

## Part 4 – Codes and Protocols

### MEMBERS' CODE OF CONDUCT

The Code of Conduct, as set out below, was adopted by Shadow Dorset Council with effect from 1 April 2019.

#### 1. Introduction

1.1 Dorset Council has a duty to promote and maintain high standards of conduct by its councillors. This Code of Conduct sets out the conduct that is expected of councillors when carrying out Council business or representing the Council.

1.2 The Code of Conduct is to be interpreted in a way that is consistent with the following principles:

**Selflessness** Councillors should act solely in terms of the public interest.

**Integrity** Councillors must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**Objectivity** Councillors must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**Accountability** Councillors are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**Openness** Councillors should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**Honesty** Councillors should be truthful.

**Leadership** Councillors should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

#### 2. General Obligations

2.1. A Councillor must

- (a) comply with this Code of Conduct and any other of the Council's policies, protocols and other procedures relating to the conduct of councillors;
- (b) treat others with respect;
- (c) when using or authorising the use by others of the Council resources act in accordance with the Council's reasonable requirements;

- (d) take into account any relevant advice provided by the Chief Finance Officer; or Interim/Appointed Monitoring Officer, when reaching decisions on any matter
- (e) inform the Interim/Appointed Monitoring Officer of the receipt of any gifts and hospitality that they estimate has a value of more than £50 and the name of person providing the gift or hospitality.

2.2 A Councillor must not –

- (a) do anything which may cause the Council to breach the Equality Act 2010;
- (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 councillor (including them) has failed to comply with this 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, the Council.
- (e) disclose information given to them in confidence by anyone, or information acquired by them which they believe, or ought reasonably to be aware, is of a confidential nature, except where –
  - (i) they have the consent of a person authorised to give it;
  - (ii) they 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 reasonable and in the public interest; and is made in good faith and in compliance with the Council's reasonable requirements;
- (f) prevent another person from gaining access to information to which that person is entitled by law; or
- (g) behave in a way which could reasonably be regarded as bringing their office or the Council into disrepute;
- (h) use or attempt to use their position improperly to confer on or secure for them or any other person, an advantage or disadvantage; or
- (i) use the Council's resources improperly for political purposes (including party political purposes).

3. **Disclosable Pecuniary Interests**

- 3.1 A Councillor must register any disclosable pecuniary interest (see Appendix A) that they or their husband or wife, civil partner or any person that they are living

with as husband or wife or civil partner, as if they are their own interests, when they know about them.

3.2 A Councillor must register any disclosable pecuniary interests with the Monitoring Officer within 28 days of:

- (a) being elected or appointed to office;
- (b) this Code of Conduct being adopted;
- (c) declaring an unregistered interest at a meeting of the Council; and
- (d) becoming aware of any new interests or changes in those interests

3.3 A Councillor who is aware or ought reasonably to be aware that they have a disclosable pecuniary interest in any business of the Council who attends a meeting of the Council at which that business is discussed, must disclose to the meeting the existence and nature of the interest at the beginning of the meeting or when it becomes apparent that they have such an interest. Where information about an interest has been agreed with the Monitoring Officer to be sensitive, the Councillor need only declare the existence of the interest.

3.4 A Councillor who has a disclosable pecuniary interest in any business of the Council must not take part in the consideration of that business and must withdraw from the room where the meeting is being held unless they have been granted a dispensation by the Monitoring Officer

#### 4. **Sensitive interests**

Where you have an interest (whether or not it is a disclosable pecuniary interest) and the nature of the interest is such that you and the Monitoring Officer consider the disclosure could lead to you or a person connected with you 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. You need to disclose the interest at a meeting, but the disclosure is limited to a statement that you have a disclosable pecuniary interest which falls within an exemption in the Act without further details being given.

#### 5. **Gifts and Hospitality**

The Council will maintain a public Register of Gifts and Hospitality to you and your party. This is for Gifts and Hospitality which exceed an estimated £50 in value at any one time. You are asked to keep this Register up to date by notifying (in writing) the Monitoring Officer within 28 days of any receipt of such a gift or hospitality so that this can be entered in the Register. Such matters are not included in the Regulations for disclosable pecuniary interests and therefore will not require a disclosure and withdrawal at a business meeting.

#### 6. **Monitoring and review**

This Code will be kept under review by the Council.

## APPENDIX A

**Disclosable Pecuniary Interests**

1. For the purposes of this Appendix

“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;

“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; and

“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.

2. The following are disclosable pecuniary interests.

<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	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. This includes any payment of financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	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— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
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	Any tenancy where (to M's knowledge)– (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where- (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either- (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or; (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.

## **MEMBER COMPLAINT PROCESS (Article 9.02(a))**

### **1. INTRODUCTION**

- 1.1 The Localism Act 2011 requires the Council to adopt its own Code of Conduct and to agree procedures for dealing with alleged breaches of that Code of Conduct. The Code of Conduct sets out the general standards of behaviour that are expected of Councillors and also the arrangements for the registration and declaration of financial and other interests
- 1.2 Parish and Town Councils within the Council's area are also required to adopt their own Code of Conduct. The Localism Act 2011 requires any complaints about breaches of those Codes by Parish or Town Councillors to be dealt with under the Council's arrangements.
- 1.3 References to 'councillors' include elected members and co-opted members of the Council and Town and Parish Councils in its area.

### **2. MAKING A COMPLAINT**

- 2.1 Complaints should be made in writing to the Monitoring Officer, using a form provided by him/her if possible.
- 2.2 Anonymous complaints will not be considered.
- 2.3 In the interests of fairness and natural justice, the Councillor who is the subject of the complaint will normally be told who has complained about them and the details of the complaint. There may be occasions where the complainant requests that their identity is withheld. Such a request will only be agreed in exceptional circumstances.

### **3. WHO WILL DEAL WITH THE COMPLAINT?**

- 3.1 The Initial Assessment of any complaint will be dealt with, in the first instance, by the Monitoring Officer or in the event of a conflict of interest, by a deputy Monitoring Officer.
- 3.2 Any investigation under Stage 2, will be conducted by the Monitoring Officer or a person appointed by him. His/her investigation report will be considered by the Council's Standards (Hearing) Sub-Committee, who will also conduct any hearing under Stage 3.
- 3.3 The Independent Person will be able to attend any meetings held under stages 2 and 3 of the process.

### **4. HOW WILL ANY COMPLAINT BE DEALT WITH?**

#### **4.1 Stage 1 – Initial Assessment**

The Monitoring Officer will consider the complaint, in consultation with the Independent Person. The Monitoring Officer will consider whether:

- (a) The complaint is about the conduct of a councillor or lay or co-opted member of the Council or a town or parish council within the Council's area;
- (b) the Councillor was a councillor at the time of the incident giving rise to the complaint;
- (c) the Councillor was a councillor at the time of the complaint;
- (d) the matters giving rise to the complaint would, if proven, be capable of breaching the Code of the relevant local authority.

4.2 If the complaint fails one or more of these tests, or if the Monitoring Officer in consultation with the Independent Person is satisfied that the complaint is immaterial, no further action will be taken.

4.3 Unless the complaint is about a failure to disclose a Disclosable Pecuniary Interest or other criminal behaviour, if the complaint satisfies the tests in paragraphs 5.1 or 5.2 the Monitoring Officer will prepare a report for the Standards (Assessment) Sub-Committee to consider. The Councillor, and if they are a Town or Parish Councillor, the relevant Town or Parish Clerk, will be informed of the receipt of the complaint and that a report is being prepared for the Standards (Assessment) Sub-Committee.

4.4 In considering the Monitoring Officer's report and assessing the complaint the Standards (Assessment) Sub-Committee will have regard to the criteria set out in Appendix A.

4.5 The Standards (Assessment) Sub-Committee may:

- (a) reject the complaint or to decide to take no action – in which case the Sub-Committee will give their reasons for doing so;
- (b) seek an informal resolution (including, for example, an apology, or mediation); or
- (c) ask the Monitoring Officer to investigate the complaint.

4.6 A copy of the complaint and a summary of the Standards (Assessment) Sub-Committee will be sent to the Councillor and to the complainant by the Monitoring Officer.

#### 4.7 **Stage 2 – Investigation**

The person appointed by the Monitoring Officer will examine any available evidence of the alleged breach. They will usually interview the complainant, the councillor and, if appropriate any witnesses. They will prepare a report setting out:

- (a) the agreed facts;
  - (b) any facts which are not agreed and the conflicting evidence; and
  - (c) their conclusion on whether or not there has been a breach of the Code of Conduct.
- 4.8 Stage 3 – Hearing**
- The Standards (Hearing) Sub-Committee will consider the report. It will reach a view on disputed facts and decide whether or not to accept the conclusion of the Investigating Officer on the alleged breach of the Code of Conduct. The Sub-Committee may:
- (a) dismiss the complaint;
  - (b) refer the complaint to the Monitoring Officer to seek an informal resolution;
  - (c) hold a hearing of the Committee.
- 4.9 The hearing will be to make a final decision on whether or not a Councillor has breached the Code of Conduct and, if so, to decide whether any sanction should be imposed.
- 4.10 The hearing will normally be held in public, in order to promote public confidence and ensure fairness and transparency. The Sub-Committee may resolve to exclude the public and press for any part of the hearing where confidential or exempt information is considered and will usually do so when coming to its decision. The Sub-Committee may decide:
- (a) to take no further action;
  - (b) to seek an informal resolution between the complainant and the subject councillor (if agreed by both parties);
  - (c) to censure the Councillor;
  - (d) to recommend to the Councillor’s Group Leader (or in the case of an ungrouped councillor recommend to Council) that the Councillor is removed from any Committees or Sub-Committees of the Council, either for a specified period or until the next Annual Meeting of the Council, when seats on Committees will next be allocated;
  - (e) to instruct the Monitoring Officer to request the Councillor to attend training;
  - (f) to recommend the Group Leader to remove the Councillor from all outside appointments to which they have been appointed or nominated by the Council;



- (g) to withdraw facilities provided to the Councillor by the Council, such as a computer and/or e-mail and internet access for a specified time;
- (h) to exclude, for a specified period of time, the Councillor from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

## **APPENDIX A – ASSESSMENT CRITERIA**

### **1 Initial Tests**

- 1.1 The complaint is about the conduct of a councillor or lay or co-opted member of a council within the Council's area;
- 1.2 the Councillor was a councillor at the time of the incident giving rise to the complaint;
- 1.3 the Councillor was a councillor at the time of the complaint;
- 1.4 the matters giving rise to the complaint would, if proven, be capable of breaching the Code of the relevant local authority.

### **2 Sufficiency of information**

- 2.1 Has the complainant provided sufficient information to allow the Sub-Committee assessing the complaint to understand the issues complained of? If insufficient information is provided, the Sub-Committee will not normally proceed with assessment of the complaint.

### **3 Seriousness of the Complaint**

- 3.1 Does the complaint appear, on the available information, to be trivial, vexatious, malicious, politically motivated or 'tit for tat'?
- 3.2 Other than in particularly serious cases a complaint will not generally be referred for investigation if the Councillor has offered an apology, or if the Sub-Committee takes the view that the complaint can reasonably be addressed by other means.
- 3.3 Given the public interest in financial and other resources being used efficiently referral for investigation is generally reserved for serious complaints where alternative options for resolution are not considered by the Sub-Committee to be appropriate.

### **4 Length of Time Elapsed**

- 4.1 Except in exceptional circumstances a complaint will not be referred for investigation when it is made more than 20 working days from the date upon which the event giving rise to the complaint took place.

### **5 Multiple Complaints**

- 5.1 A single event may give rise to similar complaints from a number of complainants. These will generally be treated as a single complaint with multiple complainants.



## **MEMBERS AND OFFICERS PROTOCOL**

### **1. Introduction**

- 1.1 The conduct of both Members and officers is governed by the Codes of Conduct detailed in Part 5 of the Council's Constitution. The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another in such a way that ensures that the Council runs smoothly.
- 1.2 The relationship between Members and Officers is based on the following principles:
- (a) the Council is a democratically-elected local authority delivering a range of services to the people of Dorset;
  - (b) the Council is a single entity;
  - (c) the separate functions of the Council are part of the Council as a corporate body;
  - (d) in everything they do, Members and officers of the Council must act within the law and comply with relevant codes of conduct;
  - (e) dealings between Members and officers are based on mutual trust and respect;
  - (f) the relationship must exist on a professional basis only so that the ability of an officer to deal impartially with Members or political groups cannot be questioned;
  - (g) officers should not approach Members on matters to do with employment matters except as agreed by the Head of Paid Service.
- 1.3 Officers and Members each have their own roles to play in the work of the Council and care should be taken to avoid one encroaching upon the other.

#### **The role of Members**

- (a) To provide the political direction and leadership of the Council. Members are accountable through the ballot box for their actions as Members.
- (b) As part of the controlling group to see that services are delivered by officers in accordance with the policies and plans approved by the Council.
- (c) To receive appropriate professional advice from officers and to have that advice recorded, so that all Members are fully aware of the implications of their decisions and have the assurance that their decisions comply with the law.
- (d) To make reasonable comment and ask questions about the Council's decisions and performance both at formal meetings and informally. An officer's seniority and area of responsibility will determine what are reasonable comments and questions.

### **The role of Officers**

- (a) To serve the whole Council as a single corporate body while recognising the differences between the Council's functions.
- (b) To provide wherever practicable, support to all Members in their representational role and act to uphold the rights of Members in law and under this Constitution.
- (c) To take decisions within their area of responsibility which have been delegated and/or nominated to them but recognising that, where functions have not been delegated/nominated to officers, it is the right of Members to take the final decisions in the light of officers' advice.
- (d) To provide factual, honest and objective advice. The advice and the actions officers take should be politically neutral and should serve the interests of the Council as a whole. Officers do not give advice on party political matters.

## **2. Officer advice to Members and Party Groups**

- 2.1 For the proper functioning of the Council as a whole, officers will normally be permitted to share information freely between them.
- 2.2 Where the information has been given on the basis of party political confidentiality:
  - (a) officers will respect that confidentiality unless they believe that any action appears to be in conflict with the law, or would amount to an abuse of the processes of the Council and in those circumstances may share that information with other officers where they believe it to be necessary to check the legality, financial probity or procedural regularity of any action disclosed by that information.
  - (b) The request for party political confidentiality will be honoured by any officers with whom the information is shared.
- 2.3 Where party political confidentiality has been requested, officers may invite those Members requesting confidentiality to agree to the information being shared with the other political groups on the grounds that it would assist the more effective functioning of the Council; however, in the absence of any such agreement to waive confidentiality, officers will continue to respect it.
- 2.4 Where there is a change in the controlling party, officers will act in relation to the new controlling party and opposition parties in the same way as they did for the old and will continue to respect any continuing party political confidentiality.
- 2.5 Officers are not required to attend political party group meetings. They will only do so by invitation, with the express authority of the Chief Executive, an Executive Director and/or a Corporate Director. The Chief Executive, Executive Director and/or Corporate Director will have the right to nominate other officers to attend at his sole discretion.

- 2.6 Where it is possible that persons other than Members will be present at a political party group meeting to which an officer has been invited, the Chief Executive, Executive Director and/or Corporate Director will be informed before the meeting, and s/he will take this into account in arriving at his/her decision.

3. **Support services to Members and Party Groups**

- 3.1 Support services and resources must only be used on Council business and should never be used in connection with any political or campaigning activity or for private purposes.

4. **Members' access to information and to Council documents**

- 4.1 Members have various statutory and common law rights to access information.

Members may ask the Chief Executive, an Executive Director and/or any Corporate Director or other officers nominated by them for such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Member. 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.

- 4.2 A Member does not have a right to "a roving commission" to 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 Officer holding the document in question. In the event of dispute, the matter shall be determined by the Head of Paid Service, an Executive Director or a Corporate Director,

- 4.3 In addition to the above a Member may request information under the Freedom of Information Act 2000, and various other legislative provisions including the Local Government Acts of 1972 and 2000 provide a statutory right of access to documents. Any document which is in the Council's possession and contains material relating to any business to be transacted at a meeting of the Council, a Committee or Sub Committee is to be open to inspection by any Member. However, there is no right of inspection where it appears to the Chief Executive that a document discloses certain classes of exempt information as set out in Access to Information Procedure Rules.

- 4.4 The Code of Conduct limits the ability of a Member to disclose confidential information. Further information of rights of access can be found in the Access to Information Procedure Rules – Part 2 of the Constitution.

5. **Correspondence**

- 5.1 Openness and transparency should underpin the work of the Council. Accordingly, blind copies ie correspondence where some of the intended recipients are deliberately hidden from others, should not be sent.
- 5.2 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 circumstances (eg, representations to a Government Minister) for a

letter to appear in the name of a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

**6. Involvement of Ward Members**

- 6.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should normally, 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 normally be notified at the outset of the exercise.

## OFFICER CODE OF CONDUCT

### 1. Introduction

- 1.1 This Code together with the policies described in paragraph 3 set out the standards of conduct expected of all council employees (“Officers”).
- 1.2 Officers should be aware that a failure to comply with this Code could result in disciplinary action in accordance with the Council's disciplinary policy

### 2. Officers’ obligations

- 2.1 All Officers have a general obligation to maintain the Council's reputation and should not do anything to adversely affect this – whether in work or outside of work.
- 2.2 Officers are expected to:
  - (a) give the highest possible standard of service to the people of Dorset and to provide appropriate impartial advice. This applies whether the service is provided in person, over the phone, via email or any other method.
  - (b) be responsible for their own actions and behaviour and should seek to avoid any conduct that would lead any reasonable person to question their motivation or intentions.
  - (c) raise any concerns about service provision or practice which affect the integrity of the Council, including any fraud, bribery, corruption or other malpractice. Where appropriate, and where raising the concern is in the public interest, the Council's Whistle-blowing Policy should be followed.
  - (d) be politically neutral when advising Members or the Council.
  - (e) avoid inappropriate relationships with Members, Contractors or other Officers.
  - (f) treat everyone with the same professional standards regardless of gender, gender identity, age, marital or civil partnership status, colour, race, nationality or other ethnic or national origin, religion or belief, disability, sexual orientation, pregnancy or maternity, criminal background, trade union activity or political belief.
  - (g) in accordance with arrangements determined by the Council, declare any interest, outside employment or receipt of gifts or hospitality that would have to be declared by Members.
  - (h) avoid conflicts of interest between work for the Council and other employment and interests outside of work. This includes the not using of



Council information, resources and intellectual property for personal gain or for the benefit others who might use it in such a way.

- (i) use public funds in a responsible and lawful manner.
- (j) to comply with the Supporting Policies where applicable.

**3. FRAUD, CORRUPTION AND BRIBERY**

- 3.1 The Council, the Head of Paid Service, Executive Directors and all Corporate Directors have a zero-tolerance commitment to issues of bribery and corruption.
- 3.2 Officers should report to their line manager or any Executive Director any corrupt offer that is made to them. Officers should also inform their line manager of any situation that they identify which they consider could result in the Council, its Members or Officer being vulnerable to fraud, corruption or bribery.

**4. SUPPORTING POLICIES AND PROCEDURES**

List relevant policies

## **PROTOCOL FOR MEMBERS AND OFFICERS ON PLANNING PROCEDURES**

### **1. Introduction**

- 1.1. Public confidence in the planning system, whether that is determining planning applications or taking enforcement action against breaches of planning control, is essential to the acceptance of the restrictions which it imposes upon individuals, and that confidence can only be achieved if Members and officers not only act, but are seen to act in a manner which is fair, impartial and in the general public interest of the area as a whole.
- 1.2. Determination of a planning application is a formal administrative process involving rules of procedure, rights of appeal and an expectation that decision makers will act reasonably and fairly. Procedural unfairness can leave planning decisions vulnerable to legal challenge in the High Court.
- 1.3. This Code applies to every Member irrespective of whether or not he or she is a member of the Planning Committee and to all Officers. It is supplemental to the Members' Code of Conduct.

### **2. Pre-determination**

- 2.1. Since any planning matter must be determined on its merits, taking into account all material planning considerations, Members must not make up their minds on a planning issue before they all have all the relevant information. Decisions can only be taken after full consideration of the officer's report and information and discussion at the Planning Committee meeting. This does not mean that Members cannot hold strong views about an application.
- 2.2. However, if a Councillor fully commits him- or her-self to a particular view on a planning application, such that their mind is no longer open to the consideration of the merits of the case, that Councillor should not take part in the debate or vote on an application.

### **3 Pre-application discussions**

- 3.1 Members have an important part to play in community engagement. Members who take part in pre-application discussions either with applicants or objectors need to be aware of the:
  - (a) need to remain impartial;
  - (b) danger of giving inconsistent or inappropriate advice particularly when not all the facts are known so advice should be limited to matters of process;
  - (c) need for an officer to be present during any such discussions where practicable; and
  - (d) the fact that they are not negotiators.

- 3.2 On the basis of “no surprises” where potential issues are brought to Members’ attention during any pre-application discussion at which it was not practicable for an Officer to be present they should alert Officers to the issue as soon as possible and not leave it to the Planning Committee meeting.

#### **4 Lobbying of Members**

- 4.1 Lobbying, whether by applicants, objectors or those in support of an application, is a normal part of the political process and can take the form of meetings, both private and public, formal presentations or correspondence. It is an essential part of the process that local concerns can be expressed. However, care must be taken to ensure that lobbying does not call into question the integrity and fairness of the planning process or an individual Councillor. When lobbied, members of the Planning Committee should take care about expressing an opinion which could be taken as an indication that they have already made up their mind on the issue and are no longer open to consideration of the merits of the application. Instead they should give procedural advice including suggesting that contact is made with the case officer.
- 4.2 If Members do express an opinion, care should be taken to state that this is a preliminary view only and the final decision will be reached when all the facts are available at the Planning Committee meeting.
- 4.3 Any written or electronic correspondence received should be passed by the Member who is main addressee (if the e-mail is addressed to all members of the Planning Committee, this will be the Chairman of the Planning Committee) immediately to the case officer for recording on the file and for communication to all Planning Committee members.
- 4.4 Members of the Planning Committee should take care when attending meetings in connection with development proposals or submitted planning applications unless such meetings have been arranged as Councillor briefings as part of the formal process. Members should take advice from the Monitoring Officer before deciding whether to attend meetings that appear to have been organised for lobbying purposes.
- 4.5 Members of the Planning Committee consider whether any contact with an applicant, objector or landowner is significant, and if so, disclose such contact prior to any decision being taken on the application. This should be formally recorded in the record of the Planning Committee meeting.

#### **5 Lobbying by Members**

- 5.1 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 Planning Committee. Officers should make a note on the file of any such discussions.

- 5.2 Ward Members who are not members of the Planning Committee can make representations on planning applications in their Ward and may attend meetings of the Planning Committee and, with the Chairman of Planning Committee's agreement, can address the Planning Committee on such applications in accordance with the protocol on public speaking at Planning Committee meetings. Any representations or address should relate to the planning merits of a planning application. This will not apply if the Councillor is also a Parish/Town Councillor and the Parish/Town Council is the applicant.
- 5.3 When making representations on behalf of their constituents, Members should make it clear that it is their constituents' views and not their own that are being expressed. Furthermore, any representations on behalf of constituents must be expressed in such a way that no individual or group feels that they have been unfairly represented.
- 5.4 Members should avoid lobbying Planning Committee Members and exerting of undue pressure on planning officers for a particular recommendation.

## **6 Membership of another local authority**

- 6.1. A Councillor who is also a member of another tier of local government should have regard to the guidance on interests in this Code. If in doubt about the nature of their interest, Members are recommended to seek further advice from the Monitoring Officer.
- 6.2. Members of the Planning Committee who are also members of another tier of local government should adopt the practice of making it clear, when they participate in a debate on development proposals at a Parish/Town meeting, that the views they express are based upon information before them at that time, and might change in the light of further information at the Council's Planning Committee Meeting.

## **7 Political group meetings**

- 7.1 Given that the point at which a decision on a planning application is made cannot be before the Planning Committee meeting when all available information will be to hand and has been duly considered, any political group meeting prior to the meeting of the Planning Committee should not be used to decide how Members should vote. Furthermore, the Ombudsman takes the view that the use of political whips at group meetings in this way may be considered as maladministration.

## **8 Scheme of delegation**

- 8.1 The detail of the Scheme of Delegation is set out in Part 3 of the Constitution.

### **Applications by the Council or in respect of Council-owned land**

- 8.2 Applications submitted by the Council or made by any person in respect of Council-owned land will be determined by the Planning Committee.

### **Applications by Members and Officers**

- 8.3 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:
- (a) all such applications will be reported to and determined by the Planning Committee.
  - (b) while any application from a Member or Officer should usually be identified as part of the registration process, Members and Officers are encouraged to draw the fact that such an application has been submitted to the attention to both the Head of Service for Planning (or any other Officer nominated by him/her) in writing and also the relevant case officer within 21 days of the date of the application being submitted to help ensure its identification.
  - (c) where an application is submitted by someone other than a Member, but in relation to land or a building in which the Member has a registered legal interest (which for the purpose of this code means a legal interest registered at HM Land Registry in the name of the Member), the Member is also encouraged to provide such notification as identified above. Note that this is in addition to any duty the Member may have regarding the disclosure of any interest including any Disclosable Pecuniary Interest for the purposes of the Member Code of Conduct.
  - (d) any Member or Officer who submits a planning application must not take part in or seek to influence the decision-making process relating to that application.
  - (e) any Member or Officer who acts as an agent for people pursuing a planning matter with the Council must not take part in the decision-making process for that proposal, nor seek in any way to influence it.

### **Reports to the Planning Committee**

- 8.6 All planning applications to be determined by the Planning Committee will be the subject of a written report from the case officer. The report should aim to be as accurate as possible and include a summary of the substance of representations received, the relevant policies, identify any other material considerations, 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 will identify this and provide reasoned justification.

- 8.7 Officers may report additional information received after the publication of the Planning Committee report at the meeting.

## 9 Decision-making

### The legal framework

- 9.1 The Town and Country Planning Act 1990 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 provisions of the development plan unless material considerations suggest otherwise.

### Determination of applications contrary to Officer's advice

- 9.2 Decisions should be based on any written report prepared by Officers. However, Members are not obliged 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 and convincing planning-based reasons for doing so, with evidence to support those reasons whether they are reasons to refuse an application, or to grant planning permission as a departure from the development plan.
- 9.3 The mover of the motion must set out their reasons as part of the motion and if seconded, it may be appropriate for the Planning Committee to adjourn for a few minutes to allow Officers to consider the reasons. Where officers have doubts about the validity of the reasons given, then consideration should normally be given to the deferral of the application to the next meeting so that the reasons may be considered and tested further.
- 9.4 Before a vote is taken or consideration is given to deferral, the Chairman of the Planning Committee should ensure that the Officer is given the opportunity to explain the likely implications of any subsequent decision.
- 9.5 When Members decide to determine an application contrary to the Officer's recommendation, the minute will state the reasons for the decision and if those reasons are to be based on development plan policies, identifying the relevant policies and stating in what way the application supports or infringes those policies. A copy of the minute will be placed on the application file.

## 10 Site visits

- 10.1 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. Exceptionally, where the impact of the proposed development is difficult to visualise both from the submitted plans and other supporting material a committee site visit may be agreed. The site visit will be carried out in accordance with arrangements that will ensure that it is conducted fairly and without risk of bias or predetermination.

## 11 Interests

### Fundamental principle

- 11.1 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.

### Declaration

- 11.2 Members should declare and register those interests identified in the Code of Conduct for Members. Members with a Disclosable Pecuniary Interest in a planning application or enforcement matter should not take part in any discussions about the application or matter and leave the room during any discussions.
- 11.3 Where a Councillor has a personal interest e.g. the applicant is a relative, friend or close associate or there has been previous personal dealings acrimonious or otherwise, they should think whether their involvement in the decision-making process would compromise the General Principles set out the Code of Conduct for Members. If it would they should not take part.
- 11.4 Officers who discover that they have an interest in a planning matter should, in addition to any requirement of the Officers' Code of Conduct, 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 application.

### Monitoring Officer to advise.

- 11.5 Members and Officers who are unsure whether to declare an interest should seek advice from the Monitoring Officer, before the Planning Committee meeting, although the final decision whether to make a declaration and/or to withdraw from the meeting will always be one for the individual.

## 12 Councillor training

- 12.1 Town and Country Planning is a specialised 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. The Council will provide training that all members of the Planning Committee must undertake before taking part in any Planning Committee meetings. Members have a responsibility to ensure that they understand the fundamental principles and keep up-to-date with developments.
- 12.2 Training will be arranged for Members when there is a change in the composition of the Planning Committee or when there are material changes in legislation, policy guidance or practice.

**13 Officers' professional obligations**

- 13.1 Many Planning Officers are Chartered Town Planners and are bound by the Code of Professional Conduct of the Royal Town Planning Institute (RTPI) which imposes certain professional obligations including conflicts of interest and continuing training. Breaches of that Code may be subject to disciplinary action by the RTPI.

**14 Breach of this code**

- 14.1 If anybody wishes to make an allegation that a Councillor has breached this Code, such allegation should be made to the Monitoring Officer.