









- Children’s complaints statutory annual report
- Health Protection Annual Report
- Annual Education Standards Report
- Annual review of the Constitution
- Annual Risk Management Report
- Annual Report of the Standards Committee
- Annual Report of Scrutiny
- Annual report of the Audit Committee
- Annual Treasury Report
- Self-assessment against the “Role of Chief Financial Officer”
- Annual Fraud Report
- Quarterly Performance Reports to Cabinet and Scrutiny
- Annual Information Governance Report
- Annual VFM report

Third line (independent oversight)

- External inspectorates, such as Ofsted and the Care Quality Commission
- External audit
- Internal audit
- Ombudsman

**Core Principle A: Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law**

Rational: Local government organisations are accountable not only for how much they spend, but also for how they use the resources under their stewardship. This includes accountability for outputs, both positive and negative, and for the outcomes they have achieved. In addition, they have an overarching responsibility to serve the public interest in adhering to the requirements of legislation and government policies. It is essential that, as a whole, they can demonstrate the appropriateness of all their actions across all activities and have mechanisms in place to encourage and enforce adherence to ethical values and to respect the rule of law.

**North East Lincolnshire Council's commitment to achieving good governance is demonstrated below:**

**Behaving with integrity**

- A Code of Conduct for Members to ensure that high standards of conduct are maintained.
- A procedure outlining arrangements for breaches of the Member Code of Conduct.
- The Standards and Adjudication Committee is responsible for overseeing the conduct of members and identifying training needs of members in relation to the Code of Conduct. The Committee receives a report at each meeting on the progress of complaints/investigations. An Annual report of member conduct is also produced.
- An independent person advises on complaints made against Councillors.
- Standards Committee Members receive training on the Code of Conduct.
- An Employee Code of Conduct that sets down standards of behaviour and conduct the Council expects of its employees. Reference is made to the Code on the Induction Checklist.
- Standard decision making reporting format to ensure that all those responsible for taking decisions have the necessary information on which to do so. Key decisions are supported by an Integrated Impact Assessment.
- Publication of a Report Writing Guide – reviewed and updated November 2016.
- An employee policy for acceptance of gifts and hospitality.
- An employee policy for registering interests.
- Registers of Members' interests and records of gifts and hospitality are published on the Council's website.
- Members' declaration of interests are a standing item on all agendas. Minutes show declarations of interest were sought and appropriate declarations made.
- A Protocol for Council Representation on Outside Bodies.
- A Corporate Feedback Policy that is published on the Council's website and is supported by a Complaints, Compliments and Suggestion on-line form.
- A Policy for Raising a Concern (Incorporating the Whistleblowing Policy).

**Demonstrating strong commitment to ethical values**

- The Constitution which sets out how the council operates and how it makes decisions. It also states that the Council will exercise all its duties in accordance with the law. This is reviewed annually to ensure the Council's arrangements remain compliant with legislative requirements and is fit for purpose.



## Core Principle B: Ensuring openness and comprehensive stakeholder engagement

Rational: Local government is run for the public good; organisations therefore should ensure openness in their activities. Clear, trusted channels of communication and consultation should be used to engage effectively with all groups of stakeholders, such as individual citizens and service users, as well as institutional stakeholders.

### **North East Lincolnshire Council's commitment to achieving good governance is demonstrated below:**

#### **Openness**

- A Publication Scheme that describes the kinds of information available and provides guidance about how to access personal information and submit a Freedom of Information request.
- A standard decision making report format to ensure that the decision maker is presented with all of the information necessary to inform the decision.
- Publication of a Report Writing Guide – reviewed and updated November 2016.
- An Impact Assessment toolkit is used for all key decisions and helps ensure that the decisions taken consider a range of potential impacts/risks. Where appropriate background papers are cited in the standard report format.
- Agendas, reports and minutes, for all committees of the Council (including Scrutiny, Cabinet and Full council) are published on the Council's website. Meetings are held public unless there are good reasons for not doing so on the grounds of confidentiality.
- Dates for submitting, publishing and distributing timely reports are set and adhered to.
- The Outcomes Framework sets out the priorities and strategic direction for the Council and can be found in budget papers.
- Decisions to be taken by Cabinet and Portfolio Holders are published in advance with the Forward Plan of Key Decisions.
- Cabinet decisions are tracked to ensure actions are implemented on a timely basis.
- Officer decision definitions have been redefined.

#### **Engaging comprehensively with institutional stakeholders**

- A Communications Team Plan which sets out the plan for improving communications across the Council with employees, partners, residents and other stakeholders.
- Community Engagement Toolkit laying out how consultation with employees, partners, residents, businesses and other stakeholders should take place. The Toolkit is published on the website and was reviewed April 2017.
- A partner/organisation/stakeholder list has been drawn which details those the authority engages with.
- Consultation feedback is included in reports where appropriate.
- Partnership Governance Protocol that sets out the governance and processes for partnership working arrangements.

#### **Engaging stakeholders effectively including individual citizens and service users**







## Core Principle D: Determining the interventions necessary to optimise the achievement of the intended outcomes

Rationale: Local government achieves its intended outcomes by providing a mixture of legal, regulatory, and practical interventions (courses of action). Determining the right mix of these courses of action is a critically important strategic choice that local government has to make to ensure intended outcomes are achieved. They need robust decision-making mechanisms to ensure that their defined outcomes can be achieved in a way that provides the best trade-off between the various types of resource inputs while still enabling effective and efficient operations. Decisions made need to be reviewed frequently to ensure that achievement of outcomes is optimised.

**North East Lincolnshire Council's commitment to achieving good governance is demonstrated below:**

### Determining interventions

- The format of decision making reports to ensure that all relevant information is considered such as analysis of options, resource implications, and outcomes of Integrated Impact Assessment etc. Options are clearly defined and analysed to ensure decisions are based on the best possible information.
- The Commissioning Cycle (see below) is applied to ensure clear alignment to need and improving outcomes. This will be included in the budget papers.



### Planning interventions

- A Community Engagement Framework that sets out the Council's commitment to involving local people in its most important decisions through community engagement and sets out how it will do this. It seeks opportunities to get local people involved in the running of services and assets.
- The Outcomes Framework is the means by which the Council's strategic framework will be translated into action and delivered.
- The Commissioning Plan and Framework ensures and fosters clear links between the Outcomes Framework and the resources available to achieve them.
- Leadership Team and Cabinet receive performance monitoring reports at regular intervals based on the Council's Outcome Framework.



**Core Principle E: Developing the entity’s capacity, including the capability of its leadership and the individuals within it**

Rationale: Local government needs appropriate structures and leadership, as well as people with the right skills, appropriate qualifications and mind-set, to operate efficiently and effectively and achieve intended outcomes within the specified periods. A local government organisation must ensure that it has both the capacity to fulfil its own mandate and to make certain that there are policies in place to guarantee that its management has the operational capacity for the organisation as a whole. Because both individuals and the environment in which an organisation operates will change over time, there will be a continuous need to develop its capacity as well as the skills and experience of individual staff members. Leadership in local government is strengthened by the participation of people with many different types of backgrounds, reflecting the structure and diversity of communities.

North East Lincolnshire Council’s commitment to achieving good governance is demonstrated below:

**Developing the entity’s capacity**

- Provide an updated report on Value for Money (VFM) activities to the Audit & Governance Committee annually.
- The Council undertakes outcomes based performance analysis to inform whether the right outputs and outcomes are being delivered by the financial input (costs).
- The Council fosters effective relationships, collaborative working and contractual arrangements with other public, private and voluntary organisations in delivering services.
- The Council has a People, Leadership and Development Strategy including an action plan and a Children’s Workforce Strategy and plan.

**Developing the capability of the entity’s leadership and other individuals**

- A Protocol on Member/Officer Relations that assists both Members and officers achieve good working relationships in the conduct of Council business.
- A Scheme of Delegation that is reviewed annually in light of legal and organisational changes.
- A Constitution that sets out financial management arrangements through the Financial Regulations and Contract Procedure Rules.
- Member Induction Programme in place for newly elected members.
- Member Development is managed via the Group Leaders and training is provided as of need. Members are updated on legal and policy changes etc. as required.
- Mandatory Induction programmes for all employees. Induction guides exist for managers and staff together with an Induction Toolkit.
- Training for employees is made available through the annual Corporate Training Programme.
- An employee management framework has been developed, based on restorative principles, which holds staff to account through regular performance reviews which take account of training or development needs.
- 21<sup>st</sup> Century Public Servant has been adopted which is a model to help identify current and new skills in relation to Members and officers.
- A continued Apprenticeship Programme offering training, skills and experience in Local Government.
- Top Desk area to promote staff development.



**Core Principle F: Managing risks and performance through robust internal control and strong public financial management**

Rationale: Local government needs to ensure that the organisations and governance structures that it oversees have implemented, and can sustain, an effective performance management system that facilitates effective and efficient delivery of planned services.

Risk management and internal control are important and integral parts of a performance management system and are crucial to the achievement of outcomes. Risk should be considered and addressed as part of all decision making activities.

A strong system of financial management is essential for the implementation of policies and the achievement of intended outcomes, as it will enforce financial discipline, strategic allocation of resources, efficient service delivery and accountability.

It is also essential that a culture and structure for scrutiny are in place as a key part of accountable decision making, policy making and review. A positive working culture that accepts, promotes and encourages constructive challenge is critical to successful scrutiny and successful service delivery. Importantly, this culture does not happen automatically, it requires repeated public commitment from those in authority.

**North East Lincolnshire Council's commitment to achieving good governance is demonstrated below:**

**Managing risk**

- The Council has a Risk and Opportunities Policy and approach including robust systems of identification, evaluation and control of risks which threaten the Council's ability to meet its objectives to deliver services to the public. This is subject to annual review and approval at the Audit and Governance Committee.
- Responsibilities for managing individual risks are contained within the Risk and Opportunities Policy.
- The Council has set its risk appetite and is contained within the Risk and Opportunities Policy.
- The Assurance Board, chaired by the Chief Executive regularly reviews the strategic risk register, and seeks assurances that it is kept up to date and actions to mitigate risks are implemented.
- Risk management arrangements help in decision making.

**Managing performance**

- Key indicators have been identified which support the Council's Outcomes Framework. Assigned leadership team members are responsible for the monitoring of the delivery of performance measures in support of the outcomes.
- Reports and minutes and decisions under member consideration are published on the website and are available in hard copy in a variety of formats on request.
- The Constitution, through its Overview and Scrutiny Procedure Rules, has opportunities for the Council's five scrutiny panels to challenge and debate policy and objectives before, during and after decisions are made.
- Agenda, minutes of scrutiny meetings and any associated reports with recommendations to the Executive are published on the Council's website.
- Overview and Scrutiny training for members is provided initially at induction, also on an annual basis or on specific subjects within scrutiny panel meetings.
- Contract Procedure Rules and Financial Regulations set out the Council's arrangements and ensure that processes continue to operate consistently.
- An effective internal audit service is resourced and maintained. Internal Audit prepares and delivers a risk based audit plan in line with international auditing standards which is kept under review to reflect changing priorities and emerging risks.

**Robust internal control**

- The Assurance Board seeks assurance on the operation of the Council's control environment.
- The Managers' "Guide to the Control Environment" provides guidance to managers on the control environment and their responsibilities in relation to it.
- An annual report is produced by Internal Audit which provides an opinion on the Council's control environment, and a self-assessment of its arrangements against the public sector internal audit standards and CIPFA's guide to the role of the Head of Internal Audit.
- The Council is subject to External Audit and inspection regimes which require action plans which are assigned to officers and reported to relevant Portfolio Holders.
- Anti-Fraud and Corruption Strategy which is subject to regular review and is approved by the Audit and Governance Committee. An annual fraud report summarises anti-fraud activity in the year.
- AGS that is subject to review by the Audit and Governance Committee.
- The Audit and Governance Committee, which is independent of cabinet (and has an independent chair), oversees the management of governance issues, internal controls, risk management and financial reporting. Its performance is subject to annual self-assessment.
- Audit and Governance Committee Terms of Reference are reviewed annually and revised to reflect professional bodies' expectations and best practice.
- Training is provided to Audit & Governance Committee Members on areas relevant to their role.
- There is a framework in place to obtain assurance in relation to clinical governance.
- There are frameworks in place in relation to child and adult safeguarding.

#### **Managing data**

- Procedures for the effective, fair and lawful processing of data are set out in the Council's Record Management Policy, Data Protection Policy and supporting Information Governance Framework.
- Information governance and security awareness including individual responsibilities and good practice is raised and embedded with officers and elected members through the mandatory information governance training and support with regular refresher and update activities including IG newsletter, intranet postings, e-mails and articles in Vision.
- The Council's ICT and Information Security Standards provide guidance on the arrangements that must be in place/best practice to ensure personal data is kept protected and secure.
- Through the shared service information governance and security policies, standards and guidance are being reviewed and consolidated across North and North East Lincolnshire Councils to ensure consistency and compliance in the effective management of data and information.
- Effective information sharing is undertaken in accordance with the Data Protection Act and the Council's Data Protection Policy. Information Sharing Agreements, are reviewed on a regular basis,





**Core Principle G: Implementing good practices in transparency, reporting, and audit to deliver effective accountability**

Rationale: Accountability is about ensuring that those making decisions and delivering services are answerable for them. Effective accountability is concerned not only with reporting on actions completed, but also ensuring that stakeholders are able to understand and respond as the organisation plans and carries out its activities in a transparent manner. Both external and internal audit contribute to effective accountability.

**North East Lincolnshire Council's commitment to achieving good governance is demonstrated below:**

**Implementing good practice in transparency**

- Agendas, reports and minutes are published on the Council's website.
- Reputation section included in reports template.
- A style guide document that outlines how to communicate more effectively and to ensure communications are consistent and clear.
- Comply with the National Transparency Code.

**Implementing good practices in reporting**

- Annual Financial Statements are compiled, published to timetable and included on the Council's website.
- A review of VFM activities reported to the Audit & Governance Committee annually.
- AGS.

**Assurance and effective accountability**

- The AGS sets out the Council's governance framework and the results of the annual review of the effectiveness of the Council's arrangements. The AGS includes areas for improvement.
- An effective internal audit service is resourced and maintained. The Service has direct access to members and provides assurance on governance arrangements via an annual report containing an opinion on the Council's internal control arrangements.
- An annual report is produced by Internal Audit which includes a self-assessment of its arrangements against the public sector internal audit standards and CIPFA's guide to the role of the Head of Internal Audit.
- External Audit provides an annual opinion on the Council's financial statements and arrangements for securing Value for Money.
- The Council actively welcomes peer challenge, reviews and inspections from regulatory bodies.
- The Partnership Governance Protocol lays out expectations in relation to lines of accountability.
- The respective roles of officers and associated accountabilities are set out in the Constitution.
- The Council's scrutiny arrangements are well established and provide challenge and review and promote service improvement.





7. Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Council and never undertake any action which would bring the Council, or its Members or officers generally, into disrepute.
8. All councillors are required to comply with requests from the Standards Committee (and its sub-committees) and the Monitoring Officer regarding allegations of potential breaches of the Code of Conduct, including responding to allegations, preliminary evidence gathering before assessment or investigation, and formal standards investigations. Failure to do so without justifiable reasons may see the councillor subject to a standards investigation.

**9. WHAT STANDARDS OF CONDUCT ARE MEMBERS EXPECTED TO OBSERVE?**

Members shall in particular observe the following rules when acting as a Member or co-opted Member of the Council and Members are informed that you:

- (1) **Do** treat others with respect and courtesy.
- (2) **Do not** -
  - (a) do anything which may cause your Council to breach any of its the equality duties (in particular as set out in the Equality Act 2010);
  - (b) bully any person;
  - (c) harass any person;
  - (d) intimidate or attempt to intimidate any person who is or is likely to be
    - (i) a complainant,
    - (ii) a witness, or
    - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her Council's code of conduct; or
  - (e) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your Council.
- (3) **Do not** use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
  - **Do** be aware of the requirements of the Bribery Act 2010 and that offences under the Act include the situation where a Member requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, any function of a public nature, any activity connected with the Council or any activity to be performed by or on behalf of the Council or others should be performed improperly.
- (4) **Do not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where -
  - a) you have the consent of a person authorised to give it;
  - b) you are required by law to do so;

- c) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - d) the disclosure is—
    - i. reasonable and in the public interest; and
    - ii. made in good faith and in compliance with the reasonable requirements of the Council
- (5) **Do not** prevent another person from gaining access to information to which that person is entitled by law.
- (6) **Do not** conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

Members shall observe the following rules when using the resources of the Council, or authorising the use of those resources by others:

- (7) **Do** act in accordance with the Council's reasonable requirements including the requirements of the Council's IT and information security policies and the protocols referred to in this Code which you are deemed to have read ;
- (8) **Do** act in accordance with the Council's procedural (and any relevant legal and constitutional) requirements regarding the use of and application for ward funding (or any equivalent schemes prevailing from time to time)
- (9) **Do** make sure that such resources are not used improperly for political purposes (including party political purposes); and
- (10) **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- (11) **Do not** improperly use knowledge gained solely as a result of your role as a member for the advancement of your own interests.

Members shall observe the following rules when making decisions on behalf of or as part of the Council, and Members are informed that you:

- (12) **Do** have regard to any relevant advice provided to you by the Council's Monitoring Officer and Section 151 (Chief Finance) Officer where such advice is offered pursuant to his or her statutory duties.
- (13) **Do** give reasons for the decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

## **10. DISCLOSABLE PECUNIARY INTERESTS ('DPI')**

- 10.1 You have a Disclosable Pecuniary Interest (DPI) in any business of the Authority if that interest falls under any of the descriptions at Appendix 1 of this Code.

## **Disclosure Requirement**

- 10.2 You must, within 28 days of 1st July 2012 or of taking office as a Member or co-opted Member (where that is later), notify the Authority's Monitoring Officer of any DPI as defined in Regulations made by the Secretary of State and set out in Appendix 1 of this Code, where the DPI is yours or your partner's (which means spouse or civil partner, a person with whom you are living with as husband or wife or a person with whom you are living with as civil partners). You must also notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your DPI's.
- 10.3 You must make verbal declaration of the existence and nature of any DPI at any meeting of the Authority at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent. Where the interest is deemed a "sensitive interest" (see paragraph 9.5), you need only declare the existence of the DPI but not the detail.
- 10.4 If you are present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, and you have a DPI in any matter to be considered or being considered at the meeting, unless a dispensation has been granted,
- 10.4.1 you must not participate in any discussion of the matter at the meeting.
- 10.4.2 you must not participate in any vote taken on the matter at the meeting.
- 10.4.3 you must withdraw from the chamber whilst the matter is being discussed and voted on.
- 10.4.4 if the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

## **Sensitive Interest**

- 10.5 Where you consider that disclosure of the details of a DPI could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a DPI, the details of which are withheld under Section 32(2) of the Act.

## **11. CRIMINAL SANCTIONS RELATING TO DISCLOSABLE PECUNIARY INTERESTS**

- 11.1 A Member commits a criminal offence if, without reasonable excuse, s/he -
- 11.1.1 fails to notify the Monitoring Officer of any DPI within 28 days of election;
- 11.1.2 fails to disclose a DPI at a meeting if it is not on the register;
- 11.1.3 fails to notify the Monitoring Officer within 28 days of a DPI that is not on the register that you have disclosed to a meeting;
- 11.1.4 participates in any discussion or vote on a matter in which you have a DPI (including taking a decision as a Cabinet Member acting alone);

- 11.1.5 as a Cabinet Member discharging a function acting alone, and having a DPI in such a matter, fails to notify the Monitoring Officer within 28 days of the interest; and
- 11.1.6 knowingly or recklessly provides information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such an interest to a meeting
- 11.2 The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a Councillor for a maximum of 5 years.

## **12. PERSONAL INTERESTS**

- 12.1 You have a personal interest in any business of the Authority where either it relates to or is likely to affect -
  - 12.1.1 any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;
  - 12.1.2 any body -
    - exercising functions of a public nature;
    - directed to charitable purposes; or
    - one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management.
  - 12.1.3 the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25.
- 12.2 You have a personal interest in any business of the Authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a *relevant person* to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of your ward, as the case may be, affected by the decision, or relates to or is likely to affect any interests you have registered as a DPI.
- 12.3 *A relevant person is -*
  - 12.3.1 a member of your family or any person with whom you have a close association; or
  - 12.3.2 any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - 12.3.3 any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - 12.3.4 any body of a type described in sub-paragraph 12.1.1 and 12.1.2.



## **Disclosure Requirement**

- 12.4 If you have a personal interest as defined in paragraph 12.1, you must, within 28 days of 1st July 2012 or of taking office as a Member or co-opted Member (where that is later), notify the Authority's Monitoring Officer in writing of such interest. You must also notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your personal interests defined in paragraphs 12.1.
- 12.5 Subject to paragraph 12.6, you must make a verbal declaration of the existence and nature of any personal interest you have under this paragraph, at any meeting of the Authority at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent. Where the interest is deemed a "sensitive interest", you need only declare the existence of the interest but not the detail.
- 12.6 Where you have a personal interest in any business of the Authority which relates to or is likely to affect a body defined in paragraphs 12.1.1 and 12.1.2 you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 12.7 Having disclosed a personal interest and providing it is not a prejudicial interest, you may still continue to participate and vote on the matter at that meeting.
- 12.8 Where you have a personal interest in any business of the Authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

## **13. PREJUDICIAL INTERESTS**

- 13.1 Where you have a personal interest in any business of the Authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest (unless the matter falls within one of the exempt categories detailed in paragraph 8) and where that business -

13.1.1 affects your financial position or the financial position of a person or body described in paragraph 12.3

13.1.2 relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 12.3.

## **Disclosure Requirement**

- 13.2 Subject to paragraph 13.3, where you have a prejudicial interest in any business of the Authority, you must make verbal declaration of the existence and nature of such interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or

before the consideration of the item of business or as soon as the interest becomes apparent and, unless a dispensation has been granted, -

13.2.1 you must not participate in any discussion of the matter at the meeting.

13.2.2 you must not participate in any vote taken on the matter at the meeting.

13.2.3 you must, unless paragraph 13.3 applies, withdraw from the chamber whilst the matter is being discussed and voted on.

13.3 Where you have a prejudicial interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

13.4 Where, as a Cabinet member, you may discharge a function alone, and you become aware of a prejudicial interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

#### **14. EXEMPT CATEGORIES**

14.1 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of the Authority in respect of -

14.1.1 housing, where you are a tenant of the Authority provided that those functions do not relate particularly to your tenancy or lease;

14.1.2 school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

14.1.3 statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

14.1.4 an allowance, payment or indemnity given to Members;

14.1.5 any ceremonial honour given to Members; and

14.1.6 setting council tax or a precept under the Local Government Finance Act 1992.

#### **15. SCRUTINY COMMITTEES (aka SCRUTINY PANELS)**

15.1 In any business before an overview and scrutiny committee of the Authority (or of a sub-committee of such a committee) where –



## APPENDIX 1

A 'Disclosable Pecuniary Interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

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

	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.
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These descriptions on interests are subject to the following definitions;

"the Act" means the Localism Act 2011;

"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

"director" includes a member of the committee of management of an industrial and provident society;

"land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

"M" means a member of a relevant authority;

"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) or section 31(7), as the case may be, of the Act;

"relevant person" means M or any other person referred to in section 30(3)(b) of the Act;

"securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## APPENDIX 2

### Bullying, Harassment and Intimidation

The following definitions and examples of bullying, harassment or intimidation apply. Councillors should also note all aspects of paragraph 8 in the Code of Conduct, in particular paragraph 9 (1) (You must treat others with respect and courtesy).

The terms “bullying”, “harassment” and “intimidation” are used throughout this document. However, each of these can apply to any behaviour that is perceived to be unacceptable by the recipient(s), whether defined explicitly or not. These terms are used interchangeably by most people, and many definitions include, for example, bullying as a form of harassment. Perpetrators and victims would, until recently, have tended to live in the same community. However, with the increased use of, and access to, social media, perpetrators can now target victims who do not live nearby. Online bullying, harassment or intimidation is treated identically to face-to-face interactions.

What are bullying, harassment and intimidation?

Bullying is defined as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

Harassment as defined in the Equality Act 2010 as unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

Intimidation is a form of anti-social behaviour or harassment that includes a suggestion of threat. This threat can be physical or non-physical, including threats to a person’s reputation or future wellbeing and prospects. Intimidation can also be used to pressure another person to act in a certain manner, such as voting in a way that they would not normally choose to do.

Bullying, harassment and/or intimidation may be by an individual against an individual (perhaps by someone in a position of authority such as a councillor or employer) or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual. It is the impact on the recipient that determines whether behaviour constitutes bullying or harassment and not the intention of the bully/harasser.

Both harassment and intimidation may be against the law, particularly where the unwanted behaviour is related to a protected characteristic, such as a person’s sexuality, disability or age. Where this is the case, allegations may be directed to the police for investigation.

Some examples of bullying, harassment or intimidation include:

- Spreading malicious rumours, or insulting someone
- Exclusion or victimisation
- Unfair treatment
- Deliberately undermining a competent worker by constant criticism.
- Unwanted sexual advances
- Online abuse, threats and ‘trolling’, whether conducted anonymously or not.
- Threats to a person’s wellbeing or reputation.







community, rather than acting in the interests of any particular individual or section of the community, and that it is a breach of the Code improperly to confer any advantage or disadvantage on any person, including yourself.

- 1.2 You should only accept a gift or hospitality if there is a commensurate benefit to the authority.
  - 1.2.1 The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the authority which would not have been available but for the acceptance of that gift or hospitality.
  - 1.2.2 Acceptance of hospitality can confer an advantage on the authority, such as an opportunity to progress the business of the authority expeditiously through a working lunch, or to canvass the interests of the authority and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the authority is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.
  - 1.2.3 As set out above, the authority's code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Councillor of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the authority, would be a breach of the Code.
- 1.3 Never accept a gift or hospitality if acceptance might be open to misinterpretation
  - 1.3.1 The appearance of impropriety can be just as damaging to the authority and to you as a Councillor as actual impropriety. The authority's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the authority favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.
  - 1.3.2 Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:
    - occasions when the authority is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.
    - determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination,
    - funding decisions, when the authority is determining a grant application by any person or organisation.
    - Never accept a gift or hospitality which puts you under an improper obligation

1.3.3 Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the authority.

1.4 Never solicit a gift or hospitality

You must never solicit or invite an offer of a gift or hospitality in connection with your position as a Councillor unless the acceptance of that gift or hospitality would be permitted under this Code. You should also take care to avoid giving any indication that you might be open to such any improper offer.

## 1. Consent Regimes

(a) General consent provisions

For clarity, the authority has agreed that you may accept gifts and hospitality in the following circumstances:

- civic hospitality provided by another public authority
- modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits
- tickets for sporting, cultural and entertainment events which are sponsored by the authority
- small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise.
- a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a contractor or party with whom you have done business on behalf of the authority if you meet accidentally in a public house, cafe or bar. In such cases, you should make reasonable efforts to return the offer where this is practicable
- a modest working lunch not exceeding £10 a head in the course of a meeting in the offices of a party with whom the authority has an existing business connection where this is required in order to facilitate the conduct of that business. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must not exceed a value of £10 a head
- modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to the authority
- Hospitality received in the course of an external visit or meeting which has been duly authorised by the authority. Councillors should not make such arrangements themselves, but request officers to settle the detailed

arrangements, and officers are under instruction to make it clear that any such hospitality for Councillors and officers is to be no more than commensurate with the nature of the visit

- other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Councillor deals with the gift strictly in accordance with the following procedure: The Councillor must, as soon as practicable after the receipt of the gift, pass it to the Secretary to the Mayor of the Council together with a written statement identifying the information set out in Paragraphs 2(b) below. The Secretary will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the Mayor's Charity Fund, on whose behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Mayor.

(b) Special consent provisions

If you wish to accept any gift or hospitality which is in accordance with the General Principles set out in Paragraph 1, but is not within any of the general consents set out in Paragraph 2(a), you may only do so if you have previously obtained specific consent in accordance with the following procedure:

You must make an application in writing to the Monitoring Officer, setting out:

- the nature and your estimate of the market value of the gift or hospitality
- who the invitation or offer has been made by or on behalf of
- the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the authority in which they have been involved
- any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the authority
- any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper

You must not accept the gift or hospitality until you have received the appropriate consent.

The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the authority's accounts for the relevant year. But note that this does not relieve you of the obligation to register the receipt of gifts and hospitality in accordance with Paragraph 3, below.

## 2. Reporting

Where you accept any gift or hospitality which you estimate to have a market value or cost of provision of £25 or greater, you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, setting out the information set out in Paragraphs 2(b) above. A form for this purpose is attached to this Code, but you can send the same information by any convenient means. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the authority's accounts for the year in question.

Even if the value of the gift or hospitality is less than £25, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

## 3. Gifts to the authority

Gifts to the authority may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the authority. You should not solicit any such gift on behalf of the authority except where the authority has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements. If you receive such an offer on behalf of the authority, you must first consider whether it is appropriate for the authority to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the authority under any improper obligation, whether there is a real benefit to the authority which would outweigh any dis-benefits). If you do not have delegated authority to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation. The Monitoring Officer will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the authority. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the authority to accept the gift, you should consult the Monitoring Officer directly.

## 4. Definitions

"Gift or hospitality" includes any:

- the free gift of any goods or services
- the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public
- the opportunity to obtain any goods or services which are not available to the general public
- the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

References to the "value" or "cost" of any gift or hospitality are references to the

higher of:

- your estimate of the cost to the person or organisation of providing the gift or consideration
- the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

To:

#### Declaration of Receipt of Gifts or Hospitality

Name	
What was the gift or hospitality?	
What is your best estimate of its market value or cost?	
Who provided it?	
When and where did you receive it?	
Does it come within one of the general consents set out in the Code of Conduct? If so, which?	
Did you get the consent of any officer before accepting it? If so, who?	
Were there any special circumstances justifying acceptance of this gift or hospitality?	
Do you have any previous contact or relationship with the person or organisation providing the gift or hospitality?	
Signed	Date

# MEMBERS PLANNING CODE OF GOOD PRACTICE

## Introduction

The aim of this code of good practice is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

**The key purpose of Planning:** to manage and direct development in the public interest

Your role as a Member of the Planning Authority: to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

**When the Code of Good Practice applies:** this code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

**If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer and preferably well before any meeting takes place.**

## 1. Relationship to the Members' Code of Conduct

- 1.1. Do apply the rules in the Members' Code of Conduct first, which must be always be complied with.
- 1.2. Do then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put:
  - 1.2.1. the Council at risk of proceedings on the legality or maladministration of the related decision; and
  - 1.2.2. yourself at risk of either being named in a report made to the Standards and Adjudication Committee or Council or, if the failure is also likely to be a breach of the Code of Conduct, a complaint being made to the Standards Board for England.

## 2. Development Proposals and Interests under the Members' Code

- 2.1. Do disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. (Use the Council's disclosure form provided for disclosing interests.)
- 2.2. Do then act accordingly. Where your interest is personal and prejudicial:-
  - 2.2.1. Don't participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.
  - 2.2.2. Don't try to represent ward views, get another Ward Member to do so instead.
  - 2.2.3. Don't get involved in the processing of the application.

- 2.2.4. Don't seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a personal and prejudicial interest in a proposal, using your position to discuss that proposal with officers or members when other members of the public would not have the same opportunity to do so.
  - 2.2.5. Do be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a personal and prejudicial interest to an appropriate officer, in person or in writing, the Code place limitations on you in representing that proposal. You may (under paragraph 12(2) of the members' Code of Conduct adopted by the Council in May 2007) address the Committee but only to make representations in the same manner that would apply to a normal member of the public under the approved public speaking procedure, after which you must leave the room whilst the meeting considers it (you may not remain to observe the meeting's considerations on it from the public gallery).
- 2.3. In the case of your own planning applications:
- 2.3.1. They will always be considered by the Planning Committee and not dealt with by officers under delegated powers
  - 2.3.2. You must disclose a personal and prejudicial interest and leave the meeting after you have used any right to address the Planning Committee under paragraph 12(2) of the Code, if you are present when the proposal is considered by the Planning Committee; and, in any event
  - 2.3.3. You may think it advisable to employ a spokesperson to act on your behalf on the proposal in dealings with officers and any other public speaking at the Planning Committee

**SUMMARY NOTE:** You are not prevented from seeking to explain and justify the proposal in which you have a personal and prejudicial interest, including your own applications, to an appropriate officer, in person or in writing where the public is able to do the same. You can also exercise your rights to address the Committee meeting considering it under paragraph 12(2) of the Code, but you will then have to withdraw from the room or chamber whilst the meeting considers it. This means that you cannot observe the meeting's consideration from the public gallery.

### **3. Fettering Discretion in the Planning Process.**

- 3.1. Don't fetter your discretion and therefore your ability to participate in planning decision making at this Council by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides.
- 3.2. Fettering your discretion in this way (commonly referred to as pre-determination or bias) and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling

the proposal to be considered on its merits.

- 3.3. Do be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (i.e. Through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- 3.4. Do consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example), provided:
  - 3.4.1. the proposal does not substantially effect the well being or financial standing of the consultee body;
  - 3.4.2. you make it clear to the consultee body that:
    - 3.4.2.1. your views are expressed on the limited information before you only;
    - 3.4.2.2. you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
    - 3.4.2.3. you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
  - 3.4.3. you will disclose the personal interest regarding your membership or role when the Committee comes to considers the proposal.
- 3.5. Don't speak and vote on a proposal where you have fettered your discretion. You do not also have to withdraw, but it is recommended that you do so in order to give the public and colleagues the clear indication that you are not seeking to improperly influence the debate or the decision

#### **4. Contact with Applicants, Developers and Objectors**

- 4.1. Do refer those who approach you for planning, procedural or technical advice to officers.
- 4.2. Don't agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Development Control Manager to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- 4.3. Do otherwise:
  - 4.3.1 follow the rules on lobbying;
  - 4.3.2 consider whether or not it would be prudent in the circumstances to make notes when contacted; and



- 4.3.3 report to the Director of Economy and Growth any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition in respect of presentations by applicants/developers:

- 4.4. Don't attend a planning presentation unless an officer is present and/or it has been organised by officers.
- 4.5. Do ask relevant questions for the purposes of clarifying your understanding of the proposals.
- 4.6. Do remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.
- 4.7. Do be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other Members might vote.

## **5. Lobbying of Councillors**

- 5.1. Do explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision making to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
- 5.2. Do remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 5.3. Don't accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and remember to register it in the Register of Interests where its value is over £25 (in accordance with the Code of Conduct).
- 5.4. Do copy or pass on any lobbying correspondence you receive to the Director of Economy and Growth at the earliest opportunity.
- 5.5. Do promptly refer to the Director of Economy and Growth any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- 5.6. Do inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- 5.7. Do note that, unless you have a personal and prejudicial interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
  - 5.7.1. listening or receiving viewpoints from residents or other interested parties;
  - 5.7.2. making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;

- 5.7.3. seeking information through appropriate channels; or
- 5.7.4. being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

## **6. Lobbying by Councillors**

- 6.1. Don't become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you may have fettered your discretion and are likely to have a personal and prejudicial interest.
- 6.2. Do join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Ramblers Association or a local civic society, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal
- 6.3. Don't excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- 6.4. Don't decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

## **7. Site Visits**

- 7.1. Do try to attend site visits organised by the Council where possible.
- 7.2. Don't request a site visit unless you feel it is strictly necessary because:
  - 7.2.1. particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
  - 7.2.2. there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- 7.3. Do ensure that any information which you gained from the site visit is reported back to the Committee, so that all Members have the same information
- 7.4. Do ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- 7.5. Do ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- 7.6. Don't hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer

present.

- 7.7. Don't express opinions or views to anyone.
- 7.8. Don't enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
  - 7.8.1. you feel it is essential for you to visit the site other than through attending the official site visit,
  - 7.8.2. you have first spoken to the Development Control Manager about your intention to do so and why (which will be recorded on the file) and
  - 7.8.3. you can ensure you will comply with these good practice rules on site visits.

## **8. Public Speaking at Meetings**

- 8.1. Don't allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the approved public speaking procedure, as this may give the appearance of bias.
- 8.2. Do ensure that you comply with the Council's procedures in respect of public speaking, as set out in the Constitution.

## **9. Officers**

- 9.1. Don't put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the relevant planning officer, which may be incorporated into any committee report).
- 9.2. Do recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Director or those officers who are authorised by their Director to deal with the proposal at a Member level.
- 9.3. Do recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.
- 9.4. Do always be mindful of the principles set out in the Protocol on Member/Officer relations set out in the Constitution.

## **10. Decision Making**

- 10.1. Do ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your reasons are recorded and repeated in the report to the Committee.
- 10.2. Do come to meetings with an open mind and demonstrate that you are open-minded.
- 10.3. Do comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

- 10.4. Do come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- 10.5. Don't vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- 10.6. Do have recorded the reasons for Committee's decision to defer any proposal
- 10.7. Do make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge or Appeal.

## **11. Training**

- 11.1. Don't participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- 11.2. Do endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

## **PROTOCOL FOR ELECTED MEMBERS REGARDING THE USE OF COUNCIL RESOURCES**

- The Council has the power to provide facilities that assist elected members in discharging their role as members of the Council.
- Elected members are bound to comply with the Model Code of Conduct. This includes the requirement that members:-  
Must when using the resources of the Council:
  - Act in accordance with the authority's requirements; and
  - Ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the member has been elected or appointed.
- The purpose of this Protocol is to clarify the requirement of the Code of Conduct and provide guidance to members in the use of the services and equipment provided by the Council during their term of office.
- In observing this Protocol Councillors must be mindful of their general obligations under the Code of Conduct, including the requirements in respect of confidential information.

### **Democratic Services**

- The primary function of the Democratic Services team is to ensure that elected members are properly informed and supported, thereby ensuring that they are able to carry out their duties as Councillors more effectively.
- The Democratic Services team is able to facilitate administrative and secretarial support which is both pro-active and reactive to the needs of members.
- This support is restricted to members work as North East Lincolnshire Councillors. Members must not use the service provided by Democratic Services for any other purpose be it party political (unless it is reasonable to view this as helpful to the discharge of Council business), personal or private/commercial business related. Comments deemed to express political views should not be referred to in the preparation of correspondence to support your role as a Councillor.

### **IT Equipment**

- Personal computers are available to all North East Lincolnshire Councillors upon request. However the following criteria will apply to their usage:-
- They are provided to Councillors to use at home to facilitate the performance of their duties as Councillors
- The Council is prohibited from publishing any material of a party political nature. If the Councillor uses the personal computer for the preparation of any such material, s/he must make it clear that such material is published in a private capacity and not by or on behalf of the Council, and that no costs have been

incurred by the Council as a consequence of its publication.

- The Councillor may not use the personal computer for canvassing by or on behalf of a political party or group
- The Councillor may use the personal computer for private and family purposes and may permit members of his/her immediate family to use the computer for private purposes, but then is responsible for their use of the computer
- It is considered acceptable for elected members to use the personal computer installed in their homes for the following:
  - personal purposes, for example purchasing holidays, goods and services;
  - general surfing of the internet for non Council related purposes.
  - the use of a separate (non Council related) e-mail address to engage in personal correspondence , including in respect of party political matters.
- It is generally considered unacceptable for Councillors to use the personal computer for volume mailings
- No other software should be installed without the express permission of the Information and Communication Technology Shared Services Group Manager.
- Any additional hardware supplied (e.g., printer) should be used exclusively with the personal computer and should not be attached to any other piece of IT equipment.
- For the avoidance of doubt the term personal computer also includes laptop
- The Council will accept no responsibility for the private use of the personal computer or any loss, costs or liability which the councillor or any other person may suffer as a result of the use of the computer
- The personal computer must not be used in any way that could bring the Council into disrepute

### **Election Publicity**

- Notwithstanding the provisions of paragraph 8 of this protocol, the guidance issued by the Monitoring Officer regarding the use of Council resources in connection with publicity, during an election period, shall be observed by Councillors during the period of the election or referendum to which the guidance applies.

### **Personal Computers Supplied in Political Group Rooms**

- Personal computers are available in the political group rooms. These are provided solely for members use as North East Lincolnshire Councillors and should not be used for private/commercial business or party political purposes.

### **E-mail and Internet Access**

- In observing the requirements of paragraphs 8 and 9 of this Protocol, Councillors should ensure that the Council's policies on the use of e mail and internet access are adhered to. These policies are separate to this Protocol and will be supplied upon the issue of IT equipment.

### **Photocopiers**

- Elected members will have access to photocopying facilities in the Grimsby Town Hall. No charge is levied against copying for Council business.

### **General Stationery**

- General stationery (paper, etc.) is provided solely for members use in their capacity as North East Lincolnshire Councillors.

### **Correspondence**

- Council headed paper should always be used.
- Correspondence should be for the purpose of providing a response or factual information and be for no other purpose.
- Correspondence should not refer to political purposes nor contain information which could be deemed to be libellous.
- Correspondence should not commit the Council to entering any contractual obligation or other legal commitment.
- Members should consider the purpose behind the document or piece of correspondence. If the purpose is to boost party political support for a member, group of members or political party, then any use will be seen to be political and neither Council headed paper nor paper belonging to the Council should be used.
- Paper provided by or bearing the header of the Council should not be used in the following situations:-
  - when making a request for fellow members of a political group to meet to discuss a particular issue/priority
  - for the purpose of raising votes or advancing party aims in an electoral issue
  - for correspondence promoting a policy of a political group where that policy has not become Council policy
  - correspondence may be received by members who are the leaders of their respective political groups. Such correspondence may either be forwarded to that member in their capacity as a ward member or as leader of a particular group. Members will need to consider the purpose of such correspondence in determining whether it is appropriate for the member to reply as a ward member on local authority headed paper or to respond on a political group's paper in that individual's role as group leader.

### **Car Park Passes**

- Members are entitled to receive car park passes to assist them in the conduct of their duties. However, these passes are issued for the sole use of members in the course of undertaking Council business and should not be used for any other purpose.

### **General**

- All equipment issued to elected members remains the property of the Council and should be returned immediately to the Council upon the cessation of a members period of office.
- Misuse of any Council service or item of equipment may amount to a breach of

the Code of Conduct.

- If any elected member is unsure about any aspect of this guidance they should seek advice from the Monitoring Officer or the Democratic Services team.





8. A ward councillor may address the Scrutiny Panel in respect of the Call for Action for up to 10 minutes.
9. The Scrutiny Panel may also consider representations from any citizens of the ward affected by the Call for Action, subject to the discretion of the chairman.
10. If the Call for Action concerns issues that fall within the remit of the Cabinet, the relevant Portfolio Holder shall also attend the Scrutiny Panel to answer questions and make any representations.
11. The ward councillor's role in the consideration of the Call for Action, as with any other formal Council business, is subject to compliance with the Members' Code of Conduct.
12. Crime and Disorder Matters:

In accordance with the provisions of Section 19 of the Police and Justice Act 2006, councillors may bring crime and disorder matters to the attention of the designated crime and disorder committee as follows:

Where a Councillor is asked to consider a local crime and disorder matter by a person who lives or works in the area that the councillor represents –

- The councillor shall consider the matter and respond to the person who requested that the matter be considered, indicating what (if any) action the councillor proposes to take
- The councillor may refer the matter to the Council's designated crime and disorder committee
- In any case where the councillor declines to refer the matter to the crime and disorder committee, the person who asked the councillor to consider the matter may refer the issue to the Cabinet for consideration
- In any case where the Cabinet considers a matter referred under sub-paragraph (c) above, the Cabinet shall consider the matter and indicate what action (if any) it proposes to take
- The Cabinet, in considering any matter under sub-paragraph (d) may refer the matter to the crime and disorder committee for consideration.
- In any case where the crime and disorder committee considers a matter referred to it under sub-paragraphs (b) or (e), the crime and disorder committee shall consider the matter and make a report or recommendations to the Council or the Cabinet with respect to it.
- Where the crime and disorder committee makes a report or recommendations pursuant to sub-paragraph (f) it shall make a copy of the report or recommendations available to the Responsible Authorities and any other co-operating person or body it considers appropriate.
- An authority, person or body to which a report or recommendations is provided under sub-paragraph (g) shall:
  - consider the report or recommendations
  - respond to the crime and disorder committee indicating what (if any) action it proposes to take
  - have regard to the report or recommendations in exercising its functions

- Section 19 of the Police and Justice Act defines a “local crime and disorder matter”, as a matter concerning:
  - Crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment) in the area represented by the member, or
  - The misuse of drugs, alcohol and other substances in that area.
  - Crime and disorder matters shall be referred to the crime and disorder committee in accordance with paragraphs 5-11 of this Protocol.



private finance initiatives.

2.2. As these arrangements develop, this may involve the Council asking for members and/or officers to: -

- Become a director of a company, including joint venture companies set up with partners;
- Sit on the Management Committee of a partner organisation or a joint board or steering group;
- Become a charity trustee

### **3. General Provisions**

3.1. There are some general provisions which apply to members and officers who act in the role of company director, charity trustee or member of an unincorporated body.

3.2. Members and officers are under a duty to exercise independent judgement in the interests of the organisation in which they are involved. Whilst it is recognised that members and officers may have a commitment to representing the Council on the Outside Body, they must be aware that it is their responsibility to decide on what view to take on any question before that organisation. For example, an instruction from the Council to vote one way or the other would put the member or officer in breach of his/her duty to the organisation. It is permissible to take account of the Council's wishes, but not to vote simply in accordance with them.

3.3. Where a member or officer is involved in an outside organisation as a representative of the Council, he/she must declare that fact to the organisation.

3.4. Members/Officers must also insure that avoidable loss is not incurred in managing the organisation concerned. They cannot avoid this responsibility by not reading the papers or failing to ask for the appropriate report. They will be expected to seek professional advice as appropriate.

3.5. Members and officers who represent the Council in such circumstances need to familiarise themselves with the duties they will assume and any potential liabilities they may face. It is essential that they are aware of how to deal with any conflicts of interest that may arise and they need to be sure that the proper procedures have been followed in respect of appointments to the relevant organisation.

### **4. Companies**

4.1. Companies can be: -

- Limited by shares, usually operating a trade or business. They have shareholders and distribute profits to shareholders as dividends.
- Limited by guarantee – or so called “not for profit” organisations, which have members rather than shareholders. This type of company may also be a charity.

4.2. Companies employ staff, enter into contracts and own land/property. The day to day business of a company is managed by its board of directors.

4.3. Companies offer limited liability. This means that the members or shareholders are usually not personally liable for the company's debts and liabilities, subject to limited exceptions.

4.4. The powers of the directors are usually set out in the company's Articles of Association. These are the rules that govern the internal management of the company.

#### 4.5. Duties of a Company Director – The Companies Act 2006

##### 4.5.1. General statutory compliance

The directors of a company have a duty to comply with specific business legislation eg concerning employment, health and safety at work, and the payment of taxes. They also have a duty to ensure that their companies comply with the law in general, eg if a company is proved to have committed a criminal offence with the consent or neglect of a director, the director as well as the company may be liable. A company or its shareholders can also sue a director for breach of duty and damages.

##### 4.5.2. Act within Powers

A director must not act outside the company's objects as set out in the Memorandum of Association prepared at the time of the formation of the company. Therefore, members appointed as directors should familiarise themselves with the Memorandum of Association concerned.

##### 4.5.3. Duty to promote the success of the company

A director must act in the way that he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole.

##### 4.5.4. Duty to exercise Independent Judgement

A director must exercise independent judgement in relation to his/her responsibilities to the company, though it is permissible for him/her to take account of the interests of a third party which he/she represents. In such a case the director must disclose that position and tread a fine line between the interests of the company and the party represented (in this case the Council). The director cannot vote simply in accordance with a Council mandate. To do so would be a breach of duty. A director must also disclose any interest he/she may have in actual or proposed contracts involving the company.

##### 4.5.5. Duty to exercise reasonable care, skill and diligence

The duty imposes an objective standard on the director (the general knowledge, skill and experience to be expected of a person in his/her position), and a subjective standard (whereby he/she must exhibit the level of care to be expected of a director with his knowledge, skill and experience).

##### 4.5.6. Compliance with Companies Acts

In addition, directors must ensure that proper accounting records are maintained and that annual audited accounts, which give a true and fair view of the company's financial position, are filed with the Registrar of Companies within certain time limits. A director should be satisfied personally with the company's accounts. Ignorance is no excuse.

4.6. Directors can be indemnified against liability to a third party other than the company or an associated company, for example to shareholders, or creditors in negligence, as long as the indemnity does not extend to criminal fines or penalties incurred, whether or not judgement is given against the Director. It is also lawful for companies to purchase insurance to protect its directors against claims of negligence, breach of duty, trust, default. Directors would be well advised to ensure

that such a policy of insurance is maintained at all times.

- 4.7. Directors are, to a certain extent financially protected by limited liability. This means that, while company members may lose the share capital they contribute or, in a company limited by guarantee, have to pay the guarantee (usually £1) that is the limit of their risk. Provided the director has performed his/her duties honestly and in good faith he/she does not normally have any financial responsibility for the company's debts.
- 4.8. However, company legislation aims to weed out the dishonest. A director may be personally liable for the debts of a company which has traded fraudulently and if he/she is to avoid accusations of wrongful trading a director must recognise the moment when his/her company can no longer avoid insolvent liquidation (ie its assets are insufficient to pay its debts or other liabilities) and take immediate action to protect the interest of creditors. A director is unlikely to be liable if he/she has taken every step he/she can to minimise the potential loss to the company's creditors. In considering whether a director ought to have known that the company could not avoid going into insolvent liquidation and what steps a director ought to have taken, the court will look at a director's actual knowledge, skill and experience and that which might reasonably be expected of a person in that position.
- 4.9. The Local Authorities (Companies) Order 1995
  - 4.9.1. Members who are directors of companies to which they have been nominated by the Council must comply with the following specific obligations: -
    - That the remuneration they receive from the company should not exceed that received from the local authority, and should be declared.
    - To give information (or report) to Councillors about their activities as required by the local authority (save for confidential information) and
    - To cease to be a director immediately upon disqualification as a Councillor.

## **5. Conflicts of Interest**

- 5.1. Conflicts of interest may arise between the Council and a company. Even if the Council and the company have the same overall aims and objectives you cannot assume that their interests will always be the same. The legal position, and your obligations, remain the same even if the company has worthy objectives or is formed in response to a Council or government initiative.
- 5.2. Conflicts of interest may arise: -
  - If the council is selling, donating or leasing land to the company.
  - If the company and the council are negotiating a contract with each other.
  - If the company is seeking funding from the council.
  - If the dispute between the company and the council.
  - If the company is tendering or negotiating to provide goods, services or works to the council.
- 5.3. Company law requires you to act in the best interests of the company but the

Council will have nominated you as a director to represent or promote the Council's interests. Accordingly, if you are uncertain whether a conflict of interest exists you should seek advice from the Monitoring Officer as soon as possible.

5.4. If you have a conflict of interest you should:

- Notify the Monitoring Officer (and your Line Manager, if you are an officer);
- Notify the company's board of directors.
- Take no further part in the matter on behalf of the company.
- If you are an officer you must take no part in the matter on behalf of the council either. This includes not taking part in any officer/member discussions on the matter or representing the council at meetings where the matter is discussed. You should declare an interest and leave the room whenever the matter is raised.

5.5. Conflicts of Interest and the Code of Conduct

If you are an elected member you must consider whether you have a prejudicial interest under the Council's Code of Conduct. The code provides that you do not need to treat yourself as having a prejudicial interest in discussions relating to outside bodies to which you have been appointed as the Council's representative. In most cases, therefore, you should be able to take part in the debate and vote. However, the Standards Board has indicated that where the Council and the company are involved in a commercial negotiation members should consider carefully whether the public would think it correct for them to take part in the debate or vote – and members should probably treat themselves as having a prejudicial interest in the matter.

## **6. Charities**

6.1. Charities may be created by registering any of the following with the Charity Commission.

- A Trust Deed – the Trustees become charity trustees
- A company limited by guarantee – the directors become charity trustees.
- An unincorporated association – the Management Committee become charity trustees

6.2. In order to qualify for a charitable status, the Commission must be satisfied that the organisation is operating for a charitable purpose. These are:

- The relief of poverty and human suffering
- The advancement of education
- The advancement of religion
- Another purpose for the benefit of the community

6.3. An organisation which operates for political purposes cannot qualify for charitable status.

6.4. The Duties of a Charity Trustee

6.4.1. Charity Trustees must:-



- Act strictly in accordance with the charity's constitution and rules.
- Act in the best interests of the charity.
- Manage the charities affairs prudently.
- Not derive any personal benefit or gain from the charity.
- Take proper professional advice on matters you are not competent to decide yourself.
- Ensure that the charities bank accounts are operated by more than one person.
- Ensure the trustees have proper control of the charities property and assets.
- Ensure that the charity keeps full and accurate accounting records.
- Spend charity income solely for the purposes set out in the charity's constitution.
- Ensure charity property is properly maintained and insured.

#### 6.5. Personal Liability

6.5.1. Personal liability may be incurred if a trustee:

- Acts outside the scope of the trust deed
- Falls below the required standard of care
- Makes a personal profit from the trust assets

6.5.2. Personal liability to a third party may arise because a charitable trust, unlike a company, is not a separate legal entity.

### 7. Unincorporated Associations / Bodies

7.1. Organisations which are neither charities nor companies are referred to as unincorporated associations. They usually operate pursuant to a constitution or set of rules defining the organisation's responsibilities and those of its members.

7.2. The affairs of an unincorporated association are usually governed by a management committee in accordance with the organisation's constitution or agreed rules of procedure.

7.3. Unincorporated associations cannot do any of the following in their own name:

- Enter into contracts
- Own land
- Employ staff

7.4. Members of the organisation's management committee must act in accordance with its constitution and must take reasonable care in exercising the organisation's powers.

7.5. Generally, the members of the management committee are liable for the acts of the organisation but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the committee members

are personally liable for the shortfall

- 7.6. Members of a management committee will have personal liability if they act outside the authority given to them or if they do not comply with the relevant legal obligations.

## **8. Unincorporated associations – Duties**

- 8.1. As a matter of good practice members/officers appointed to represent the Council on an unincorporated association (body or organisation) must:
- Act in the best interests of the association
  - Use reasonable care and skill when involved in decision making on behalf of the association
  - Act in accordance with the association's rules or constitution.
- 8.2. Members/officers are therefore encouraged to:
- Clarify the extent of any limits to their power to act on behalf of the Council
  - Notify the Monitoring Officer if the association is proposing to take a course of action which is disadvantageous to the Council or which seems to involve considerable risk
  - Ensure the association has clear rules and procedures for decision making, particularly for entering into contracts.

## **9. Other Public Authorities**

- 9.1. Some members will be appointed to other public authorities, for example the Police Authority. Like the Council, these bodies are created by statute and have a range of powers and duties.
- 9.2. Members appointed to the following public authorities will be required to comply with that authority's code of conduct:
- Police Authority
  - Fire Authority
- 9.3. Members of the Police or Fire Authority must comply with that authority's code of conduct whilst conducting the business of that authority. In other words, a North East Lincolnshire Councillor who is also a member of the police authority is bound by the police authority's Code of Conduct when carrying out police authority business.
- 9.4. Members representing the Council on a non Standards Board regulated body (e.g. a company, charity or association), must comply with the Council's code of conduct except where it conflicts with any legal obligations the other body or organisation is bound by. Such conflicts are, in the view of the Standards Board, unlikely to arise frequently.

## **10. Indemnities**

- 10.1. In the case of Outside Bodies that are not separate legal entities, the Council's

Public and Employers liability policies extend to Members and Officers provided that they are acting within the scope of their authority as representatives of the Council and are conducting activities approved by the Council. It is therefore essential that members and officers identify and clarify the extent of their individual responsibilities.

- 10.2. Outside Bodies that are legal entities in their own right (e.g. companies) must have appropriate insurance arrangements in place to indemnify the individuals concerned. It is therefore imperative that members and officers confirm that appropriate cover exists. If there is any doubt, advice should be obtained from the Monitoring Officer.
- 10.3. In the case of officers, an indemnity cannot extend to any deliberate wrong doing. In any event, an indemnity cannot cover any act which is outside the scope of an officer's employment or anything that is outside the legal powers of the Council.

## **11. The Register of Interests**

- 11.1. Members are reminded that the Code of Conduct provides:
  - A member must provide written notification to the Council's Monitoring Officer of his/her membership of or position of general control or management in any:
    - body to which he/she has been appointed or nominated by the authority as its representative
    - public authority or body exercising functions of a public nature
    - company, industrial and provident society, charity or body directed to charitable purposes;
    - body whose principal purposes include the influence of public opinion or policy and
    - trade union or professional association
- 11.2. The Code of Conduct provides that members must, within 28 days of becoming aware of any changes to their registered interests, provide notification to the Monitoring Officer of the change(s).
- 11.3. If, during the term of office of a member, he/she is nominated to represent the Council on an outside body/organisation, as described in the Code of Conduct, that member must notify the Monitoring Officer within 28 days. The same also applies if a member resigns or is otherwise disqualified from representing the Council on that particular body/organisation.

## **12. Appointments to Outside Bodies**

- 12.1. As soon as reasonably practicable after the ordinary elections of the Council, or in the years of no such elections, as soon as possible at the beginning of the municipal year, the Chief Executive, in addition to advising on the political composition of the Council and the allocation of seats, will submit to the political groups a list of vacancies on outside bodies having regard to the provisions of the Council's Constitution.
- 12.2. Within one week of receiving the list of vacancies, the political group leaders will

submit the names of their members nominated to represent the Council on the outside bodies.

- 12.3. Following the above, the Monitoring Officer will submit a report to the annual meeting of the Council (AGM) and, if necessary and/or delegated, the first Cabinet meeting following the AGM, setting out the proposals for Council representation on outside bodies.

### **13. Reporting Arrangements**

- 13.1. Members who represent the Council on outside bodies are required to report back to the Council on the activities of the organisation.
- 13.2. Cabinet members with portfolio responsibilities may report back via formal Cabinet meetings or as part any Portfolio reports to Full Council. Members may also be required to report to the appropriate Scrutiny Panel.
- 13.3. Officers who represent the Council on outside bodies are required to report to the relevant Portfolio Holder(s) as part of the Portfolio Holder briefing arrangements and, upon request, to the appropriate Scrutiny Panel.
- 13.4. The purpose of the reporting arrangements is to ensure that members are fully informed of the activities of the outside body or organisation concerned, the nature of the organisation's activities and the impact of such activities on the local community and Council services.
- 13.5. Where there is a statutory obligation to report to the Council (e.g. Councillor appointed as a Company Director) frequency of reporting will be annual, unless exceptional circumstances require a further report.
- 13.6. The Constitution already sets out the mechanism for the submission of reports by Portfolio Holders/Officers to Overview and Scrutiny meetings. This protocol does not alter the current arrangements.

### **14. Further Advice**

- 14.1. Advice on the application of this protocol should be sought from the Monitoring Officer.

# PROTOCOL FOR MEMBER/OFFICER RELATIONS

## 1. Introduction

The Council has produced this protocol for member/officer relations in order to promote the highest standards in public life and harmonious working relationships.

Partnership, based on mutual trust and respect between politicians and paid officers, is essential in achieving good local government. However this partnership will not be effective unless there is a clear understanding by all of the role and obligations of members and the separate role and duties of officers. This protocol sets out these roles, obligations and duties and also the ground rules for all to observe. The standards in the protocol are binding and apply equally to elected members, voting and non-voting co-opted members and to officers where there is a joint responsibility.

This protocol is based upon legislation, Council policies and documents deriving from legislation as well as guidance from a variety of sources, primarily:

- The Local Government Act 2000
- The Localism Act 2011
- The Council's Constitution
- The Member's Code of Conduct

This protocol refers extensively to members' relationships with officers and other staff directly in the service of the Council. The principles of the protocol also apply to members' dealings with other people not directly employed by the Council but who are in an employment based relationship with the authority (such as staff employed by the Council's partners and interim officers employed on a longer-term basis by the Council).

The principles underlying this protocol are as follows:

- There shall be mutual courtesy and respect between members and officers with regard to their respective roles.
- Members and officers shall each carry out their respective duties in the best interests of the Council.
- This protocol applies to all dealings between members and officers and not only formal meetings.
- Members and Officers must at all times observe this protocol.
- This protocol seeks to maintain and enhance the integrity (real and perceived) of local government which demands the highest standards of personal conduct.
- Members and Officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.
- Whilst members and officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to members (individually and collectively) and to carry out the Council's work at the direction of the Council.
- Breaches of this protocol by a member may lead to a complaint to the Standards and Adjudication Committee if it appears that the members' code of conduct has

also been breached. Breach of this protocol by an officer may lead to disciplinary action.

## **2. General Obligations of Members**

Members must observe the Council's Code of Conduct whenever they are conducting the business of the Council, conducting the business of their office or representing the Council. Members and voting Co-opted members are equally bound by the Code of Conduct. Non-voting Co-opted Members are also bound to comply with the provisions of the Code of Conduct.

The Code of Conduct places certain general obligations that members must observe and which have a bearing upon member/officer relations:

- Members must not, in their official capacity or any other circumstance, conduct themselves in a manner that could be reasonably regarded as bringing their office or the Council into disrepute.
- Members must promote equality by not discriminating unlawfully against any other person, treat others with respect and not to do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of the Council.
- Members must not disclose information given to them in confidence by anyone or information which they have reason to believe is confidential unless they have authorisation or are required to do so by law.
- Members must not prevent another person from gaining access to information to which they are entitled by law.
- Members must not use their position improperly to gain advantage for themselves or to advantage or disadvantage another person.
- Members must use any Council facilities provided for them in their role as member strictly for that purpose and no other.
- Members should not ask officers to assist with any personal, business or party political matter. Officers will refer inappropriate requests for assistance to their Director.
- Members are under an obligation to register certain types of personal interest in accordance with the Code of Conduct and Regulations made under the Localism Act 2011 (detail to be inserted).

Members have a duty to act reasonably and when taking part in the Council's decision making processes, members must:

- take into consideration everything they regard as relevant, or which they are advised is relevant,
- disregard anything which they consider is not relevant, or which they are advised is not relevant,
- follow the correct procedure.

Members control the Council's assets and finances, are in a position of trust and therefore have a fiduciary duty to act in the interests of all the people of North East Lincolnshire. In law, someone with a fiduciary duty is someone who occupies a position of such power and confidence over the property of another that the law requires him or her to act solely in the

interest of the person he or she represents. This is in contrast with an ordinary business relationship, in which each party is free to seek purely personal benefits from his or her transactions with the other.

### **3. Relationship between Members and Officers**

The relationship between officers and members should be characterised by mutual respect which is essential to good governance.

Any close personal or family relationships (e.g. parent/child; spouse/partner) between officers and members should be disclosed to the Monitoring Officer who, in consultation with the Chief Executive will then decide how far this needs to be disclosed to others. Members must also declare any such relationship with an officer which might be seen as influencing their work as a member to their party whip. (further detail as necessary to be included when Regs published under the Localism Act).

Generally, a close relationship between a member and a senior officer of third tier (ie. Head of Service) and above (and in some cases, other senior staff) is incompatible with the high standards of public life promoted by the Council and should be avoided or discouraged. The relationship may put the member, or the officer, in a position to exercise improper influence over the workings of the Council. Even if there is no actual impropriety, the situation may give rise to suspicion and the public may perceive that the opportunity for improper influence exists. In these situations a member could not be expected to remain in office, whilst the officer remained employed by the Council.

Close personal familiarity between individual members and officers can damage professional relationships and prove embarrassing to other members and officers. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct.

Officers and members should address each other formally at meetings of Full Council, Cabinet, Committee, Sub-committee, Panels and other formal meetings that officers attend that are open to the public.

Members and Officers should dress formally when attending all meetings. Officers should refer to members by the office they hold: Leader, Chair, Deputy-chair, or Councillor. Members should avoid excessive informality and should refer to officers either by their title or by their full name.

The same degree of formality is not necessary at any social events that members attend with officers. Nevertheless members and officers attending an event by virtue of their role with the Council should avoid close personal familiarity or any action which would embarrass others or damage their relationship with staff or members. Socialising between members and officers other than in an official capacity should be avoided.

### **4. The Role of Members**

Members:

- Develop and set policies that will then be implemented by officers
- Monitor how those policies are being implemented.

- Where their office allows them to do so, provide guidance to officers on how those policies are to be implemented, either if members wish to do so or if officers ask for guidance.
- Represent the views of their communities and ward constituents, and deal with individual casework.
- Recognise the statutory roles of the Chief Executive as Head of Paid Service, the Chief Finance (or Section 151) Officer, and the Monitoring Officer, and the significance attached to their advice.
- Consult with the communities they represent on the development of policy, the budget and other local initiatives.
- Consult with the Monitoring Officer and the Director of Finance (Chief Finance Officer) about legal powers, maladministration, financial impropriety and probity or where they have any doubt as to whether particular decisions are, or are likely to be, contrary to the policy framework, or contrary to, or not wholly in accordance with the budget.
- Respect officers' political impartiality.
- Promote the highest standards of conduct and ethics.

Members must not:

- Insist that any officer take any action, or not take action that the officer considers unlawful or illegal; is in direct contradiction of any code or guidance, contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.

## **5. The Role of Officers**

Officers:

- Implement the policies set by members.
- Will ask for guidance on implementation of the policies set by members if they are unclear about any aspect of those policies.
- Give such professional advice to members as may be required of them from time to time, recognising the different needs for advice members may have in their different capacities of ward member, executive (cabinet) member or scrutiny member.
- Carry out their delegated functions to the best of their ability and in the interests of the Council.
- Must remember that he or she is employed by North East Lincolnshire Council as a whole and not by any particular part of the Council.
- Are under a duty to help all Councillors/Co-opted members and all parts of the Council equally.
- Must take all relevant matters into account when formulating advice to members.

Officers must not:

- Set policy other than for the efficient running of the organisation and as may have been delegated to them under the Council's Constitution.
- Take any action, or not take action, which would be unlawful or illegal, is in direct contradiction of any code or guidance, contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.



## **6. Relationship between Cabinet Members and Officers**

The Cabinet members acting collectively and Portfolio Holders acting individually shall be bound by the same provisions set out in paragraph 4 regardless of the capacity in which they are acting.

## **7. Relationship between the Chairs and Members of Scrutiny Panels and Officers**

The Chair and members of the Council's Scrutiny Panels and related bodies shall:

- Seek the advice of the officer designated the statutory Scrutiny Officer (Director of Governance, Democracy and Community Engagement) regarding the content and development of their work programme
- Seek the advice of the Monitoring Officer where they consider there is doubt about the power to make a decision or that a proposed course of action may be contrary to the Constitution; or the Monitoring Officer and other appropriate officers where they consider a decision of the Cabinet or a Portfolio Holder might be contrary to the policy framework.
- When considering calling officers to give evidence they shall not, without the consent of the relevant Director, request the attendance of an officer below Director level. This is to ensure that junior officers are not put under undue pressure.
- When asking officers to give evidence confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions. Officers may be asked to give a professional opinion, but officers must not be expected to give a political view.
- Where they consider it appropriate, ask officers to explain and justify advice given to members (of the Cabinet) prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution and their responses to consultations under the Scheme of Delegation.
- Not question officers in such a way as to be construed as harassment nor deal with matters which are of a disciplinary nature.
- At all times respect the political impartiality of the officers.
- When considering matters relevant to the Council's key partnerships in place from time to time, ensure that the appropriate Director is aware of a proposed request for a representative of any partnership to attend a Scrutiny meeting, recognising the Constitutional (and, in certain cases, statutory) right of Scrutiny Panels to summons partners to Scrutiny meetings.

Officers shall:

- Maintain political impartiality at all times when commenting on the Cabinet's/ Council's policies and actions.
- Be prepared to explain and justify advice given to members of the Cabinet and the Council prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution and Scheme of Delegation.
- Ensure that an officer of sufficient seniority appears before the relevant Scrutiny panel.

## **8. Relationship between the Chairs of other Committees and Officers**

This section applies to all the Council's Non-Executive Committees, including Planning

Committee, Standards and Adjudication Committee, Licensing Committee, Appointments Committee Appeals Committee and the Audit and Governance Committee.

The Chair and members of those Council bodies shall:

- Be bound by the same provisions set out in paragraph 2 when sitting as a Committee/Council body; and
- Give officers the opportunity to present any report and give any advice they wish to present or give.

## **9. Officer Relationships with Political Groups**

When dealing with the various political groups:

- Any request for information from a political group or member will be treated with strict confidence by the officers concerned and will not be accessible to any other political group. Factual information will, if requested, be available to all political groups
- Officers shall exercise care when giving briefings or commenting on the policies and actions of the Cabinet or any of the Council's committees or panels and maintain political impartiality at all times.

When acting in political groups, and dealing with officers, members shall:

- Recognise that attendance at Political Group meetings by officers is not compulsory but officers may properly be called upon to support and contribute to such deliberations by Political Groups either by attendance or by preparing documentation for discussion by a Group, subject to the availability of resources.
- Recognise that Political Groups are not empowered to make decisions on behalf of the Council and that any conclusions reached by such groups will not be actioned by officers.
- Ensure they do not do anything that may compromise officer impartiality.
- Ensure that confidential matters are not divulged to non-councillors.

## **10. Members in their Ward (or representational) Role**

When acting in their ward role, members:

- Need to be mindful of their competing roles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on officer time.
- Recognise the officers' right to suggest that senior officers, the Cabinet, Council, or a committee/ panel need to authorise additional work requested by individual members.

To enable them to carry out the ward role effectively, members need to be fully informed about matters affecting their ward. Senior Officers must ensure that all relevant staff are aware of the requirement to keep local members informed, thus allowing members to contribute to the decision making process and develop their representational role. This requirement is particularly important:

- during the formative stages of policy development, where practicable,
- in relation to significant or sensitive operational matters,
- whenever any form of public consultation exercise is being undertaken, and
- during scrutiny inquiry

Issues may affect a single ward. Where they have a wider impact, a number of ward members will need to be kept informed.

Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the wards affected should be invited to attend the meetings as a matter of course.

If a ward member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, s/he must inform the relevant senior officer. Provided the meeting has not been arranged on a political party basis:

- an officer may attend but is not obliged to do so, and
- the meeting may be held in Council owned premises
- provided that no such meeting should be arranged or held immediately prior to or during an election period.

## **11. Complaints about officers or services**

Members have the right to criticise reports or the actions taken by officers, but they should always:

- avoid personal attacks on officers
- ensure that criticism is constructive and well-founded.

Members should avoid undermining respect for officers at meetings, or in any public forum. This would be damaging, both to effective working relationships and to the public image of the Council. It would also undermine the mutual trust and courtesy that is an essential element of a high performing authority.

Complaints about officers or Council services should be made to the Director in whose area it is considered that the fault lies. Within three working days, s/he will:

- acknowledge the complaint, and
- say if s/he intends to take action, or
- say how long s/he needs to investigate.

Members have a right to know if action has been taken to correct a matter, but they must not, either:

- influence the level of disciplinary action to be taken against an officer, nor
- insist (nor be seen to insist) that an employee is disciplined.

Members have a right to be told the outcome of any disciplinary case, but have no entitlement to detailed information about the hearing or its conduct.

If a member is not satisfied that action has been taken to deal with the complaint it may be referred to the Chief Executive by the member concerned.

## **12. Member Access to Documents and information**

Save as provided below every member of the Cabinet, Scrutiny Panels, Committee and/or Sub-Committee of the Council has a right to inspect documents about the business of that Commission/Committee, Sub-Committee or the Cabinet, as set out in the Access to Information Procedure Rules included within the Council's Constitution and the governing legal framework.

All Members can expect to have answers to the queries they raise on behalf of other constituents or about the policies and practices of the Council, subject to any legal constraints on their rights to access Council information. Subject to such constraints, when a member submits a request for information, the officer concerned must acknowledge receipt within 2 working days and confirm who will be dealing with the matter. A full and final response should be provided within a further three working days unless in any case where it is not reasonably practicable to deal with a request within that time period, the officer concerned must confirm the date by which a substantive response will be given, provided it is no longer than 7 working days from the date of receipt of the request. Where information is requested in respect of a third party, it will only be provided if:

- If it is in the public domain, and
- Its release would not contravene the Data Protection Act 1998

A member who is not a member of a specific Panel/Committee, Sub-Committee or the Cabinet may have access to any documents of that part of the Council if:

- He or she satisfies the Council's Monitoring Officer, that he or she reasonably needs to see the documents to perform his or her duties; and
- The document or papers or information do not contain 'confidential' or 'exempt information'.

This is often referred to as the “need to know” test.

All Political Groups are entitled to develop policies and plans and can expect officers to provide information on a confidential basis to their Group, provided that this is readily accessible, does not entail significant additional work and does not entail the release of information which is confidential or exempt or would otherwise contravene any court order or legal provision.

All requests for advice and information that cross directorate boundaries or involve multi-directorate activities should be directed through the Chief Executive.

Managers must decide how to meet requests and must be able to determine what resources, including which staff, are to be made available. This extends to deciding which officers should answer questions, particularly in open meetings.

However, when a member asks for information or advice the reply must not be copied to or subsequently made available to, other members without the permission of the requesting member. Where information or advice is given in writing to a number of members the document should make clear who has received it. In other words a system of ‘silent copies’ should not be used.

Political Groups are expected to give reasonable notice of requests for information and to have regard to the cost of producing any new detailed information.

If there is a disagreement the Chief Executive will ensure that the request is referred to the relevant body for decision.

A member should always seek advice from the Monitoring Officer in circumstances where he or she wishes to inspect any document or have access to any information about a matter in which he or she has a personal or prejudicial interest; or where to do so would be in breach of the data protection and human rights legislation.

### **13. Media Relations**

All formal relations with the media must be conducted in accordance with the Council's agreed procedures and the law relating to local authority publicity and particularly the Code of Recommended Practice on Local Authority Publicity. These requirements apply at all times, not just during an election period, noting that the election period is a time of heightened sensitivity.

Before responding to media enquiries, officers must ensure that they are authorised to do so.

Media releases will be factual and consistent with Council policy and should be concerned with matters of policy or service activity. They cannot be used to promote a political group.

Save and except during an election period and subject to any other legal constraints that may apply, media releases will usually be issued in the name of the relevant Cabinet member, unless the Cabinet members agrees that the Chief Executive or a Director should be named.

Scrutiny Panels may from time to time seek to issue publicity regarding a particular review or Select Committee. It is considered appropriate for media releases of this nature to be issued in the name of the relevant Scrutiny Chair, unless the Chair considers that the release should be issued in the name of the statutory Scrutiny Officer.

### **14. Correspondence**

All correspondence written on behalf of the Council must be written on the relevant headed paper. When Members are writing in their capacity as a member they must make it clear whether they are writing on behalf of the Council or as the ward member.

Correspondence between individual members and officers should be treated as confidential unless the member or officer indicates otherwise. All correspondence should normally be open to the inspection of the public unless the correspondence is written in connection with legal proceedings, contractual matters or any other matter where papers can remain 'exempt' within the meaning of Schedule 12A to the Local Government Act 1972; or would if this would be in conflict with data protection or human rights legislation; or would fall within a relevant exception to access in the Freedom of Information Act 2000.

Correspondence which creates legally enforceable obligations or which gives instructions on behalf of the Council should never be sent in the name of a member and the Monitoring Officer should be consulted in any case of doubt.

### **15. Breach of the Protocol by a Member**

Members are required to report any matter that they believe may be a breach of this protocol to the Monitoring Officer. The Monitoring Officer may refer any complaint (referred by a member or officer) to the Standards and Adjudication Committee if there is evidence that there has been a breach of the Code of Conduct or this Protocol and the Monitoring officer considers it appropriate to do so.

Where there has been an alleged breach of the protocol by a non-voting co-opted member, the Monitoring Officer may refer the complaint to the Standards and Adjudication Committee to be considered further.

#### **16. Breach of the Protocol by an Officer**

Complaints of an alleged breach should be raised with the relevant Director. If the complaint concerns a Director, it should be referred to the Chief Executive. If the complaint concerns the Chief Executive, it should be referred to the Monitoring Officer. The provisions of section 11 of this protocol will generally apply.

#### **17. Further Advice**

Advice on the interpretation and application of this protocol should be sought from the Monitoring Officer.









- adhere to the Council's Social Media Policy when using social media for work or personal use and protect the Council's reputation online at all times
- report any criminal conviction relevant to their job
- either challenge inappropriate behaviour and practice or bring such behaviour to the attention of a manager
- not smoke or consume alcohol on Council premises or when conducting Council business
- not use, possess, distribute or sell illegal drugs on Council premises, or when conducting Council business
- ensure that they have their ID card with them at all times to confirm identity
- not make statements to the media, or any other public statement which concerns the business of the Council unless they have been authorised by their Manager/Director to act generally as a spokesperson
- act in accordance with recruitment and selection policy to ensure that appointments of new employees are based only on merit and the ability of the candidate to undertake the duties of the post

## **Relationships**

### **Employees must:**

- maintain appropriate and respectful relationships with colleagues and councillors at all times
- adhere to the protocol on member and senior officer relations, which is set out in the Constitution, as appropriate.
- declare any personal relationships with councillors to the appropriate manager
- provide appropriate advice to councillors and fellow employees with impartiality as required
- provide the highest possible standard of service at all time
- treat other employees of the Council and partner organisations, members of the public and service users with equity, dignity and respect
- act in accordance with equality and diversity policies and legislation and show respect and consideration for others at all times
- not harass, victimise, bully or discriminate unlawfully against any person
- not prevent any person from gaining access to information to which that person is entitled
- not use defamatory language in any communication with colleagues

## **Health and Safety**

### **Employees must:**

- Take reasonable care of their own health and safety, and that of others who may be affected by their acts or omissions at work (things they do or do not do).
- Cooperate with NELC in order to fulfil our statutory duties (this would include; but not limited to, adhering to risk assessment controls, safe systems of work, attendance at any requested training or occupational health referrals).
- Not interfere with, misuse or wilfully damage anything provided in the interests of health and safety.
- Be aware of the Council's Occupational Health and Safety (OHS) Policy and Procedures contained within the OHS Management System.

- Follow all controls identified within risk assessments, safe systems of work or outlined within health and safety training (including the use of any personal protective equipment provided).
- Report any accidents, incidents or dangerous occurrences experienced or witnessed during the course of their duties.
- Meet relevant standards of practice and work in a lawful, safe and effective way at all times, including when driving whilst at work.
- Inform their manager (or the appropriate authority) about any personal difficulties that might affect their ability to do their job competently and safely (including any personal demands, lack of control or support or any issues with their working relationships, role or impacts of change).
- Report any medical conditions that may affect their work activities or abilities to carry out their roles.
- Not report nor endeavour to report for work whilst under the influence of alcohol and/or drugs.
- Not carry out their duties in the workplace whilst under the influence of alcohol and/or misuse of drugs.

Note: Where an employee is taking prescribed drugs which may have an impact on their ability to undertake their regular duties safely, they must report this to their Line Manager immediately

## **Resources**

### **Employees must:**

- use any public funds entrusted to or handled by themselves in an honest, responsible and lawful manner
- comply with the Financial Procedure Rules (FPRs), as set out in the Constitution, when managing budgets and financial responsibilities
- comply with the Contract Procedure Rules (CPRs), as set out in the Constitution, when letting a contract for goods, works or services
- ensure proper and lawful use of Council property or facilities at all times
- not use Council property or facilities, including information and email, for personal business
- not lose or damage Council equipment and/or property by wilful or negligent act
- be aware of and adhere to ICT security policies and procedures to ensure systems are adequately secured against risks.
- change passwords regularly and not disclose user identifications and passwords to anyone
- Comply with the Council's Information Governance framework to ensure that data and information is available as appropriate and adequately secured against risks
- ensure that no unauthorised person gains access to equipment, data or information
- accurately maintain Council records or documents and not alter or destroy any document or record unless properly authorised to do so
- not disclose information given to them in confidence by anyone, or information acquired which they believe is of a confidential nature, without the consent of a person authorised to give it, or unless they are required by law to do so

- not prevent another person from gaining access to information to which that person is entitled by law
- maintain privacy and confidentiality at all times particularly when working in an area other than their normal office due to agile working practices

## **Personal Interests**

### **Employees must:**

- not allow their personal interests to conflict with the Council's requirements in either their official or personal capacity
- not use their position to improperly confer an advantage or disadvantage on any person or organisation
- not be involved in the appointment or any other decision relating to the employment of a relative, associate or close friend (See note below)
- not use their authority or position for personal gain, or to enable colleagues or others to gain personally
- not allow additional employment to affect their ability to carry out their duties or conflict with the interests of, or in any way weaken public confidence in the Council
- read and understand 'Appendix 1- Interests and Gifts and Hospitality and declare any pecuniary interests that they have, or a relative, associate or close friend has in any contract or proposed contract entered into by the Council
- read and understand 'Appendix 1- Interests and Gifts and Hospitality' and declare hospitality, benefits or gifts received as a consequence of employment.
- not have an active political role in or outside of the work place if they hold a post which is 'politically restricted'
- comply with the legal requirement that prevents them standing for election to the Council if they are employed at the time of their formal nomination as a candidate . This includes any period of notice following the employee's resignation.

*Note: A relative is defined as a spouse, civil partner, partner, parent, parent-in-law, son, daughter, stepson, stepdaughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece or the spouse or partner of any of the above. An associate is defined as a fellow member of a club, association or business partner. A close friend is defined as someone held in particular affection who is in regular contact outside of work.*



planning application has been received from a supermarket company which could adversely affect an employee's home and in the course of their duties they would be required to provide technical advice in relation to the planning application.

Employees may request access to their declaration at any time and may correct or update it as required

Declarations may be inspected by Senior Officers of the council, by the council's auditors and by the Ombudsman. If the Council receives a third party request for information held on the register it will be considered in accordance with the Data Protection Act 1998.

Declarations of interests will be reviewed by the line manager on a regular basis during Supervision and Appraisal meetings in order for employees to confirm that the information held is correct and up-to-date.

### **Dealing with Declarations**

Where a conflict of interest arises, Directors will be responsible for determining which one of the following outcomes will apply:

#### **Insubstantial conflicts**

The conflict may be so insubstantial that the council is content simply to note the conflict, but for the employee to continue to perform their normal duties despite that conflict.

Discrete conflicts.

In some cases the council may take the view that the conflict would preclude the employee from undertaking a particular discrete task, but would not be incompatible with the general performance of their role.

#### **Incompatible conflicts**

In other cases, it is possible that the nature of the conflict of interests is such that the employee cannot reasonably continue to perform any or a substantial part of the duties of their role. In such cases, the authority will have to consider whether it is reasonable to pursue one of the following courses of action:

- Provision of temporary assistance

Where the conflict is of limited duration, the Council has a wide range of policies which may facilitate a balance between the employee's work and their private interests.

- Re-arrangement of duties

In particular cases, where the conflict means that the employee cannot perform all or any part of the duties of their role, the council may seek to re-arrange their duties and those of other Employees, so that they can continue to perform their role, or an equivalent role, but in a manner which avoids the conflict.

- Other Work

Where it is not possible to re-arrange duties, the council may be able to help the employee find other work within the Council in a capacity which does not give rise to such conflicts. This may require the employee to undertake re-training to enable them to undertake the duties of the new post.

- Termination of employment

In some cases the nature of the private interest may be incompatible with continued employment in the employee's present capacity. In such cases, the council may terminate their employment.

Failure to declare an interest in a contract which has been, or is proposed to be, entered into by the council as soon as practicable after becoming aware of the interest is a criminal offence which can lead to a fine of up to £2,500. This applies not just to contracts entered into directly between the employee and the council, but also to contracts between the employee's spouse and the council (if you are aware of them) and contracts between any legal partnership, company or other body in which you have an interest and the authority.

## **GIFTS AND HOSPITALITY**

Employees should treat with extreme caution any offer of a gift, favour or hospitality that is made to them personally. In deciding whether it is proper to accept any gift or hospitality, employees should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, the employee should not accept it if to do so would be in breach of one or more of these principles:

- (i) Employees should not accept any gift or hospitality in connection with the performance of their duties as an officer of the council

Employees are paid by the council for the performance of their duties and Section 117(2) of the Local Government Act 1972 makes it a criminal offence for an employee to accept any fee or reward whatsoever other than their proper remuneration.

- (ii) Employees must never accept a gift or hospitality as an inducement or reward for anything they do in their job

As an employee, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer or the non-offer of any inducement or reward for discharging those duties in a particular manner.

- (iii) Employees must only accept a gift or hospitality if there is a commensurate benefit to the council.

The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the council, and not the employee, which would not have been available but for the acceptance of that gift or hospitality. That benefit might come in many forms, such as an opportunity to progress the business of the council expeditiously through a working lunch, to canvass the interests of the council and its area at a meeting, or the opportunity to examine or test new products which the authority might wish to acquire. Never accept a gift or hospitality if acceptance might be open to misinterpretation

Employees must consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that the employee or the council favours any particular person, company or section of the community or as placing the employee under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, employees must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

(iv) Never solicit a gift or hospitality

Employees must never solicit or invite an offer of a gift or hospitality in connection with their work unless the acceptance of that gift or hospitality would be permitted within one of the general consents set out below. Employees should also take care to avoid giving any indication that they might be open to such an improper offer.

## Consent Regimes

### General consent provisions

For clarity, the council has agreed that employees may accept gifts and hospitality in the following circumstances:

- (a) civic hospitality provided by another public authority
- (b) modest refreshment in connection with any meeting in the ordinary course of their work, such as tea, coffee, soft drinks and biscuits
- (c) tickets for sporting, cultural and entertainment events which are sponsored by the authority
- (d) small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, employees should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise
- (e) a modest alcoholic or soft drink on the occasion of an accidental social meeting. In such cases, you should make reasonable efforts to return the offer where this is practicable
- (f) a modest working lunch not exceeding £10 a head in the course of a meeting in the offices of a party with whom the council has an existing business connection where this is required in order to facilitate the conduct of that business. When arranging any such meeting, employees should make it clear to the other party that such a lunch must not exceed a value of £10 a head
- (g) modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to the authority
- (h) Hospitality received in the course of a members' visit or meeting which has been duly authorised by the authority. When organising such visits or meetings, you should make it clear that any such hospitality for members and officers is to be no more than commensurate with the nature of the visit
- (i) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the employee deals with the gift strictly in accordance with the following procedure: The officer must, as soon as practicable after the receipt of the gift, pass it to the Secretary to the Mayor of the Council together with a written statement identifying the information set out in Paragraphs 2(b) below. The Secretary will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the Mayor's Charity Fund, on whose behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Mayor.



## **Special consent provisions**

If employees wish to accept any gift or hospitality which is in accordance with the General Principles set out in Paragraph 1, but is not within any of the general consents set out in Paragraph 2, they may only do so if they have previously obtained specific consent in accordance with the following procedure:

Employees must make an application in writing to the 'appropriate employee', setting out:

1. the nature and an estimate of the market value of the gift or hospitality
2. who the invitation or offer has been made by or on behalf of
3. the connection which they have with the person or organisation making the offer or invitation, such as any work which may have been undertaken for the council in which they have been involved
4. any work, permission, concession or facility which they are aware that the person or organisation making the offer or invitation may seek from the council
5. any special circumstances which lead them to believe that acceptance of the gift or hospitality will not be improper

Employees must not accept the gift or hospitality until they have received the appropriate consent.

The 'appropriate employee' will send copies of any such applications and consents to the Monitoring Officer who will retain them in a register which will be available for public inspection.

## **Gifts to the authority**

*Gifts to the authority may take the form of the provision of land, goods or services, (either to keep or to test with a view to future acquisition), an offer to carry out works or sponsorship of a function which is organised or supported by the authority. Employees should not solicit any such gift on behalf of the council except where the council has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements. If you receive such an offer on behalf of the authority, you must first consider whether it is appropriate for the authority to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the authority under any improper obligation, whether there is a real benefit to the authority which would outweigh any dis-benefits). If you do not have delegated authority to accept the gift, you should report the offer directly to an officer who has such delegated authority, together with your recommendation. The person who takes the decision whether to accept or decline the offer of the gift on behalf of the authority should write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, and as soon as possible after acceptance of any gift, make a declaration in writing to the appropriate officer, setting out the information set out in Paragraphs 2(b) above. The appropriate officer will retain the declaration for audit purposes and ensure that the gift is properly applied for the benefit of the authority. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the authority to accept the gift, you should consult the Monitoring Officer directly.*

## THE BRIBERY ACT

An employee must not accept, offer or receive a bribe in any circumstances. A bribe is giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly, or to reward that person for having already done so.

Under the Bribery Act 2010 a person is guilty of an offence if they:

- Offer, promise or give a bribe to another person to induce or reward them to perform a relevant function improperly
- Request, receive or accept a bribe as a reward for performing a relevant function improperly
- Use a bribe to influence a foreign official

A “relevant function” is an activity of a public nature which should be carried out in either good faith, impartially, or that the person performing it is in a position of trust.

Employees should be aware that the penalties for offences committed under the Bribery Act 2010 include up to 10 years’ imprisonment and an unlimited fine.

The Council does not condone bribery of any form, in any circumstance.

### Declaration of Gifts and Hospitality

Where an employee accepts any gift or hospitality estimated to have a value of £25 or greater, they must, as soon as possible after receipt of the gift or hospitality, make complete the [Declaration of Receipt of Gifts or Hospitality form](#).

Even if the value of the gift or hospitality is less than £25, if an employee is concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, they may complete the Declaration of Receipt of Gifts or Hospitality form as above to ensure that there is nothing secret or underhand about the gift or hospitality.

Acceptance of any gift or hospitality other than in accordance with the above principles will be outside an employee’s proper remuneration, and will therefore be a criminal offence carrying a maximum fine of £2,500.

### Definitions

*“relative” means a spouse, civil partner, partner, parent, parent-in-law, son, daughter, stepson, stepdaughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece or the spouse or partner of any of the above.*

*“close friend” means someone held in particular affection who is in regular contact outside of work.*

*“associate” means a fellow member of a club, association or business partner.*

“Gift or hospitality” includes any:

- the free gift of any goods or services
- the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public
- the opportunity to obtain any goods or services which are not available to the general public
- the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

References to the “value” or “cost” of any gift or hospitality are references to the higher of:

- your estimate of the cost to the person or organisation of providing the gift or consideration
- the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

## **CONFLICTS OF INTEREST - A CODE OF CONDUCT FOR EMPLOYEES**

Employees of local authorities will, from time to time, find that there is a conflict of interest between their official duties and their private interests, or the interests of their family or friends. Employees serve the whole authority and must act, and be seen to act, in the public interest. Failure to recognise a conflict of interests can give the impression that the authority or the Employee are not acting in the public interest but serving particular individuals or sectors of the community. But it can also lead to disciplinary action, or even to a criminal prosecution and a fine of up to £2,500. It is therefore important that all Employees of the authority operate according to a clear and consistent set of rules, for their own protection and for the protection of the authority.

This Code of Conduct sets out:

- what constitutes a conflict of interest
- when Employees must declare that conflict of interest, and how to make a declaration
- when they must withdraw from participating in a matter because of such a conflict of interest
- a procedure to deal with instances where an Employee wishes to take on a new private interest which might conflict with the interests of the authority or the performance of their post
- a procedure to deal with instances where the Employee's private interests are such that they are unable to perform the duties of their post.

### **What is a Conflict of Interest?**

As an Employee, you will have private interests. These may be pecuniary interests, such as ownership of a house or shares in a company, your spouse or partner's employment, or a friend's position as an employee of a firm tendering to provide architectural or building services to the authority, where you, your family or friends stand to gain or lose financially if that interest is affected by a decision of the authority. It may be a non-pecuniary interest, such as membership of a recreational club, your children's attendance at a particular school or membership of a sports association such as the Lawn Tennis Association or a campaigning organisation such as the Ramblers' Association. In such cases you, your family or friends may not stand to gain or lose financially, but where their interests or well-being can be affected by such a decision. There is nothing wrong with you having such private interests, and the authority encourages its Employees to engage in the community in which they live.

When you act as an Employee of the authority, you have to serve the whole authority and take decisions on the merits of each individual case. Where your private interests might be advantaged or disadvantaged by a decision or action which you take in the course of your job, there is a conflict of interests. You may be clear that you would not allow such private considerations to affect your performance of your duties as an Employee, but the public perception of impartiality is just as important. So, whenever you have such a conflict of interests, you must act in accordance with this Code of Conduct. This will help protect you and the Council from criticism.

## **Register of Interests**

- On appointment, you will be required to complete the form attached to this Code as Appendix One, setting out your principal interests. This form will then be held by the appropriate Employee (See below for the definition of “principal interests” and of “the appropriate Employee”).
- You must advise the appropriate Employee of any change in any such interest within 28 days of becoming aware of such a change.
- Wherever you find that a conflict of interest has arisen between a private interest and a decision which you may be asked to take in the course of your job, you must notify the appropriate Employee in writing as soon as possible, and, where appropriate, request that the relevant decision be taken by another Employee. The duty specifically to notify the appropriate Employee of the conflict arises even where you have previously declared the private interest, for example where you have previously declared your ownership of your home, but now a planning application has been received from a supermarket company which could adversely affect the property and in your job you would be required to provide technical advice in relation to the planning application.
- The appropriate Employee will keep any declarations of interest which you make in a Register of Interests
- Periodically the appropriate Employee will send you a copy of all the declarations of interests which he/she holds on your behalf and will ask you to confirm that they are correct and up-to-date. On this occasion you may ask that a particular interest be removed, where it is not a principal interest and you are of the opinion that it is now unlikely that any conflict will arise between this interest and any decision which you may be asked to take in the course of your job.

## **Inspection of the Register**

- At any time you may ask the appropriate Employee to see the declarations of interest which he/she holds on your behalf, and correct or update these declarations.
- The register of interests is open to inspection at any time by the appropriate Employee, the Chief Executive, the Monitoring Officer, the Section 151 Officer, the Chief Internal Auditor and the Director of Human Resources.
- The register of interests is also open to inspection by the authority’s external auditor, the Ombudsman and the Standards Board for England.
- Apart from the above persons, declarations of interest made on your behalf can only be inspected with your prior consent or under any statutory right of access. It is not open for public inspection.

## **Taking on Additional Private Interests**

- Whilst the authority encourages its Employees to engage with the community which the authority serves, you should not take on any new interests which are likely to:
  - give rise to conflicts which mean that you would be conflicted out from taking a particular decision or action within the regular remit of your work

- place such demands on your time or energies that you are unable to undertake your job satisfactorily
  - reflect adversely upon the authority by reason of your association with the authority.
- If you wish to take on any personal interest which is likely to:
- conflict with the discharge of your responsibilities as an Employee of the authority
  - require you to take time off work or change your working hours
  - place demands on your time or energies such that you are unable to undertake your job satisfactorily
  - result in your being conflicted out from taking a particular decision or action as part of your job
  - be incompatible with the objectives or obligations of the authority or
  - which is only available to you by reason of skills or knowledge which you have acquired as a result of your employment with the authority;

you must first obtain the written consent of the appropriate employee.

- Where the appropriate Employee refuses such consent, you may appeal to the Appeals Committee.
- Where the personal interest is closely associated with your job with the authority and you would receive any reward or remuneration for undertaking that interest, the appropriate Employee may make such consent conditional upon your paying all or some of that reward or remuneration to the authority. This would include, for example, fees for lecturing or training where the lecture or training is based upon knowledge or skills which you have gained through your employment with the authority, even if you proposed to undertake such activities outside working hours.
- Taking on a personal interest as set out in paragraph 6(b) above without the prior consent of the appropriate Employee can result in disciplinary action being taken against you by the authority.

## **Dealing with Conflicts of Interest**

Where a conflict of interest arises, the authority can deal with it in a number of different ways:

- Insubstantial conflicts

The conflict may be so insubstantial that the authority is content simply to note the conflict, but for you to continue to perform your normal duties despite that conflict. Indeed, in some cases your private interest may be of positive assistance in the performance of your job, such as membership of a professional association.

- Discrete conflicts

In some cases the authority may take the view that the conflict would preclude you from undertaking a particular discrete task, but would not be incompatible with the general performance of your job. Thus, where your job includes the technical

assessment of planning applications and a new application has been received which adversely affects your home, the authority may decide that you should not take any part in the assessment of that particular application, but apart from this one discrete matter, you may continue with the performance of the rest of your job. In such cases, the authority may instruct you to have no part in that particular application, and arrange for another Employee, or an outside consultant, to perform what would otherwise be your job in relation to that particular application.

- Incompatible conflicts

In other cases, it is possible that the nature of the conflict of interests is such that you cannot reasonably continue to perform any or a substantial part of the duties of your job. In such cases, the authority will have to consider whether it is reasonable to pursue one of the following courses of action:

- Provision of temporary assistance

Where the conflict is of limited duration and is simply one of time, the Council has a wide range of policies which may facilitate a balance between your work and your private interests.

- Re-arrangement of duties

In particular cases, where the conflict means that you cannot perform all or any part of the duties of your job, the authority may seek to re-arrange your duties and those of other Employees, so that you can continue to perform your job, or an equivalent job, but in a manner which avoids the conflict. An example would be arranging for an Area Housing Employee to manage the housing in another part of the authority's area, so that he/she did not have to manage any properties which were occupied by near relatives.

- Other Work

Where it is not possible to arrange a re-arrangement of duties, the authority may be able to help you find other work within the Council in a capacity which does not give rise to such conflicts. This may require you to undertake re-training to enable you to undertake the duties of the new post.

- Termination of employment

In some cases the nature of the private interest may be incompatible with continued employment in your present capacity. In such cases, the authority may terminate your employment.

It is not possible to provide a complete list of the circumstances in which this might arise, but the following are examples of incompatible private interests which might justify termination of employment:

- membership of an organisation whose objects or activities conflicted with the authority's commitment and statutory duties to promote good relations between different racial groups, or to protect children and vulnerable citizens
- standing as a political party's candidate for election to public office, whether with this authority or elsewhere, where you are the holder of a politically-restricted office with the authority

- Consequences of failure to declare an interest
  - The form for declarations of interests sets out clearly the descriptions of interests which you are required to declare. Deliberate failure to declare a relevant interest, or to notify the appropriate Employee of a change in any declared interest is a breach of trust with the authority as your employer and can lead to disciplinary action.
  - Failure to declare an interest in a contract which has been, or is proposed to be, entered into by the authority as soon as practicable after becoming aware of the interest is a criminal offence which can lead to a fine of up to £2,500. This does not apply to your contract of employment nor to general transactions undertaken by you as an ordinary member of the public such as, the purchase of tickets at events or venues operated by the authority, or your purchase of goods or services from the authority. However, it does apply not just to contracts entered into directly between yourself and the authority, but also to contracts between your spouse and the authority (if you are aware of them) and contracts between any legal partnership, company or other body in which you have an interest and the authority.
- The Appropriate Employee

The appropriate Employee for Employees is as follows:

- for the Chief Executive, the Monitoring Officer or, in his/her absence, the Director of Human Resources
- for Directors, the Chief Executive or the Monitoring Officer.
- for Heads of Service , their Director or, in his/her absence, the Monitoring Officer.
- for the Monitoring Officer, the Chief Executive or the Director of Governance, Democracy and Community Engagement

## **Register of Interests - Officers**

Under the Constitution, the Council requires you to make a written declaration of your principal private interests, as set out below. Please complete this form to the best of your ability. It is recognised that you may not know details of the business affairs of members of your family. However, you are required to update your declaration within 28 days of becoming aware of any material change in respect of your private interests.

This declaration will be held by the authority in a Register of Employees' Interests. The purpose of requiring you to make a declaration is to ensure that any actual or potential conflicts of interest may be managed. You may ask for access to your declaration at any time and may correct or update it as required. This register is not open to public inspection but may be inspected by your managers and key Employees of the authority (e.g. Monitoring Officer), by the authority's auditors and by the Ombudsman. If the Council receives a third party request for information held on the register it will be considered in accordance with your rights under the Data Protection Act 1998.

For the purposes of the Register of Interests:



“Family” means your parents, parents-in-law, step-parents, husband, wife or partner, son, daughter, step-son, step-daughter, child of a partner, brother, sister, brother-in-law or sister-in-law.

“Immediate Family” means your husband, wife or partner

“Ownership” of land includes ownership of an option to buy land

“Partner” means any person with whom you co-habit as partner

<b>Name (please print)</b>	
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<b>Type of Interest</b>		<b>Please enter any relevant information below</b>
1.	<p><b>Employment:</b></p> <p>Enter details of any paid employment (other than your employment with the authority), and any firm of which you are a partner.</p>	
2.	<p><b>Membership of another local authority:</b></p> <p>Enter details if you or your immediate family are elected or co-opted members of any other local authority (including a Town or Parish Council)</p>	
3.	<p><b>Other public authorities:</b></p> <p>Enter details if either you or a member of your immediate family are in a position of general control or management of another public authority, such as an NHS body</p>	
4.	<p><b>Land:</b></p> <p>Enter details of any land in the area of the authority which is owned or occupied by you or by a member of your family</p>	
5.	<p><b>Membership of local companies:</b></p>	

	Enter details of any company which owns land or has a place of business within the area of the authority, and in which you or your immediate family own any shares or securities with a nominal value of £25,000 or more	
6.	<p>Contracts:</p> <p>Enter details of any contract for goods, services or works made between the authority and yourself, a member of your family or a company or firm of which you have entered details above</p>	
7.	<p>Outside Bodies:</p> <p>Enter details of any body or organisation to which you have been appointed by the authority</p>	
8.	<p>Professional associations:</p> <p>Enter details of any professional association of which you are a member, and any position which you hold within that organisation</p>	
9.	<p>Lobbying organisations:</p> <p>Enter details of any body whose principal purposes include the influence of public opinion or policy, of which you are a member</p>	
10.	Charities:	

	Enter details of any charity or body directed to charitable purposes of which you are a member	
11.	<p>Other interests:</p> <p>Enter details of any other private interest which you have which you consider is likely to give rise to a conflict with the proper performance of any of your duties in this job</p>	

Signed .....

Date .....

# NORTH EAST LINCOLNSHIRE COUNCIL PARTNERSHIP GOVERNANCE PROTOCOL

## Contents

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- 2) Purpose
- 3) Definition of Partnership
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- 5) Existing Partnerships and Stakeholders
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Appendix 1: checklist for new partnerships

Appendix 2: conduct of business

Appendix 3: how the Council's governance principles and how they are expected to be applied within partnerships

Appendix 4: Areas to be considered for annual reviews of partnership arrangements

## **1.0** Context

- 1.1 The Council has a track record of playing a lead role in establishing and developing partnerships across North East Lincolnshire and beyond. If we are to retain the full benefits of partnership working we need a clear and rigorous approach to managing these relationships. This protocol seeks to respond to the complexity of the partnerships we have in place and their increasing importance in delivering improved outcomes and fulfilling our community leadership role.
- 1.2 The Council's Code of Corporate Governance reflects the principle of governance as set out in the Chartered Institute of Public Finance and Accountancy/Society of Local Authority Chief Executives publication "Delivering Good Governance in Local Government – A Framework".

The code is based on the following 7 principles, the first 2 of which underpin the remaining 5 with the overall aim of "**Achieving the intended outcomes while acting in the public interest at all times**". The principles are as follows:

- A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law
- B. Ensuring openness and comprehensive stakeholder engagement
- C. Defining outcomes in terms of sustainable economic, social, and environmental benefits
- D. Determining the interventions necessary to optimise the achievement of the intended outcomes
- E. Developing the entity's capacity, including the capability of its leadership and the individuals within it
- F. Managing risks and performance through robust internal control and strong public financial management
- G. Implementing good practices in transparency, reporting, and audit to deliver effective accountability

1.3 These 7 principles of governance are not only applicable to the Council's core business but also to the business of partnership working. as laid out in Appendix 3.

1.4 The Council considers that any set of Partnership arrangements should embody the following key principles:

**Openness and Inclusivity** – being open through genuine engagement and consultation with stakeholders and providing access to full, accurate and clear information and seeking to ensure that all stakeholders and potential stakeholders have the opportunity to engage effectively with the decision making processes and actions of the Council.

**Integrity** – including both straightforward dealing and completeness, based upon honesty, selflessness and objectivity and high standards of propriety and probity in the stewardship of public funds and management of the Council's affairs.

**Accountability** – the process whereby Members and officers are responsible for their decisions and actions, including their stewardship of public funds and all aspects of performance, and submit themselves to appropriate external scrutiny.

1.5 The Council considers that any set of partnership arrangements should observe the (Nolan) Principles of Public Life:

**Selflessness**

Partnership members should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

**Integrity**

Partnership members should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their duties to the Partnership.

**Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, Partnership members should make choices on merit.

### **Accountability**

Partnership members are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their position.

### **Openness**

Partnerships should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

### **Honesty**

Partnership members have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

### **Leadership**

Partnerships should promote and support these principles by leadership and example.

## 2.0 **Purpose**

Accordingly, the purpose of this Protocol is to ensure that:-

- (i) The Council is clear about the differing nature of partnerships and range of stakeholders that the Council engages with.
- (ii) That the Council is clear about its purpose and expected outcomes for the people of North East Lincolnshire when entering into partnerships
- (ii) The Council's own agreed priorities and objectives are being met
- (iii) There is clarity in relation to accountability and responsibility for outcomes
- (iv) Partnership activity and outcomes are monitored, reviewed and evaluated so that best use is made of resources
- (v) Risks for the Council and the partnership are assessed and agreed
- (vi) Partnerships maintain relevance to their agreed purpose during and have an effective exit strategy in place
- (vii) There is clarity about the legal status of any partnership

### 3.0 **Definition of Partnership**

3.1 The Council has defined partnerships as : ‘An agreement between two or more independent bodies to work collectively to achieve an objective, normally excluding the familiar relationships between client and contractor or employer and staff.’

3.2 In addition the Council’s significant partnerships may:

- Co-operate to achieve a common goal or shared objectives
- Create new structures or processes to achieve objectives
- Plan and implement a jointly agreed programme (often with jointly provided staff or resources)
- Make joint investments and share risks and rewards.

3.3 Client and contractor relationships can be considered to be partnerships if they are:

- Of strategic importance to the Council, critical to the delivery of the Council’s key objectives or statutory obligations and/or to the delivery of the Council outcomes
- Critical to the reputation of the Council, where failure to deliver could damage the Council’s reputation

3.4 A group is not considered to be a partnership if:

- The Council has direct and sole control over budgets and decision-making
- It is set up to consider specific topics
- Grants are made to other organisations for specific purposes
- Subscriptions/membership payments are made to outside bodies
- Procurement agreements are made for the acquisition of goods and/or services from a supplier governed under contract.

## 4. **Types of Partnership**

### 4.1 Statutory/Contractual

- The requirement for co-operation between local partners to agree and deliver national or local priorities is set down in statute or in contracts
- The partners are defined in statute or in contracts
- National and local funding is directed towards achieving shared priorities and outcomes

### 4.2 Voluntary

- The Council consults and works with external agencies to better align and streamline ways of working
- Co-operation is dependent on member agencies working together voluntarily
- Funding on agreed priorities is not necessarily pooled



### 4.3 Executive

- Set up to deliver specific, jointly agreed, possibly time-limited outcomes
- Collaborative working – whereby the Council has specific investment and executive responsibilities, and powers

### 4.4 Service delivery

- Council services are delivered jointly with external organisations
- Additional capacity or efficiencies are achieved through partnership working
- Responsibilities are documented in service level agreements

This list is not exhaustive and alternative ways of working may also be defined as partnerships, such as; strategic partnerships; partnering contracts; collaboration or outsourcing.

## 5. **Existing Partnerships and Stakeholders**

### 5.1 The key contractual partnerships include:

- Engie
- New Lincs
- One Adoption North and Humber
- Lincs Inspire Limited
- Northern Lincolnshire Business Connect

5.2 The Council has had an enhanced partnership arrangement with the Clinical Commissioning Group (CCG) since 2017 (the 'Union'). This partnership is underpinned by a formal Section 75 agreement. There is a joint Chief Executive for the Union and we are moving towards a single leadership team. The Union vision is to 'grow and enhance the place of NEL to improve the health, care and life experiences of our population'.

5.3 Other formal joint working arrangements include local and sub-regional developments –separate governance arrangements are in place (as approved by Council) in respect of our membership of the North East Lincolnshire Safeguarding Children's Partnership (NELSCP), Community Safety Partnership, Humber and Lincolnshire Local Enterprise Partnerships (including Local Transport Boards).

5.4 Council representation on other 'external' bodies where the nature of the relationship is one of "influence", co-operating, enabling or facilitating improved relationships and shared outcomes, such as.

- a) Town and Parish Council Liaison Committee
- b) Humber Police and Crime Panel
- c) NHS Foundation Trust (NLAG)
- d) Grimsby Institute of Further and Higher Education (GIFHE)
- e) Voluntary Action North East Lincolnshire (VANEL)
- f) Schools Forum
- g) Local Government Association
- h) Age Concern

- i) Humberside Fire Authority
- j) Tourism North East Lincolnshire
- k) Humber Bridge Board

5.5 Stakeholder engagement extends to a wider range of organisations where contact may be more informal or issue based.

## **6.0 New Partnerships**

6.1 Before entering a partnership agreement it should be first established that the Council has the power to do so. Entering a Partnership arrangement (including those directed by law or statute) should be predicated on evidence that forming a partnership will lead to more effective delivery of the council's outcomes, increased resilience and improved value for money.

6.2 The prospective benefit of the Council's participation must be assessed by comparing objectives and intended outcomes of the proposed arrangement with:-

- (i) The Council's priorities (as set out in the Commissioning Plan or equivalent)
- (ii) The shared priorities of the Place Board

6.3 A checklist of the issues that should be considered is attached at Appendix 1.

6.4 If the Leadership Team considers that an acceptable business case has been put forward, it will be referred to the relevant Portfolio Holder (or, if appropriate, Cabinet / Council) for approval.

## **7.0 Roles and responsibilities**

### **Elected Members**

7.1 Elected members may be appointed to partnership boards and may scrutinise partnership working through the Scrutiny process. When working with partnerships, outside bodies and voluntary groups, Elected Members and employees must be aware of their responsibilities under the Council's Code of Conduct. Members and officers should also strive to ensure that governance as set out in this Framework is agreed and adopted by the partnerships they are involved in.

7.2 Acceptance of a role as a charity trustee or company director (even if accepted as part of work for the Council) is a personal responsibility. There will be responsibilities to the Charity Commission and under company law that must be fulfilled. The duty to act in the best interests of the charity or company must be balanced with the duty to the Council as an elected member or officer, and as a representative within its community leadership role. If there is any doubt about this, advice should be sought from Legal Services.

## **Senior Council officers**

- 7.3 Members of the leadership team will be allocated “Nominated Officer” roles as the strategic managers for key partnerships with a responsibility to ensure partnership arrangements are consistent with this protocol. They will ensure the partnership’s strategic fit with the Council’s objectives is maintained, strengthen lines of accountability and provides some assurance over partnership activity. The Leadership Team will consider any revisions to the Partnership Governance Framework every two years.

## **8.0 Review and Evaluation**

These arrangements will apply to the key contractual partnerships as set out at 5.1. and 5.2

- 8.1 **Reporting** – All partnerships should establish their own internal procedures for monitoring and reporting, based on the nature of their activity and their stakeholders. Nominated Officers should ensure they consider their relationship and involvement with significant partnerships as part of normal business planning. Monitoring and reporting should be part of the Council’s performance management framework and processes. Annual reports will be considered by Audit and Governance Committee and scrutiny panels. Some of the areas for consideration for inclusion in the annual reports are shown in Appendix 4. These are based on the Council’s governance framework.
- 8.2 **Performance management** - Effective management of progress with the delivery of partnership objectives is a key component of good governance; it measures what the partnership is achieving, how it is working, and provides a basis for informed decision-making, enabling more effective planning and improved performance in delivering priorities and outcomes. Performance reports should be referred at an agreed frequency to the relevant scrutiny panel.
- 8.3 **External/Internal audit** – The requirements for internal and external audit should be considered and put in place at the outset. The Audit and Governance Committee has responsibility for monitoring and reviewing (at least annually) the Council’s arrangements for partnership governance in aiding their performance.

## **9.0 Leaving a Partnership**

- 9.1 There should be a clear contractual understanding which specifies the mechanism for bringing a Partnership to an end or reviewing its membership.
- 9.2 There are numerous reasons why the Council’s involvement in a Partnership may come to an end before agreed contract date. These will be identified as part of the commissioning approach and may include:-

- Original objectives of the Partnership have been met.
- The priorities of the Council and/or its Partner change.
- The Partnership is not delivering required outcomes.
- The Partnership is succeeded by another set of arrangements.
- Funding sources cease or diminish.
- An unacceptable level of risk is identified.
- Financial, legal or statutory reasons.

9.3 The Cabinet (or Full Council if it has constitutional implications) has the authority to determine if the Council's involvement in a partnership should come to an end. This will include those Partnerships that are bound by contractual and statutory obligations.

## **10.0 Risk Management**

10.1 As part of the decision to enter into or exit a partnership, a full risk assessment must be carried out in accordance with the Council's established risk and opportunities framework.

10.2 Effective and robust risk management is key to delivering successful partnership arrangements. It is imperative that all partners have a common understanding of:-

- (i) The potential risks associated with achieving partnership objectives
- (ii) Their relative seriousness and how they can be managed

10.3 Each Partnership should maintain a risk register or risk log. All risks should be recorded, including the assignment of responsibility for managing the actions necessary to implement the necessary controls and assurances to mitigate or eradicate identified risks. The risk management arrangements should also provide for escalation to the respective partner bodies, if necessary.

## **11.0 Conduct and Behaviour**

11.1 The Council considers that Members with a formal role in any partnership should observe and act in accordance with the principles of the Code of Conduct for Elected Members and, in particular, should act in a manner that:

- Is not disrespectful or discriminatory
- Will not bring the Partnership, or any member of it, into disrepute
- Will not secure a personal advantage for any member of the Partnership or a disadvantage for another
- Will not result in the disclosure of confidential information without lawful consent

11.2 The Members' Code of Conduct is set out in the Council's Constitution.

## **12.0 Conduct of business**

12.1 Formally constituted Board Meetings should in most cases be held in public session unless confidential business is to be transacted. The business of the Partnership may be transacted in private session if any item of business includes consideration of:

- Issues affecting an identifiable individual or individuals.
- Issues that may be subject to a claim of legal/professional privilege.
- Commercially sensitive information.
- Information that, if disclosed, would prejudice the conduct of public affairs.
- Information that affects the Council's approved budget and policy framework and has yet to be formally considered by the Cabinet or the Full Council.
- Information that, if disclosed, would reveal that the Council or any other member of the Partnership, is contemplating the issue of a statutory notice or the commencement of civil or criminal proceedings.

12.2 In any case where the Council is the accountable body regarding the use and application of public funds, the presumption is that Partnership decisions shall be made in public, unless a legitimate legal or statutory provision requires or permits the consideration of business in private.

12.3 Further guidance is included at Appendix 2.

### **13. Accountability**

13.1 In order for Partnerships to truly operate effectively, there must be clarity of accountability for decisions and actions. For the purposes of this Protocol, the Council's reasonable expectation is that:

- (i) Partnership members shall be accountable to each other in the context of delivering the objectives of the Partnership.
- (ii) Partnership members shall have a responsibility to report back to their respective organisations regarding the activities of the Partnership.
- (iii) In relevant circumstances, officers and elected members of the Council will have a duty to formally report back to the Council.
- (iv) In any case where the Council is the designated Accountable Body regarding the use and application of public funds, all related decisions will be reported into the Council and monitored accordingly.

### **14. Review of this Protocol**

14.1 The terms of this protocol shall be reviewed every two years by the Leadership Team and reported to the Audit and Governance Committee.

## PARTNERSHIP CHECKLIST (set up and review)

Name of Partnership:

Checklist completed by:

Date:

<p><b>Definition of a partnership</b>          For the purpose of this assessment a partnership is defined as being:          An agreement between two or more independent bodies to work collectively to achieve an objective, normally excluding the familiar relationships between client and contractor or employer and staff</p>	
<b>Check</b>	<b>Comment</b>
<b>Partnership – Key Information</b>	
What is the partnership intended to deliver with regard to the Councils key priorities: Stronger Economy, Stronger Communities?	
What is the partnerships intended lifespan?	
What is the partnership intended to achieve – does it have clear, documented and agreed aims, objectives, targets and outcomes?	
Is it clear what the role of Elected Members (if any) is in relation to the Partnership? (e.g. Board Membership/Portfolio Holder accountability)	
What organisations are represented on the partnership?	
Who chairs the partnership?	
Who is the Partnership Nominated Officer?	
<b>The Council's 7 governance principles and how they relate to partnerships (as laid out in Appendix 3 of the protocol) have been considered when determining the partnership's arrangements</b>	
Are there clear partnership rules of engagement?	
Have the risks in relation to the partnership been considered ?	
Is there an agreed Exit Strategy for the partnership and for the Council?	
<b>Resource Implications</b>	
How is the Council resourcing its participation?	
Are there other sources of funding available?	

Are there future budget implications?	
<b>Other Considerations</b>	
What are the arrangements for monitoring, reporting, review and to whom and when?	
Are there clear arrangements for communications about the partnership within the Council (Officers and Members) and other stakeholders?	
Does this partnership link to other partnerships? If so how?	
Have health and safety, data protection, equalities, insurance, emergency planning, business continuity been considered and requirements specified?	
Are legal and financial services b involved with the partnership?	
Are the partnership's decisions legally binding on the Council?	
Have the risks in relation to the partnership been assessed and now are monitored?	High/Medium/Low
<b>Corporate sign-off:</b>	
Have the partnership's governance arrangements been approved in line with the Council's decision making processes t	

**Conduct of business**

**Meetings**

1.0 Effective meetings are essential to successful partnership working, not least due to their role in decision-making, and should be supported by effective protocols to facilitate the conduct of business.

**1.1 The Chair**

The Chair's primary role is to lead the meeting, ensuring discussions and decisions address the agenda and that all attendees have an opportunity to contribute. The Chair can arrange for new items or issues arising to be included in future meetings.

**1.2 Secretariat**

Any need for a secretariat and resources to operate it should be identified when a partnership is established. Responsibilities would include arranging and giving notice of meetings, preparing minutes, as well as coordinating and issuing agendas and papers.

**1.3 Frequency**

Frequency of meetings of boards, groups and other bodies should be set according to their roles and responsibilities and should be reviewed to ensure they continue to meet partnership needs. Needs of attendees should be taken into consideration when planning a venue, date and time to ensure that the arrangements are suitable for all attendees. The policy on extraordinary meetings should set out in what circumstances they can be convened and the process for requesting them.

**1.4 Agendas, papers and minutes**

Agendas should be set for all meetings giving the date, time and place of the meeting and items to be discussed. Any related papers should be sent with the agenda to support productive and informed discussion and decisions. Minutes should be a true record of key relevant responses to items but do not need to record all discussion. All key decisions and agreed actions should be recorded, including action required, responsibility and timescales. Draft minutes should be circulated with the next meeting's agenda for agreement over completeness and accuracy.

**1.5 Representation and quorum rules**

Partners should nominate a deputy if the principal representative cannot attend a meeting. Deputies may be given the decision-making powers of the original member, but in practice may not have full freedom to make decisions for their organisation. For executive bodies the number of attendees that must be present for meetings to be quorate should be formally agreed. For non-executive bodies no quorum is necessary



as decisions are made by agreement. Voting arrangements should be defined and recorded depending on the nature of the partnership (executive or non-executive) ranging from consensus to a formal majority voting system with provision for a casting vote.

### **1.6 Declarations of interest and withdrawal from meetings**

Partnership members should have regard to the highest standards of behaviour in the conduct of public business and should declare any personal or prejudicial interests they may have (as defined by the Council's Code of Conduct) on matters under discussion. Agendas should include an opportunity for partners to declare any personal, prejudicial, financial or other material interests in any agenda item that may preclude them from participating in discussions or decisions relating to that matter, or require them to withdraw from meetings while the item is discussed.

**The Council's governance principles and how they are expected to be applied within partnerships**

A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law

- Values are agreed for partnerships at the outset and that they are clearly understood and communicated.
- The “tone from the top” is clear
- Compliance with these values are monitored
- There is clarity over partners' statutory duties
- Leaders and staff associated with the partnerships are committed to them

B. Ensuring openness and comprehensive stakeholder engagement

- The legislative and governance arrangements underpinning different sectors are taken into account. For example, local authorities have local political leadership, in the NHS board membership is made up of officers and non-executive directors, and charities will have trustees (often dedicated volunteers).
- There is high level agreement between partners concerning the value of and intention towards partnership working and collaboration
- The importance of trust recognised at all levels and its role in supporting change
- All members of the partnerships ensure that different cultures within partnership organisations are understood and respected
- Partners understand how the governance arrangements in each partner operate, and there are mechanisms to address issues which may arise due to these differences to be resolved
- Effective communications are developed and maintained
- Effective stakeholder engagement is maintained

C. Defining outcomes in terms of sustainable economic, social, and environmental benefits

- There is a shared vision and there are clearly defined outcomes that have been agreed upon by all partners and are supported by stakeholders
- The vision is communicated appropriately
- Appropriate measures of success are agreed by the partners
- Partnerships can demonstrate how working in partnership adds value

- The benefits of the partnerships have been clearly mapped out

#### D. Determining the interventions necessary to optimise the achievement of the intended outcomes

- Partnerships have a clear strategy on what is to be delivered and how this is to be done
- Partner roles and responsibilities are agreed and understood
- There is clarity over who has the responsibility to make decisions
- Consideration is given to the best way to evaluate the effectiveness of joint activities in achieving goals

#### E. Developing the entity's capacity, including the capability of its leadership and the individuals within it

- Partnerships have strong, effective and collaborative leadership
- Appropriate support is provided to members of partnerships so that they clearly understand their roles and responsibilities, and are able to scrutinise and challenge effectively
- The impact of differences in employment terms and conditions is considered
- Partnership leaders have the ability to work across organisational boundaries
- Those in partnerships are clear about the delegations to make decisions
- The levels of delegation of control over services/spending is matched between partnership organisations
- Any strategic and operational management gaps between organisational boundaries are properly managed

#### F. Managing risks and performance through robust internal control and strong public financial management

- Partnerships are only entered into after an appraisal of the various options been undertaken and there is a sound business case.

- When considering outsourcing a service an effective due diligence process is undertaken
- Partnerships are reviewed regularly to see how effectively they are working
- Contracts with private sector providers include appropriate break clauses that would enable renegotiation if circumstances change
- Funding arrangements are clearly specified
- Appropriate systems in place so that expenditure against milestones and deliverables can be properly managed
- Those involved in partnerships between different sectors understand the different finance systems, terminology and performance measures used by the other sector
- Risks associated with partnerships identified and managed
- Partnerships have risk sharing agreements
- Partnerships are subject to the Council's Scrutiny arrangements

#### G. Implementing good practices in transparency, reporting, and audit to deliver effective accountability

- Partnerships report on their performance on a regular basis and in a public setting
- Partnerships are referred to in the Council's annual governance statement

**Areas to be considered for annual reviews of partnership arrangements**

A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law

- Has an atmosphere of mutual trust between the key players been maintained?
- Have any problems arisen as a result of different cultures? How have they been resolved?
- Are members and officers personally committed to the initiative?

B. Ensuring openness and comprehensive stakeholder engagement

- Has effective communication been maintained at all levels?

C. Defining outcomes in terms of sustainable economic, social, and environmental benefits

- Have the intended outcome/benefits/vision for the “Place” been realised?
- Where benefits have not been realised, how will this be resolved?

D. Determining the interventions necessary to optimise the achievement of the intended outcomes

- Have the arrangements to evaluate the success of the partnership worked effectively?

E. Developing the entity’s capacity, including the capability of its leadership and the individuals within it

- Is there still clear and robust leadership which focuses on outcomes?
- Has organisational efficiency been maintained?
- Do members of the partnership receive effective support?
- Is the structure sufficiently flexible? Will it accommodate changes in the partners’ circumstances?

F. Managing risks and performance through robust internal control and strong public financial management

- Were the estimated savings on which the plans are based ‘realistic’?
- Have any unexpected problems materialised? How were they dealt with?

G. Implementing good practices in transparency, reporting, and audit to deliver effective accountability

Have you produced an annual report?

# MEMORANDUM OF PARTNERSHIP UNDERSTANDING

## Preamble

- .01 This Memorandum of Partnership Understanding is entered into by:  
*[list the names of the members of the Partnership, including full business address]*
- .02 This Partnership shall be known as [insert name]

## Terms of Reference

*[Specify the agreed terms of Reference (the purpose of the Partnership) here]*

*[Specify the lifespan (term) of the Partnership]*

## Roles and Responsibilities

*[Set out the roles and responsibilities of each member of the Partnership]*

*[Confirm roles and responsibilities of the Chairperson and the election requirements]*

## Accountability and Audit arrangements

*[Set out the reporting arrangements for the Partnership. Which body or bodies will receive reports and how often?]*

## Meetings and Administration

*[Set out the minimum number of meetings per year for the Partnership]*

*Who is responsible for the administration of the Partnership (venue, meetings, agendas, minutes etc.)*

## Quorum

*[Specify the minimum number of partners that must be present to enable business to be transacted. Are there any partners that must be represented in any event for statutory or legal reasons?]*

## Conduct of business

.01 Meetings of the Partnership shall be held in public session unless confidential business is to be transacted, subject to the categories of exemption set out in clause 7.2.

.02 The business of the Partnership may be transacted in private session if any item of business includes consideration of:

- (a) issues affecting an identifiable individual or individuals
- (b) issues that may be subject to a claim of legal/professional privilege
- (c) commercially sensitive information
- (d) information that, if disclosed, would prejudice the conduct of public affairs
- (e) information that affects the Council's approved budget and policy framework and has yet to be formally considered by the Cabinet or the Full Council, if required constitutionally
- (f) information that, if disclosed, would reveal that the Council or any other member

of the Partnership, is contemplating the issue of a statutory notice or the commencement of civil or criminal proceedings

### **Risk Management Arrangements**

- .01 The Partnership shall maintain and regularly review a Risk Register.
- .02 The Partnership shall agree a risk escalation mechanism to ensure that the Council, if appropriate, and any other partner, is alerted to any significant risks, the relevant controls in place and the actions and resources required to mitigate significant risks.

### **Conflicts of Interest**

- .01 The Partnership shall, as its first substantive item of business, at every meeting, invite declarations of interest from its membership.
- .02 If a member declares a conflict of interest, they must vacate the meeting room for the duration of the period that the item of business is considered and not influence the debate or any vote, if relevant.
- .03 In considering whether a member of the partnership has a conflict of interest, regard shall be had to the Principles of Public Life, set out in Appendix 1.

### **Standards of conduct**

- .01 The business of the Partnership shall be transacted in the spirit of openness, honesty, integrity and respect for others.
- .02 In particular, regard shall be had to the Principles of Public life, in the transaction and conduct of any Partnership business.

### **Dispute resolution**

- .01 In the event of a dispute between any members of the Partnership, the duly nominated representatives of the relevant partners shall meet to resolve the matter.
- .02 If the dispute cannot be resolved within a reasonable period of time (having regard to the nature of the dispute) it will be referred to the Chief Executive Officer (or equivalent) of the relevant Partners for resolution.
- .03 If the dispute does not involve the Council but does impact on the continuing business of the Partnership, the Council shall, if the parties in dispute agree, act as mediator, to resolve the dispute.
- .04 If in the case of any dispute that cannot be resolved by agreement or mediation then the Winding Down and Exit provisions shall be invoked.

### **Winding Down and Exit**

- .01 Each constituent partner must provide at 3 months written notice to the other parties of its intention to exit the Partnership.
- .02 If the number of Partners giving notice of exit at any one time is such that, upon expiry of the notice, it would not be reasonably practicable to continue transacting the business of the Partnership, then the Partnership shall be wound down.
- .03 If the Council, in any case as the Accountable Body, for financial and legal purposes, gives notice of exit, then the Partnership shall be wound down in any event.
- .04 The provisions of this paragraph 12 are subject to any statutory provisions or related guidance governing the dissolution of a particular Partnership or set of

partnership arrangements.

### **Access to information**

.01 The Partners recognise that, in respect of those partners who are public authorities under the Freedom of Information Act 2000 (the Act), then the provisions of the Act shall apply to any information held by those partners in respect of the Partnership.

.02 For the avoidance of doubt, the terms of reference of any Partnership and the business to be transacted during its lifetime, shall be without prejudice to the Council's duties and obligations under the Act.

.03 The partners also recognise that the transaction of Partnership business is without prejudice to any powers of a "competent authority" to seek information about the Partnership. "Competent authority" means the Audit Commission or any other statutory / regulatory inspectorate or agency with powers of access to information held by the partners.

### **Review**

.01 The members of the Partnership shall review its terms of reference, role and responsibilities at least annually to ensure fitness for purpose and, if applicable, statutory compliance.



## **Appendix 1**

### **Selflessness**

Members of the Partnership should serve only the public interest and should never improperly seek or confer an advantage or disadvantage on any person or organisation.

### **Honesty and Integrity**

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

### **Objectivity**

Members of the Partnership should always make decisions on merit. This includes when making appointments, awarding contracts or recommending individuals for rewards or benefits.

### **Accountability**

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

### **Openness**

Members of the Partnership should be seen as open as possible about their actions and those of the organisation they represent. They should be prepared to give reasons for action to be taken.

### **Personal Judgement**

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

### **Respect for Others**

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

### **Duty to Uphold the Law**

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

### **Stewardship**

Members of the Partnership should do whatever they are able to ensure that the organisation they represent authorises use of the resources prudently and in accordance with the law.

### **Leadership**

Members of the Partnership should promote and support these principles by leadership and acting by example. They should act in a way that secures and preserves public confidence.

## **PROTOCOL ON DISPOSAL OF LAND FOR LESS THAN BEST CONSIDERATION**

1. Cabinet approved the Corporate Property Policy on the 4th July 2005.
2. The Policy provides that the Council should seek to achieve best consideration in respect of any disposal unless a case for disposal at an undervalue can be sustained. Generally best consideration will be achieved by an offer for sale subject to competition.
3. This Protocol sets out the principles to be applied when considering disposal of land for less than the best consideration reasonably obtainable.
4. The Local Government Act 1972, Section 123 provides that the Council may dispose of land in any manner it sees fit subject to the constraint that, except in the case of leases for less than 7 years, disposal must be for the best consideration reasonably obtainable.
5. Section 123 applies to land held for most local authority functions subject to certain exceptions such as disposal of land held for housing purposes (governed by the Housing Acts) and for planning purposes (governed by Planning legislation).
6. It is Government policy that local authorities should dispose of surplus land wherever possible. The Corporate Property Policy is consistent with this expectation. Generally it is expected that land will be sold for the best consideration reasonably obtainable. However, the Government recognises that there may be circumstances where an authority considers it appropriate to dispose of land at less than best price.
7. When disposing of land at an undervalue, the authority must remain aware of its fiduciary duty to council tax payers.
8. The General Disposal Consent (England) 2003 provides a general consent removing the requirement for local authorities to seek specific approval from the Secretary of State for a wide range of disposals at less than best consideration. Authorities are granted consent in circumstances when the undervalue does not exceed £2m and where the disposal authority considers that the disposal is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the whole or any part of the area (the general power of wellbeing).
9. It is for the Council to decide whether any particular disposal meets these criteria or continues to require specific consent under the 1972 Act.
10. In determining whether or not to dispose of land for less than best consideration the Council should obtain the view of a professionally qualified Chartered Surveyor (Valuer) as to the likely amount of the undervalue. Legal advice should also be obtained on the question of whether the disposal is capable of falling within the terms of the consent. In certain cases it may also be prudent to consult with the District Auditor in relation to any action that is proposed.
11. In considering the application of the wellbeing criteria under the General Disposal Consent, the Council must have regard to the Community Strategy and reasonably consider the extent, if any, to which the proposed disposal supports

the aims and objectives in the Strategy.

12. The Council must demonstrate that it has acted reasonably in agreeing undervalue transactions in order to be in a position to respond to any potential challenge. Regard must therefore be had to the adopted Corporate Property Policy, the terms of this Protocol and the Council's fiduciary duty.
13. In considering the financial considerations of any disposal at an undervalue there must demonstrable evidence that the outcome will be equally beneficial as compared to a disposal at market value.
14. As a general principle disposal of land at less than best consideration should take place on an exceptional basis and should not be regarded as the rule.
15. Local authorities are state aid authorities for the purposes of the European Commission's State Aid Rules. Disposal of land at less than best consideration effectively involves subsidising the purchaser, Developer and/or occupier of the land. The Council must therefore ensure that the nature and amount of any subsidy complies with the State Aid rules. Failure to do so would render the provision of any aid unlawful.
16. Any proposal to dispose of land at less than best consideration should, in the first instance, be referred to the Corporate Asset Management Group for consideration of a business case and options appraisal.
17. Any subsequent recommendation to dispose of land at less than best consideration should be referred to the Cabinet for a decision. In reporting to Cabinet, the following mandatory requirements must be fulfilled:
  - (a) A valuation report, undertaken by a Chartered Surveyor (valuer), setting out the restricted and unrestricted values of the property
  - (b) An assessment with supporting evidence of the capital value to the Council of those benefits of the proposal which are capable of monetary assessment together with an assessment with supporting evidence of the value of non monetary benefits (i.e., social, economic and environmental benefits)
  - (c) Confirmation that the disposal will contribute positively to the Council's priorities
  - (d) A statement that the benefits that the Borough will derive from the proposed disposal cannot be achieved unless the sale takes place at an undervalue and confirming that no reasonable alternative means of funding are available to the purchaser
  - (e) In cases where the proposed disposal is to an identified person/organisation without a tender process, this should be subject to consideration of a robust business case and an analysis of the financial standing of the organisation/person
  - (f) Details of the proposed terms of the transaction which will ensure that the disposal will contribute to the achievement or improvement of the social, economic and environmental wellbeing of the area
  - (g) A statement from the Monitoring Officer on whether it is considered that the disposal is capable of falling within the terms of the General Disposal Consent

**(h)** A statement from the Section 151 Officer in relation to the financial implications of the proposal, particularly in respect of the impact on resources for capital spending as set out in the Medium Term Financial Plan

- 18.** In all cases, subject to the particular circumstances and legal advice, consideration should be given to recovery of all or part of the undervalue in the event of a subsequent disposal at full market value.
- 19.** In any case of urgency - i.e. where it is not reasonably practicable to submit a report to Cabinet pursuant to this Protocol - the Chief Executive will have delegated authority to approve the disposal of land at less than best consideration subject to the requirements set out in paragraph N, in consultation with the Leader and relevant Portfolio Holder.

## **PROTOCOL: CO-OPTED MEMBERS OF SCRUTINY**

- The Local Government Action 2000 confers the power to co-opt non-voting members onto Overview and Scrutiny Committees. The Council's Constitution reflects the legislative position.
- Additionally, there is a statutory requirement to include Parent Governors and Church School Representatives where education matters are being discussed. These co-opted members serve on the Children and Young People's Scrutiny Panel, with voting rights in respect of education matters.

### **What is the Role of a Co-opted member of Scrutiny?**

- Scrutiny Panels can invite relevant organisations to nominate representatives to serve as non-voting co-opted members. The role of a non-voting co-opted member is to contribute to discussion at Scrutiny meetings or at any working groups established by the Panel on which they may serve. Co-opted members of the Children and Young People's Scrutiny Panel, as well as having voting rights on education matters, also have the opportunity to be part of the call in of a Cabinet decision that relates to an education matter.

### **Appointing a non-voting co-opted member of Scrutiny**

- Scrutiny Panels can invite non-voting co-opted members from a range of organisations, including public, voluntary, private and community bodies, to serve on a Scrutiny Panel (and any working group of that Panel as considered appropriate). It may also be appropriate to invite individuals who have no connection with a particular organisation but who have particular specialist knowledge and experience. In any event, the purpose of co-option should be to add value to the work of the Scrutiny Panel.
- Scrutiny Panels should consider and review the issue of co-option on an annual basis, although Panels may consider co-option at any time. With the exception of education scrutiny representatives, Scrutiny Panels should then take a decision on which organisations and/or individuals to invite.
- Co-opted members will, usually, be appointed to the relevant Scrutiny Panel at its first meeting following the Council's Annual Meeting.
- Any appointment will be for a period determined by the Scrutiny Panel but, in any event, may not be for a period exceeding one year. Subject to annual review, a co-opted member may be appointed for consecutive one year periods if considered appropriate.
- Scrutiny Panels may co-opt no more than two non-voting co-opted members to serve at any one time.

### **What is expected of Co-optees?**

- Co-opted members of Scrutiny Panels are expected to:
- Demonstrate a commitment to regularly attend meetings of Scrutiny Panels
- Show a willingness to contribute constructively towards Scrutiny Panel

discussions

- Recognise they are representing their organisations/bodies in carrying out their role
- Be willing to share their knowledge and experience
- Contribute to the process of identifying issues for consideration by the Scrutiny Panel

The Scrutiny Panel should take account of the views of Co-opted members in coming to a decision on a particular issue.

### **Support for Co-opted members**

- Co-opted members can call on the support of the relevant Scrutiny Officer and/or Democratic Services Officer in respect of any issues involving procedural or other aspects of the operation of Scrutiny Panel meetings.
- Co-opted members are notified of the date and time of Scrutiny Panel meetings and provided with the Agenda and Reports for meetings.
- Co-opted members will be invited to specific training events to help them and council members undertake their scrutiny role.

### **Code of Conduct**

- Co-opted members will be expected to adhere to the Members Code of Conduct and Protocol for Member/Officer Relations.
- Co-opted members will be expected to sign an undertaking to comply with the Code of Conduct.

### **Accountability and Expectations**

- The Council expects all co-opted members to work within the principles of the Council's Constitution. In addition, co-opted members are expected to:
- Offer independent advice and comment on request
- Contribute to the delivery of any agreed work programme priorities of the Scrutiny Panel
- Work in a co-operative and non-adversarial manner