is considered likely to either:

- result in the Council incurring expenditure or making a saving within agreed budgets (but after any permitted virements(s) and/or agreed overspends), of more than £150,000; and/or*
- have a significant effect on a community living or working in the area of the Council comprising either any three member ward or two or more wards*

[REASON: so far as practicable to seek to apply a standard definition of a key decision across all the partner Councils]

FINANCIAL REGULATIONS

7. Insert at front of Financial Regulations:

INTRODUCTION

The Financial Regulations are written having regard to and seek to secure compliance with all relevant legislation. Where legislation expressly empowers any individual or body to be able to exercise specific powers (for example, for Councils exercising an Executive model, the Leader can exercise all powers of the executive), then nothing in the Financial Regulations shall prevent the exercise of those powers by that individual / body (as the case may be), and the Financial Regulations shall be interpreted as providing for the concurrent use of such powers so far as the legislation allows.

Further, insofar as these Financial Regulations identify powers and duties attributable to any Officer, body or Member(s) then such provisions shall be deemed to form part

of the Officer Scheme of Delegations and / or Articles of the Constitution (as the case may be) for the purposes of identifying the powers and duties that can be exercised by the Officer, body or Member.

For the avoidance of doubt, in the case of any conflict between the provisions of the Financial Regulations and any other part of the Constitution then an interpretation that results in a decision not being ultra vires will take precedence. The Officer appointed to the post of Monitoring Officer in consultation with the Officer appointed to the post of section 151 officer (or any deputies appointed by them) shall have power to resolve such conflicts and amend the Constitution accordingly, and the Articles of this Constitution shall be interpreted to incorporate this provision.

[REASON: to provide clarity as to the status of the Financial Regulations in relation to the provision of various powers and duties and responsibilities for interpretation in the event of any conflicts].

CODES AND PROTOCOLS

8. Replace the existing *Code of Conduct for Members and Officers Dealing with Planning Matters* with a new Code of Conduct as set out in Appendix 2 to this report.

[REASON: to seek to provide a standardised Code across the Dorset Councils Partnership which reflects the latest legislation]

9. Update existing *Member Code of Conduct* to include the following:

- (a) *"The Code will be kept under review by a committee with a scrutiny role which will make recommendations to the Council of any revisions to the Code as it considers necessary from time to time" ;*

[REASON: to clarify the alternative review mechanism in the absence of a Standards Committee]

- (b) *"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).*

[REASON: to provide clarity as to the route for securing a dispensation]

10. Replace the existing Code of Conduct For Employees with an amended Code as set out in Appendix 4 to this report.

[REASON: to seek to provide a standardised Code which reflects the existence of the Dorset Councils Partnership]

Appendix 2

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

Code of Conduct for Members and 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 seen 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 useful role to play in certain pre-determination 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.
- 2.2 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.

- 2.3 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 (which might include ward members), 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 to 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. As a general rule therefore, the safest approach would usually be to decline any invitation to a presentation or meeting relating to a planning application that has been registered with the Council.

In certain circumstances a public consultation may be held in relation to an actual or proposed application. Whilst it is understandable that Members involved in committees that determine planning applications may wish to attend such consultations to observe what is happening, great care is needed as there is a high likelihood that the Member will be approached by applicants and/or objectors to express their views and either could give rise to allegations of bias. If a consultation is being held, Members should therefore think very carefully whether it is really necessary for them to attend such an exercise or if some alternative might be available e.g. seeing whether a planning Officer might be able to visit. If a Member does attend such a consultation it is likely to be sensible for them to keep a note of any discussions they have at such a meeting and they should in any event consider identifying their attendance at the time when the application is considered.

- (d) As a general principle, where a Member of a committee responsible for determining 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.

- (e) 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.
- (f) 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 in 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 would be well advised to withdraw once any public or ward member speaking opportunities had been completed in order to counter any suggestion that Members of the committee may have been influenced by their

continuing presence. Members should always have regard to the Member Code of Conduct in this respect.

- (e) Any representations or any address by a Member should relate to the planning merits of a planning application.

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 Committee site visits should aim to be conducted along the lines of those carried out by Planning Inspectors. The purpose of the committee site visit is to give all parties the opportunity 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 should therefore address Members either individually or collectively other than to address factual matters at the request of Members 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 constituents Members should make it clear that it is their constituents' views and not the member's 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 Officer Code of Conduct to which Officers should have regard whilst conducting business of the Council.

Appendix 3

EMPLOYMENT AND DISMISSAL PROCEDURE RULES

Introduction

1. For the purposes of interpretation of terms used, these rules should be read in conjunction with The Local Authorities (Standing Orders) (England) Regulations 1993 and 2001 (as amended).
2. When the Council seeks to appoint to a post it will have regard to relevant legislation, any policies / protocols that it has adopted for the purposes of making any such appointment and any obligations it may have in relation to the Dorset Councils Partnership. The Council will also have regard to relevant legislation, policies and protocols in relation to any disciplinary or dismissal action that may be undertaken.
3. The Shared Services Joint Committee when performing any of the roles identified for it below shall include as part of its membership the Leader and/or another Member of the executive. References in these Rules to the Shared Services Joint Committee shall be deemed to include any other Committee which may at any time take on the responsibilities of the Shared Services Joint Committee.

RECRUITMENT

General matters

4. Subject to the above, when undertaking a recruitment the Council will normally advertise the post in local and, where applicable, professional or national media. When doing so, a vacancy will also usually be advertised internally within the Council. Where appropriate, a decision may be taken to seek candidates by internal advert exclusively from existing permanent employees of the Council and the partners to the Dorset Councils Partnership.
5. In the case of appointments to the post of Monitoring Officer and section 151 Officer a recommendation is likely to be made having regard to relevant actual and proposed employee structures and responsibilities within the Dorset Councils Partnership.
6. The Council will offer equal opportunity to all candidates for employment in accordance with its published policies.
7. The Council will require the person being appointed to a post to reveal any relationship to a Member of the Council or any employee working in a supervisory or managerial capacity for the Council. This will not disqualify the candidate but will ensure that no undue influence may be alleged. Their appointment must be agreed by the Head of Paid Service / Chief Executive or other member of the Senior Leadership Team.
8. If a candidate for a post canvasses or seeks the support of any Member, they will be disqualified from consideration. Any Member advocating support for a particular candidate outside any appointment procedure will not be permitted to take any part in the appointment process. If a Member acts as a referee for a candidate for a post, they will not be permitted to take any part in the appointment process.

Political Assistants

9. The Council may decide from time to time whether it wishes to appoint Political Assistants. If it decides to do so these Rules will be varied as necessary in respect of these posts.

Recruitment of the Head of Paid Service / Chief Executive, Statutory Chief Officers (including the Monitoring Officer) and Non-Statutory Chief Officers ("Senior Officers"), collectively for the purpose of these rules ("Statutory Post(s)")

10. In relation to all Senior Officer posts of the Council, the Council will:
 - (a) have drawn up a statement specifying:
 - (1) the duties of the officer concerned; and
 - (2) any qualifications or qualities to be sought in the person to be appointed,
 - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified for it; and
 - (c) make arrangements for a copy of the statement mentioned above to be sent to any person on request.
11. Where a post has been advertised as provided for in paragraph 10 above the Council will make arrangements to:
 - (a) interview all qualified applicants for the post; or
 - (b) select a short list of such qualified applicants and interview those included on the short list.

Where no qualified person has applied, the Council will make further arrangements for advertisement.
12. Determinations relating to the matters set out in paragraphs 10 and 11 above and any other relevant decisions relating to the terms and conditions of employment of:
 - (a) the Head of Paid Service / Chief Executive; and any other Senior Officer whose job description identifies them as forming part of the Senior Leadership Team of the Dorset Councils Partnership, shall be made by the Shared Services Joint Committee. For the avoidance of doubt, subject to the requirements of these rules, this includes determining the terms and conditions for the making available of any officers employed by the host authority of the Dorset Councils Partnership to other partners of the Dorset Councils Partnership; and
 - (b) all other Senior Officers shall be made by the Head of Paid Service / Chief Executive or such other Senior Leadership Team members as the Head of Paid Service / Chief Executive may nominate unless the determining officer considers alternative arrangements are appropriate.

Appointor process relating to various Officers

13. An offer of appointment to:
 - (a) any Senior Officer; or
 - (b) a Deputy Chief Officer,shall not be made other than in compliance with the requirements of Schedule 1 of the Local Authorities (Standing Orders) (England) Regulations 2001 (as may be amended from time to time) to the extent that they apply to the governance arrangements operated by the Council (i.e. the use of appointers etc).

Appointment of Officers

14. Full Council shall be responsible for determining the appointment of:
 - (a) the Head of Paid Service;
 - (b) the Monitoring Officer;
 - (c) the section 151 Officer,

- having regard to any recommendation from the Shared Services Joint Committee (collectively for the purposes of these Rules "Statutory Post(s)"); and
- (d) the Chief Executive.
15. The Shared Services Joint Committee shall be responsible for determining the appointments of all officers whose job description identifies them as forming part of the Senior Leadership Team of the Dorset Councils Partnership,.
 16. The Head of Paid Service or any other officer nominated by him/her for such a purpose shall be responsible for determining the appointment of any other officer.

DISCIPLINARY AND DISMISSAL

General Matters

17. Disciplinary action and dismissal procedures of employees of the Council will in all cases be carried out having regard to relevant policies and procedures of the Council.
18. Save to the extent that:
 - (a) the Council expressly creates a committee for the consideration of appeals in relation to disciplinary issues or dismissal of employees of the Council; and / or
 - (b) the issue relates to any of the Statutory Posts, no Member shall be involved in the disciplinary action or dismissal of any person appointed to any officer post of the Council.
19. No Senior Officer (including any Statutory Post) or Deputy Chief Officer will be dismissed by any committee or sub-committee unless the appointments to that committee comply with the requirements of Schedule 1 of the Local Authorities (Standing Orders) (England) Regulations 2001 (as may be amended from time to time) to the extent that they apply to the governance arrangements operated by the Council (i.e. the need to have at least one member of the executive where a Council operates a leader / executive governance model).
20. The Council and its management team have a zero tolerance approach to bribery and corruption. Investigations that identify any bribery and corruption involving employees are likely to give rise to formal disciplinary proceedings.

Head of Paid Service / Monitoring Officer / section 151 Officer

21. An employee of the Council appointed to a Statutory Post will not be dismissed by the Council unless the procedure below has been complied with. Regard will also be had to any relevant contractual provisions of the employee.
22. The Council has arranged for the appointment of an advisory committee on the basis of the following:
 - (a) as part of that appointment process, the Council will invite relevant independent persons to be considered for appointment to the advisory committee, with a view to appointing at least two such persons to it;
 - (b) the Council will arrange to appoint to the advisory committee such relevant independent persons who have accepted the invitation that has been made in accordance with the following priority order:
 - (1) a relevant independent person who has been appointed the Council and who is a local government elector;
 - (2) any other relevant independent person who has been appointed by the Council;
 - (3) a relevant independent person who has been appointed by another authority or authorities;

- (c) arrangements for the creation of the advisory committee may provide for the inclusion of only two relevant independent persons;
 - (d) the advisory committee may be jointly appointed with one or more other Councils and may include one or more members from, and/or one or more independent persons appointed by, those other Councils.
23. The advisory committee shall have been appointed at least twenty (20) working days before a meeting of the Council to consider whether or not to approve a proposal to dismiss the relevant officer.
24. Before taking a vote at a meeting to consider whether or not to approve a proposal to dismiss, the Council has taken into account, in particular:
- (a) any advice, views or recommendations of the Panel;
 - (b) the conclusion of any investigation into the proposed dismissal; and
 - (c) any representations from the relevant officer.

Dismissal process relating to various officers (including Statutory Posts)

25. A notice of dismissal relating to:
- (a) any Senior Officer; or
 - (b) a Deputy Chief Officer,
- shall not be given other than in compliance with the requirements of Schedule 1 of the Local Authorities (Standing Orders) (England) Regulations 2001 (as may be amended from time to time) to the extent that they apply to the governance arrangements operated by the Council (i.e. the use of dismissors etc).

Disciplinary and Dismissal of officers

26. Disciplinary action against, or dismissal of:
- (a) the Head of Paid Service / Chief Executive;
 - (b) any of the other Statutory Posts,
- will normally be considered and determined by a committee appointed by Full Council for such a purpose, but no notice of dismissal will be given until Full Council have approved it or in the case of the Monitoring Officer or section 151 Officer confirmed its agreement to remove the appointment of the post from that person.
27. Disciplinary action against, or dismissal of, any other Senior Officer will normally be considered and determined by the Head of Paid Service / Chief Executive unless s/he considers an alternative process is more appropriate.
28. Disciplinary action against, or dismissal of, any other Officer will normally be considered and determined by the Head of Paid Service or such other officer(s) as s/he may nominate for such purposes unless that person considers an alternative process is more appropriate.

Miscellaneous matters relating to disciplinary action or dismissal

29. The Council's policies will provide details of any right of appeal in respect of disciplinary action or dismissal.
30. Where any committee considers issues relating to disciplinary action against or dismissal of any officer attendance at that committee by members and officers will be limited to only those persons required to be in attendance or whose attendance is otherwise permitted in accordance with policies adopted by the Council relating to disciplinary action and dismissal.
31. For the avoidance of doubt, nothing contained in these rules in relation to disciplinary action or dismissal shall apply to the termination of engagement of any person as a result of a decision:
- (a) giving rise to a redundancy;
 - (b) to renew a contract of employment for a fixed term unless the Council has undertaken to renew such a contract; or

- (c) to terminate arrangements appointing a person to perform any function pursuant to section 113 Local Government Act 1972.
32. The Council may seek to negotiate conditions as part of any arrangement appointing a person to perform the functions of a Statutory Post pursuant to section 113 Local Government Act 1972 which provide that it may as part of any such arrangement:
- (a) terminate immediately without notice or penalty any such arrangement if following an investigation it concludes that the person appointed has been guilty of conduct that would have resulted in dismissal had that person been directly employed by the Council; and
 - (b) request the primary employing local authority to undertake a disciplinary investigation in respect of any issue arising in connection with the performance of that Statutory Post.

Appendix 4

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.

5. **Disclosure of Information**

- 5.1 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.
- 5.2 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.
- 5.3 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.

5.4 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.

6. **Political Neutrality**

6.1 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.

6.2 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.

6.3 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.

6.4 Employees, whether or not politically restricted, must not allow their own personal or political opinions to interfere with their work.

7. **Relationships**

7.1 Elected Members

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.

7.2 The Local Community and Service Users

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.

7.3 Contractors

7.3.1 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.

7.3.2 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.

8. **Appointment and other Employment Matters**

8.1 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.

8.2 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.

9. **Private Work**

9.1 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.

9.2 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.

9.3 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.

9.4 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.

10. **Personal Interests**

10.1 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.

10.2 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.

10.3 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.

10.4 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.

10.5 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.

10.6 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.

11. **Equality Issues**

- 11.1 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.

12 **Separation of Roles During Tendering**

- 12.1 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.
- 12.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 12.3 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.
- 12.4 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.
- 12.5 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.

13. **Criminal Proceedings, Cautions and Convictions**

- 13.1 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.
- 13.2 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.
- 13.3 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.
- 13.4 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.
- 13.5 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.
- 13.6 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).
- 13.7 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.
- 13.8 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.
- 13.9 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.
14. **Corruption / Bribery / Fraud**
- 14.1 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.
- 14.2 The Chief Executive, Senior Leadership Team and Corporate Management Team have a zero-tolerance commitment to issues of bribery and corruption.
- 14.3 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.
15. **Use of Financial Resources**
- 15.1 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.
16. **Hospitality & Gifts**
- 16.1 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.
- 16.2 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.
- 16.3 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.
- 16.4 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.
- 16.5 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.

- 16.6 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 Services and Elections or such other person(s) as s/he may nominate for such purposes .
17. **Sponsorship – Giving and Receiving**
- 17.1 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.
- 17.2 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.
18. **Other Documents**
- 18.1 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.
19. **Generally**
- 19.1 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.
- 19.2 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
- 19.3 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.

Appendix 5

Part 1 – proposed standard delegation across the partnership

To determine any application (including for the avoidance of doubt but without prejudice to the generality of the foregoing any reserved matter application, applications under section 73 or section 73A of the Town and Country Planning Act 1990 and any, application for listed building consent) submitted pursuant to the Town and Country Planning Legislation (including any necessary determination(s) relating to conditions, obligations, limitations or any other restrictions or requirements necessary in respect thereof) provided that the power to determine does not apply to any application:

1. in respect of which:
 - (a) a Written Material Representation has been received by the Head of Planning (Development Management and Building Control) and that Written Material Representation:
 - (i) has been made by a Council Member(s) and received by the Head of Planning (Development Management and Building Control) within the Consultation Period; and/or
 - (ii) (A) has been made by a town or parish council in whose area the application is situated, and received by the Head of Planning (Development Management and Building Control) within the Consultation Period or other such period in time as the Head of Planning (Development Management and Building Control) might otherwise agree in writing (such extension to the Consultation Period not to be unreasonably refused); and
(B) contains a recommendation that is contrary to the proposed decision; and in either case
 - (b) the Head of Planning (Development Management and Building Control) at his/her absolute discretion after consultation with the Chairman of the Planning Committee, the Vice Chairman of the Planning Committee and the Ward Member(s) of the area in which the site of the application is situated considers is a matter which ought to be referred to the Planning Committee for determination; and/or
2. which the Head of Planning (Development Management and Building Control) considers at any time when assessing the application (prior to any determination) for the purpose of this delegation:
 - (a) would be Contrary to the Development Plan (and the anticipated decision would be to approve); and /or
 - (b) is on land owned by the Council; and/or
 - (c) is from an Identified Member or Identified Staff; and/or
 - (d) would conflict with a decision previously made by the Planning Committee of the same description and on the same or largely the same site; and/or
 - (e) requires an Environmental Impact Assessment.

Note as Regards the above consultation provision

The Chairman of the Planning Committee can be substituted by the Vice Chairman and both can be substituted by any other Member of the Planning Committee if any are unavailable / absent at the time that the consultation is being undertaken. The Head of Planning (Development Management and Building Control) can be substituted by any planning officer(s) nominated by the Head of Planning (Development Management and Building Control) for such a purpose.

Definitions relevant to the above

“Contrary to the Development Plan” means an application that in the opinion of the Head of Planning (Development Management and Building Control) is contrary to the Development Plan (as defined by section 38 Planning and Compulsory Purchase Act 2004 (as amended)) when assessed as a whole;

“Consultation Period” means the period of 21 days beginning with the date when in relation to an application as the case may be the Council first displays a site notice, or a press advert is first published or a notification procedure of any Council Member(s) is commenced (whichever is the earliest);

“Council Member” means an elected member of the Council of the district/ borough in which the site of the application is situated in whole or part;

“Identified Member” means an application that identifies in response to a question on the application form that the application is made by or on behalf of a Council Member and/ or any partner of such Council Member;

“Identified Staff” means an application that identifies in response to a question on the application form that the application is made by or on behalf of an employee of the Council and/ or any partner of such an employee;

Town and Country Planning Legislation means

- (i) the Town and Country Planning Act 1990;*
- (ii) the Planning (Hazardous Substances) Act 1990;*
- (iii) the Planning (Listed Buildings and Conservation Areas) Act 1990;*
- (iv) the Planning (Control of Advertisement) Regulations 1992;*
- (v) the Hedgerows Regulations 1997;*
- (vi) the Anti-Social Behaviour Act 2004 (in so far as it relates to high hedges);*
- (vii) the Planning and Compulsory Purchase Act 2004;*
- (viii) Department of the Environmental Circular 18/84;*
- (ix) Planning Act 2008;*
- (x) the Town and Country Planning (General Permitted Development) (England) Order 2015;*
- (xi) The Town and Country Planning (Development Management Procedure) (England) Order 2015/595;*
and
- (xi) all the Housing and Planning Acts,*
and for the avoidance of doubt also includes (a) any secondary legislation/enactments/orders made pursuant to any of the above; and (b) any amendments.

“Written Material Representation” means a representation received by the Council that is in writing and in the opinion of the Head of Planning (Development Management and Building Control) contains one or more planning considerations of material planning relevance to the application to be determined;

Part 2 – fall back delegation for Weymouth and Portland

Power to determine all applications arising pursuant to any of the Town and Country Planning Legislation, except an application:

- (i) where more than three Written Material Representations from different addresses, which are contrary to the proposed recommendation are received by the Council within the Consultation Period;*
- (ii) for Relevant Residential Development;*
- (iii) for Significant Development;*
- (iv) submitted by the Borough Council as applicant;*
- (v) that is a Called-in Application;*
- (vi) where the applicant or agent is a serving councillor of the Borough Council; and/or*
- (vii) made by Identified Staff.*

For the purposes of this delegation:

“Borough Council” means Weymouth and Portland Borough Council;

“Called-in Application” means an application:

- (i) in respect of which the Council receives from one or more district councillors of the Borough Council a Written Material Representation within the Consultation Period that includes a request that the application be referred to a committee; and*
- (ii) that the Head of Planning (Development Management and Building Control) at his/her absolute discretion) determines to be one that ought to be referred to the Planning Committee for determination;*

“Consultation Period” means the period of 21 days beginning with the date when in relation to an application as the case may be the Council first displays a site notice, or a press advert is first published or a notification procedure of any Council Member(s) is commenced (whichever is the earliest);

“Identified Staff” means an application that identifies in response to a question on the application form (if any) that the application is made by or on behalf of an employee of the Council and/or any relative of such an employee;

“Planning Legislation” means the Town and Country Planning Act 1990 (as amended); Planning and Compulsory Purchase Act 2004 (as amended); Planning (Listed Building and Conservation Areas) Act 1990 (as amended), Planning (Hazardous Substances) Act 1990 and all subordinate /secondary legislation (including regulations and orders) created pursuant to such primary legislation together with any other legislation replacing or re-enacting the same with or without modification;

“Relevant Residential Development” means an application involving the construction of a building, or the conversion of an existing building, that in either case will result in more than:

- (i) one single dwelling; or*
- (ii) a pair of semi-detached dwellings; or*

(iii) four flats;

provided that this does not include:

- (iv) an application for outline planning permission on an overall site of less than or equal to 0.5 hectares involving residential development; or*
- (v) an application for prior notification approval pursuant to any of the Planning Legislation;*

“Significant Development” means an application:

- (i) for a site that overall exceeds 0.5 hectares and involves residential development; and/or*
- (ii) the erection of a building of more than 10,000 square metres; and*

“Written Material Representation” means a representation received by the Council that is in writing and in the opinion of the officer dealing with the application contains one or more planning considerations of material planning relevance to the determination of the application.

[REASON: to seek to improve clarity and increase commonality of terms across West and Weymouth planning application delegations];