

PART 5

A Members' Code Of Conduct

Introduction and scope

1. You are an elected or voting co-opted member of the Royal Borough of Greenwich. You must comply with this Code whenever you carry out the Royal Borough's business, and your business as an elected or co-opted member.
2. Where you act as the Royal Borough's representative:
 - (a) on another local authority body, you must comply with that body's code of conduct.
 - (b) on any other body, you must comply with this Code, except to the extent that it conflicts with any lawful obligations which that body is subject to.

General principles

3. You must have regard to the following principles:

Selflessness: Holders of public office should act solely in terms of the public interest.

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

Objectivity: Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability: Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness:	Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
Honesty:	Holders of public office should be truthful.
Leadership:	Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

General conduct

4. You must treat others with respect.
5. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Royal Borough or your position into disrepute.
6. You must not bully any person.
7. You must not intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness or be dealing with an investigation or proceedings in relation to an allegation that a member (including yourself) has failed to comply with this code of conduct.
8. You must not do anything which compromises or is likely to compromise the impartiality of those who work for the Royal Borough or on its behalf.
9. You must not do anything which may cause the Royal Borough to breach the Equality Act 2010.

Disclosing and accessing information

10. You must not disclose information given to you in confidence, or information which you believe or ought reasonably to know is confidential, except where:
 - (a) you have the consent of a person authorised to give it; or
 - (b) you are required by law to disclose the information; or

- (c) you disclose the information to a third party to obtain legal advice, provided that the third party agrees not to disclose the information to any other person; or
 - (d) you disclose the information reasonably, in the public interest, in good faith and in compliance with the Royal Borough's whistleblowing procedure.
11. You must not prevent another person from gaining access to information which that person is legally entitled to.

Using the Council's resources

12. You must act in accordance with the Royal Borough's reasonable requirements when using or authorising others to use the Royal Borough's resources. You must not use those resources improperly for political purposes, including party political purposes.

Making decisions

13. When reaching decisions on any matter you must have regard to any relevant advice provided to you by the chief executive, chief finance officer or monitoring officer. It is your responsibility to seek advice in good time should you have any doubt as to the application of this Code.

Abusing your position as a councillor

14. You must not use or attempt to use your position to give or secure for yourself or any other person an advantage or disadvantage.

Interests

Personal interests

15. You have a personal interest where any business is likely to affect:
- (a) you, or
 - (b) a relevant person or a relevant body (where you are aware that they have the interest);

more than a majority of those in the ward you represent.

16. A **relevant person** means your spouse or civil partner, a person who you are living with as husband and wife or as civil partners, or a person with whom you have a close association.⁹
17. A **relevant body** means:
- (a) any organisation, school governing body or outside committee or trust which you are appointed to by the Royal Borough or by the Leader, or
 - (b) any other voluntary organisation, school governing body or commercial organisation where you are a management committee member, school governor, trustee or director.

Financial interests

18. You have a financial interest where any business is likely to affect an interest in the table below, and where the interest is:
- (a) your interest, or
 - (b) the interest of a relevant person or a relevant body (where you are aware that they have the interest)

Financial interest	Description
Employment	Any employment, office, trade, profession or vocation carried on for profit or gain. This includes any clients of a consultancy firm to which you have personally provided advice, or which you know have benefited from your advice.
Sponsorship and election expenses	Any payment or other financial benefit (1) in respect of any expenses incurred by you in carrying out your duties as a member, or (2) towards your election expenses made or provided in the 12 months before you declared your interests on becoming a member

⁹ See the guidance in Annex 1

Financial interest	Description
	This excludes any payment or financial benefit from the Royal Borough, but includes any payment or financial benefit from a trade union.
Contracts	<p>Any contract with the Royal Borough for works, services or supplies which has not been fully discharged.</p> <p>This includes any contract with a body in which you, or your spouse or civil partner or a person who you are living with as husband and wife or as if you are civil partners, has a beneficial interest</p>
Land	Any beneficial interest in land in Royal Greenwich.
Licences	Any licence (alone or jointly with others) to occupy land in Royal Greenwich for a month or longer.
Corporate tenancies	<p>Any tenancy where (to your knowledge)</p> <ol style="list-style-type: none"> 1 the landlord is the Royal Borough; and 2 the tenant is a body in which you, or your spouse or civil partner or a person who you are living with as husband and wife or as if you are civil partners, has a beneficial interest.
Securities	<p>Any beneficial interest in securities of a body which (to your knowledge) has a place of business or land in the Royal Borough; and either</p> <ol style="list-style-type: none"> (1) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (2) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or your spouse or civil partner or a person who you are living with as husband and wife or as if you are civil partners has a beneficial interest exceeding one hundredth of the total issued share capital of that class.
Gifts and hospitality	Any gift or hospitality with an estimated value of £100 or more, and the name of the person who provided it.

Registering your interests

19. you must give written notice to the monitoring officer:
- (a) of any financial interest (except the financial interests of persons you have a close association with and of relevant bodies) and
 - (b) of the name of any relevant body and a brief description of its purpose
- within 28 days of becoming a member, and within 28 days of any new or any change to your interest.

Disclosing your interests

20. If you are present at a meeting and you know you have a **personal** or **financial** interest in any matter to be considered, you must disclose the existence and nature of the interest at the start of the meeting, or when the interest becomes apparent. You must continue to disclose the name of any relevant body for six months after ceasing to be appointed to that body, or a director of that body.
21. If you have a sensitive interest,¹⁰ you need not disclose the nature of your interest but merely the fact that you have an interest in the matter.
22. If you propose to make an **executive decision** in relation to a matter, then:
- (a) if you have a **personal** interest in that matter, you must ensure that the written statement of your decision records the existence and nature of your interest; and
 - (b) if you have a **financial** interest or a **personal** interest described in paragraph 23, you must not make an executive decision or take any steps in relation to the matter, except to enable it to be dealt with by someone else.

Taking part in meetings

¹⁰ See paragraph 27

23. If you are present at a meeting, you must leave the room and not take part in any discussion or vote (unless you have obtained a dispensation) if
- (a) you have a **financial** interest in a matter to be considered, or
 - (b) you have a **personal** interest in a matter to be considered, and your interest would be affected financially, or by any approval, consent, licence, permission or registration which the meeting will determine.
24. Paragraph 23 does not prevent you from speaking, answering questions or giving evidence at the meeting, provided:
- (a) the public are also allowed to attend the meeting for the same purpose, and;
 - (b) you leave the room immediately after making representations, answering questions or giving evidence and before any discussion.
25. Paragraph 23 does not apply where the matter concerns the Royal Borough's functions in respect of:
- (a) housing, provided the matter does not relate to a particular tenancy or lease;
 - (b) school meals or school transport and travelling expenses, provided the matter does not relate to a particular school or child;
 - (c) statutory sick pay;
 - (d) an allowance, payment or indemnity given to members;
 - (e) any ceremonial honour given to members; and
 - (f) setting Council tax or a precept.
26. Paragraph 23 does not apply where the matter relates to the interests of a person from whom you have received a gift or hospitality more than three years before the date of the meeting.

Sensitive interests

27. Where the nature of your interest is such that you and the monitoring officer consider that disclosure of the details could lead to you, or a person connected with you, being subject to violence or intimidation:
- (a) you need not disclose your interest at a meeting but merely the fact that you have an interest in the matter concerned; and
 - (b) copies of the register that are made available for inspection, and any published version of the register, will not include details of your interest (but may state that you have an interest the details of which are withheld under this paragraph).

Dispensations¹¹

28. The Standards Committee, or Chief Executive in cases of urgency, may grant a dispensation if, after having had regard to all relevant circumstances, it:
- (a) considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
 - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;

¹¹ See the dispensation request form in Annex 2

Annex 1

Close association

In deciding whether you may have a close association with someone who is likely to be affected by a decision, you should consider the following guidance.

Guidance

You have a close association with someone who you are in either regular or irregular contact with over a period of time.

This would be more than an acquaintance - someone who a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them because of your connection with them.

It may be a friend, a colleague, a business associate or someone who you know through general social contacts.

You should consider the following questions when deciding whether a close association exists:

- How often do you meet?
- Where do you meet?
- Do you regularly attend the same social events?
- Do you know each other's families?
- Do you visit one another's homes?
- Do you have regular business dealings?
- Do you work for or are involved with the same organisation?
- Are you close or connected in other ways?

This is not an exhaustive list. It is the cumulative evidence of these factors and others like them that will establish a close association.

Annex 2
DISPENSATION REQUEST

If you need any help completing this form please contact the Director of Legal & HR

Your name	
The meeting, agenda item number and report title for which you seek a dispensation	
Details of your interest in that matter	
Date of the meeting or the period (up to 4 years) for which you are seeking a dispensation	
Are you seeking a dispensation to take part in any discussion	Yes / No
Are you seeking a dispensation to take part in any vote	Yes / No
REASON(S) FOR DISPENSATION	
Without the dispensation the number of persons unable to participate in the transaction of business would be so great as to impede the transaction of the business (the Chief Executive may grant a dispensation in these circumstances)	
Without the dispensation the representation of different political groups would be affected so as to alter the likely outcome of any vote	

Signed:

Dated:

<p>DECISION:</p> <p>Dispensation Given: YES/NO LENGTH OF DISPENSATION:</p> <p>Date:</p> <p>Signed..... Chief Executive/Chair, Standards Committee</p>
--

B Officers' Code of Conduct

Preamble:

Nothing in the following is intended to contradict any provision of the 'Whistle-blowing' legislation. The Royal Borough has a Whistleblowing Policy which may be relevant depending upon the circumstances of the case.

This Code of Conduct applies to everyone who is employed by the Royal Borough so that they know what is expected of them and are treated fairly. As a valued and trusted employee, it is crucial that you understand the importance of adhering to the standards of conduct set out in the code (and any related policies and departmental rules). A breach of these standards could lead to disciplinary action. A serious, or repeated breach, may result in dismissal from the Royal Borough.

Compliance with the code is an explicit requirement within the conditions of employment of all Royal Borough of Greenwich employees (except school-based employees where separate arrangements are in place). It must be noted that trade union officials are employees of the Royal Borough therefore these standards apply to trade union officials. The matters covered in this code are comprehensive but are not to be considered as being an exhaustive list. Employees should assume that conduct or actions which are not specified but which are similar to those described or relate to similar standards and principles to those set out in the code are also covered. This code should be complementary to any specific departmental procedures or standards of conduct. Similarly, employees who are required to maintain professional registration as a condition of their employment are also bound by standards of professional conduct.

1. General

- 1.1 Any employee who fails to observe the Royal Borough's or their own departmental rules of conduct or in any other way commits a breach of discipline will be liable to disciplinary action. Such action will be taken in accordance with the Procedure for Managing Discipline.

Examples of general rules are provided at (1.2) below and examples of gross misconduct at (1.3) below.

1.2 Examples of general rules

- 1.2.1 All employees must be aware that the Royal Borough of Greenwich exists primarily to serve the public. They must always be courteous to the public.
- 1.2.2 Employees must carry out their duties in a conscientious manner and must not wilfully neglect their duties nor cause any waste of time and/or productivity.
- i. Employees must not be absent from work without leave and/or a manager's authority without providing their line manager with a reasonable explanation for their absences.
- ii. Employees must not fail to attend disciplinary/grievance investigatory meetings and/or Occupational Health appointments when instructed to do so. If an employee is unable to attend, they must provide their line manager with a reasonable explanation for their absence in advance of the meeting/appointment.
- 1.2.5 All employees must comply with legitimate instructions, and/or procedures and/or codes of conduct.
- 1.2.6 Employees must not unlawfully discriminate in contravention of the Equality Act 2010, nor discriminate in contravention of the Royal Borough's equality/diversity policy, against any person with whom they come into contact in carrying out their work, e.g. on the grounds of age, disability, gender reassignment, marriage & civil partnership, pregnancy & maternity, race, religion & belief sex (gender) and sexual orientation. This rule applies equally to bullying, harassment and victimisation.
- 1.2.7 Employees must not bully any person with whom they come into contact in carrying out their work. Allegations of bullying will be investigated in line with the Borough's Dignity and Respect at Work procedure.*
- 1.2.8 Employees must not undertake any acts within or outside the workplace that conflict with their specific job role/purpose, bring the Royal Borough into disrepute and/or render them unacceptable to the Royal Borough such as destroying trust and confidence between them and the Royal Borough (e.g. domestic violence).
- 1.2.9 Employees must not accept any bribe and/or indulge in any corrupt and/or improper practice.

- 1.2.10 Employees must not abuse any position of authority and/or improperly use or attempt to use their official position for their private advantage, and/or for the private advantage of any other person.
- 1.2.11 Employees must not indulge in betting or gaming for profit on official Royal Borough premises. This will not include traditional pursuits such as National Lottery syndicates or sweepstakes for sporting events, providing there is no profit accrued by the organiser.
- 1.2.12 Employees must not lend money to another member of staff at a rate of interest and/or borrow money from a junior member of staff and/or attempt to borrow money from individuals or organisations with whom they have come into contact through their official duties.
- 1.2.13 Employees must not indulge in private trading nor canvass for trade for any business and/or other venture on official Royal Borough premises unless specifically authorised by the Royal Borough.
- 1.2.14 Employees must not inappropriately and without authority release any information concerned with the Royal Borough's affairs to the press and/or public, or by way of books or articles or to any organisation including one that is funded by the Royal Borough. Employees must adhere to the Royal Borough's code that covers this issue.
- 1.2.15 Employees must not falsify, and/or destroy and/or otherwise alter any document, timesheet, etc. to gain benefit and/or financial advantage for themselves and/or others.
- 1.2.16 Unless specifically authorised by the Royal Borough, employees must not seek to obtain or accept loans of any kind (monies or articles) from clients or contractors with whom the employee comes into contact through work or users of Royal Borough services.
- 1.2.17 Employees must not take control over clients' financial affairs such as acquiring Power of Attorney unless specifically authorised by the Royal Borough.
- 1.2.18 Employees who are under investigation by the Police in relation to an allegation that they have committed a criminal act, and/or who have accepted a caution and/or have been charged in a criminal case, must

disclose this to the Royal Borough, via their line manager, at all times without delay.

- 1.2.19 Employees must not engage in unauthorised employment during hours when contracted to work for the Royal Borough, nor engage in employment during off-duty hours that is detrimental either to the post holder's ability to carry out their duties or to the interests and/or reputation of the Royal

Borough or which results in them working excessive hours and placing themselves and/or service users at risk. The employee must inform the Royal Borough of any other work that they do which, when added to their Royal Borough working hours would take their total working hours above 48 hours per week.

- 1.2.20 Employees above spinal column point 28 must devote their whole-time service to the work of the Royal Borough. Such staff must not engage in any other business, and/or take up any other employment and/or appointment without the express written consent of their manager.

- 1.2.21 Employees must observe confidentiality of personal information relating to others in compliance with the Data Protection legislation and the General Data Protection Regulations (GDPR).

- 1.2.22 Employees must not misuse the Royal Borough's communications or information systems. (The Royal Borough monitors the use of its communications systems to detect misuse. Any unauthorised expenditure incurred will be deducted from the employee's pay.)

- 1.2.23 Employees must not incur any unauthorised expense for which the Royal Borough is liable (e.g. costs for consultants' services over and above those allowed under Standing Orders or by specific Committee decision).

- 1.2.24 Employees must show due respect for the Royal Borough's property, equipment, machinery, transport etc. No employee shall wilfully cause any waste, loss or damage to the property of the Royal Borough or remove it without authority or use it in any manner other than that prescribed or authorised.

- 1.2.25 In respect of work-related matters, including disciplinary, grievance or capability, unless specifically authorised, employees must not bring any complaint or make any representation or personal appeal, written or oral, directly or indirectly, to the Leader, Chief Executive, or individual Members

of the Royal Borough. (Work related matters can be handled in accordance with the Royal Borough's relevant policies and procedures.)

- 1.2.26 Employees must adhere to working time arrangements such as flexitime arrangements, and observe punctuality when reporting for duty, including adherence to core time (unless permitted to do otherwise). An employee who is unable to comply with the arrangements must notify the appropriate person as soon as is practicable, and explain the reason for lateness etc.
- 1.2.27 Employees unable to report for duty because of sickness must comply with the requirements for notification of sickness absence, and the submission of medical certificates (as appropriate) in accordance with the appropriate scheme of conditions of service or departmental rules.
- 1.2.28 Employees must observe the provisions of the Royal Borough's Policy on Smoking and must not smoke in any Royal Borough premises or vehicles (if you would like more information or need help or support to help you stop smoking please refer to the Occupational Health Service page on the HR Intranet). This clause applies equally to the use of electronic cigarettes or similar alternatives.
- 1.2.29 Employees must observe Safety Rules and Codes of Practice for Safety and use appropriate safety clothing and equipment
- 1.2.30 The Royal Borough has a 'zero-tolerance' approach to alcohol and drugs at work. Therefore, no employee should be under the influence of alcohol or drugs to a degree that causes an inability to perform work satisfactorily or safely. Employees must observe the provisions of the Royal Borough's Alcohol and Drugs Policy, and (where this exists) their departmental alcohol policy.
- 1.2.31 Employees are required to present a professional image at work at all times. Where your role involves or may involve attendance at formal meetings or contact with internal or external customers you are expected to present a professional image. Employees may follow the traditions of their ethnic /cultural /religious background provided they are safe and appropriate to the job. Where uniform or protective clothing has been issued employees are required to wear these. Every employee whilst at work is expected to observe the Royal Borough's or their departmental dress codes where applicable.
- 1.2.32 Employees must not be insubordinate to management.

1.2.33 Employees must not display aggressive or offensive behaviour towards any colleague, which causes alarm or distress and/or is likely to cause alarm or distress to that person and/or any other person.

1.2.34 In order to be able to practice, employees in roles requiring professional registration to practice are required to maintain their professional registration through payment of fees and re-registering within the required timescales determined by the relevant professional body. Therefore,

evidence of ongoing registration is required and must be provided upon request. Failure to maintain registration may result in disciplinary action being taken against the employee.

1.3. **Examples of Gross Misconduct**

1.3.1 An explanation of 'gross misconduct' is provided in the Procedure for Managing Discipline.

1.3.2 Examples of offences, which will be regarded as gross misconduct, are as follows :-

1.3.3 Employees must not display gross insubordination to management

1.3.4 Employees must not display blatant and persistent refusal to obey reasonable and proper instruction/s.

1.3.5 Employee must not be regularly and/or continually absent from work without leave and/or a manager's authority without providing their line manager with a reasonable explanation for their absences.

1.3.6 Employees must not commit serious or wilful breaches of safety rules in such a way that the individual endangers himself/herself or others and/or including deliberate neglect and/or damage and/or misuse of safety equipment.

1.3.7 Employees must not publicly promote ideas that contravene the Royal Borough's Equal Opportunities Policy, e.g. inciting racial hatred in a public place.

1.3.8 The Royal Borough has a 'zero-tolerance' approach to alcohol and drugs at work. Employees must not be under the influence of alcohol or drugs to such

a degree that the individual is a danger to himself/herself and/or to others and/or a hindrance or threat to others.

- 1.3.9 Employees must not accept bribes or attempt to bribe and/or indulge in other corrupt and/or dishonest practices.
- 1.3.10 Employees must not falsify documents and/or withhold relevant and essential information for financial and/or other personal gain and/or for the gain of other persons.
- 1.3.11 Employees must not commit theft and/or cause malicious damage to property and/or assets belonging to the Royal Borough, its Members, members of staff or the public.
- 1.3.12 Employees must not accept or seek to obtain loans of any kind (monies or articles) from clients and/or users of Royal Borough services without specific authority from the Royal Borough.
- 1.3.13 Employees must not accept or give 'gifts and/or hospitality' contrary to the Royal Borough's provisions.
- 1.3.14 During the recruitment process, applicants must disclose details of any criminal record(s), caution(s) etc. or charge(s) pending where required to do so.
- 1.3.15 During employment employees who are under investigation by the Police in relation to an allegation that they have committed a criminal act and/or who have accepted a caution and/or have been charged in a criminal case, must disclose this to the Royal Borough, via their line manager, at all times, without delay.
- 1.3.16 Employees must not indulge in inappropriate use of communications and/or information systems, whether computerised or manual, for purposes that seriously conflict with Royal Borough policy. (The Royal Borough monitors its communications facilities to detect misuse and reserves the right to reclaim from the employee any costs incurred.)
- 1.3.17 Employees must not indulge in physical assault or fighting. In this context, physical assault or fighting shall be interpreted as the actual delivery of a blow or blows in any form as an attack on another person or any other sort of violence or aggression on another person that could result in injury.

- 1.3.18 Employees must not wilfully and seriously discriminate against any person with whom the employee comes into contact in carrying out their work, in contravention of the Equality Act 2010 and/or the Royal Borough's equality/diversity policy e.g. on the grounds of protected characteristics as outlined in the Equality Act 2010: age, disability, gender reassignment, marriage & civil partnership, pregnancy & maternity, race, religion & belief sex (gender) and sexual orientation. This rule applies equally to harassment and victimisation.
- 1.3.19 Employees must not wilfully and seriously use racist and/or sexist and/or homophobic language and/or use discriminatory language relating to any of the protected characteristics outlined in the Equality Act 2010, towards and/or in reference to any colleague and/or member of the public which is liable to cause harassment and/or offence and/or distress.
- 1.3.20 Employees must not administer corporal punishment and/or seriously ill-treat in any way any person within the care of, or dealt with by, the Royal Borough.
- 1.3.21 Employees must not publicly perpetrate a serious malicious falsehood against the Royal Borough and/or participate in such an act, i.e. seek to seriously damage the Royal Borough's reputation without reasonable cause.
- 1.3.22 Employees must not use their personal communication or information systems, including Social Media, in an inappropriate manner such as to seriously conflict with Royal Borough policy and destroy trust and confidence between themselves and the Royal Borough.
- 1.3.23 Employees must always comply with the arrangements applicable to the political restriction legislation.
- 1.3.24 Employees must not commit a criminal offence outside or within the working environment that makes the employee unsuitable for their job role/purpose or for remaining in the Royal Borough's employ, including, but not restricted to, those related to domestic violence.
- 1.3.25 Employees must not conduct their role in a manner that is in contravention with statutory regulations and guidance applicable role.

- 1.3.26 Employees must not use their position, regulatory and investigatory power, access to the system to obtain or provide information that has not been requested through a formal process or to undertake a 'fishing exercise' or obtain and issue information that contravenes the Data Protection Act.
- 1.3.27 Employees must not record hearings and meetings including informal meetings and adjournments between meetings and hearings.
- 1.3.28 In order to be able to practice, employees in roles requiring professional registration to practice are required to maintain their professional registration through payment of fees and re-registering within the required timescales determined by the relevant professional body. Therefore, evidence of ongoing registration is required and must be provided upon request. A failure to maintain registration that results in the employee being unable to undertake their role would amount to a breach of contract and/or a fundamental breach of statutory requirements. This will be regarded as gross misconduct.
- 1.3.29 Employees must not engage in any behaviour which is in breach of the Royal Borough's Child Protection and Safeguarding Policies and Procedures.

The above list of examples is neither exclusive nor exhaustive.

* Examples of bullying and harassment, as referred to in the Dignity and Respect at Work Policy, paragraphs 2.7 and 4, are as follows:

- Physical conduct ranging from unwelcome touching to serious assault
- Conduct such as "banter", flirting etc. which continues after the recipient has made it clear that behaviour is unacceptable to him/her (although a single incident can be harassment)
- Ridicule, unwanted nicknames, obscene gestures, demeaning comments about a person's appearance
- Remarks related to a protected characteristic
- Something intended as a "joke" that may offend another person.
- Excluding someone at work, including isolation or non-cooperation at work
- Excluding someone from social activities
- Cyberbullying, harassment or victimisation that takes place on blogs, email or social networking sites e.g. Facebook and Twitter.

Allegations of bullying, harassment and/or victimisation will be investigated in line with the Borough's Procedure for Managing Discipline and the Dignity and Respect at Work Policy.

C Councillor/Officer Protocol

1. **Background**

- 1.1 The Parliamentary Committee on Standards in Public Life, in its third report “Standards of Conduct in Local Government” (July 1997) commented that “No Local Authority can function properly without a good relationship between its Councillors and its Officers”. A particular concern was the potential for harm if the normal professional relationship between Councillors and Officers became unsatisfactory by being either too close or combative.
- 1.2 The Parliamentary Committee consequently recommended that authorities draw up a statement or “Protocol” to set out principles and give guidance concerning the working relationships between Councillors and Officers of the Authority, having regard to their different roles. This document aims to do that. It supplements the separate Code of Conduct for Councillors and the Code for Officers of the Council.
- 1.3 This Protocol has been agreed by the Full Council following consideration and recommendation by the former Probity and Conduct Panel.

2. **General Principles of Conduct**

- 2.1 The following general principles of conduct are based on principles which have been agreed by Parliament, and which underpin the more detailed and binding requirements set out in the Code of Conduct for Councillors. They in turn embody principles initially identified by the Parliamentary Committee on Standards in Public Life (often referred to the Nolan Principles) and as such are a succinct summary of principles which are expected to be observed by Councillors and Officers alike.

Selflessness: Holders of public office should act solely in terms of the public interest.

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

- Objectivity:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- Accountability:** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- Openness:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- Honesty:** Holders of public office should be truthful.
- Leadership:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

3. **The Roles of Councillors and Officers**

- 3.1 Understanding and having respect for each other's roles is fundamental to successful and effective working relationships.

Councillors

- 3.2 Councillors have a number of different roles as follows:

- **Politician** – belonging to a political group, and supporting the policies and political values of that group
- **Policy Maker** – Councillors have personal and collective responsibilities for the Council's activities. They set the direction of the Council; are responsible for ensuring that adequate management arrangements are in place; develop and allocate the Council's physical, financial and human resources and monitor the performance and effectiveness of the organisation.
- **Community Representative/Community Leader** – Councillors interpret and express the wishes of the electorate and are accountable for determining local authority service priorities, the allocation of resources

and the ultimate performance of the Council. As democratically elected community representatives, they scrutinise and monitor the quality of Council and NHS services, and can influence other statutory agencies, business and voluntary organisations to meet the needs of their community.

- **Ward Representative** – councillors have a duty to represent the interests of their ward and all their constituents.
- **Representative of the Council** – on outside bodies ranging from local authority associations and joint committees to local charities and trusts; the role varies from representing the Council's views to acting according to individual judgement. Councillors should behave and conduct themselves in a way which is consistent with the General Principles of Conduct (section 2 of this document) in their work with and on behalf of other organisations as well as in carrying out their Council duties.

3.3 Councillors, collectively, have a role to:

- Determine vision and values, and ensure staff commitment and motivation.
- Ensure standards are properly established and monitored.
- Link service and corporate objectives.
- Ensure council policies and service planning are based on community needs and priorities.
- Develop and support the authority's links and relationships with other local agencies and organisations in order to promote the interests of the Borough and its residents.
- Ensure that public funds are used efficiently and properly to meet community needs.
- Ensure that the Council carries out its statutory duties and fulfils its legal obligations.

Officers

3.4 Officers of the Council have, in broad terms, the following main roles:

- Developing and recommending policy proposals as well as being implementers of policy.
- Assisting in initiating policy and management proposals, in conjunction with the relevant Cabinet Members or leading Councillors.
- Managing the services for which the Council has given them responsibility. They are responsible for the efficiency and effectiveness of those services and for proper professional/managerial practice in discharging their duties and taking decisions, within agreed policy.
- Providing professional/managerial advice to the Council, the Cabinet, Committees, Councillors and the public in respect of council services.
- Ensuring that the Council acts in a lawful way.
- Delivering services in accordance with Council policies and service standards and values.

Working Relationships

3.5 Councillors can expect officers to:

- Behave and conduct themselves in a way consistent with the General Principles of Conduct (see Section 2 of this document), to comply with the provisions of the Officer Code of Conduct (when introduced), and to maintain the highest standards of integrity including acting impartially and declaring, and where appropriate not participating in matters, when they have a personal or private interest.
- Maintain confidentiality.
- Perform their duties effectively and efficiently.
- Behave in a 'professional' manner.
- Be politically impartial in carrying out their Council duties.
- Provide readily available non-confidential information on request.
- Be helpful to councillors and respect their roles.
- Be pro-active in informing councillors of matters coming to their knowledge which are likely to affect the residents of the ward that they represent.
- Observe the Council's consultation, public participation, open government, equal opportunities and other relevant policies in carrying out their duties, and ensure such policies are incorporated in all Council activities as appropriate.

3.6 Officers can expect Councillors to:

- Behave and conduct themselves in a way consistent with the General Principles of conduct (see Section 2 of this document), to comply with the provisions of the Councillor Code of Conduct, and to maintain the highest standards of integrity in serving the public interest.
- Respect and understand the requirement upon officers to serve the Council as a whole in an impartial and non-political manner.
- Promote respect for the role of officers.
- Make any criticism of reports or of actions taken by officers in a constructive manner and not criticise their behaviour or competence in any public forum where the officer has no ability to defend themselves.

4. **Councillors and Officers – The Local Authority**

- 4.1 Although the Council may be ‘controlled’ by a political group, i.e. have a majority of Councillors elected on the basis of a political party ideology or manifesto, it is an independent statutory body which is responsible for serving the interests of the local community as a whole. Therefore, although Councillors may have regard to the views of their party colleagues in setting policies and making decisions, their first responsibility for which they are individually accountable is to act in the interests of the local community. Similarly an officer’s first duty is to the Council as a whole and not to an individual Councillor or to a political or other group of Councillors.
- 4.2 All officers (except political assistants if such appointments are made in the future) are required to observe political neutrality in carrying out their duties – they serve the council as a whole and whilst they are required to implement and act in accordance with council policies and decisions, must not act in a party political manner in carrying out their duties.

Politically Restricted Posts

- 4.3 The Local Government and Housing Act 1989 restricts the political activities of officers holding “politically restricted” posts. It prohibits such officers from being councillors in another local authority, and from carrying out certain political activities such as canvassing. This normally includes posts which have been so designated by the Council and who regularly advise Members or speak to the media on behalf of the Council. Also, the Local Government Act 1972 prevents officers from standing for election as Greenwich councillors.

5. **At Meetings**

- 5.1 Officers and Councillors will most frequently come into contact with each other at the variety of meetings held to conduct the Council's business. The respective roles of the participants may vary according to the purpose of the meeting and therefore their relationship to each other will also vary. For example, some meetings will be formal and be conducted in accordance with legal requirements and rules set out in the Council's Standing Orders. In such cases officers will represent their department, answer detailed questions and provide appropriate advice. Other types of meetings may be more informal with officers able to participate to a greater extent, joining in the debate and contributing their own comments. It is the responsibility of the Chair of a meeting to ensure that it is conducted in an appropriate format and manner, and that acceptable standards of etiquette and behaviour are maintained.
- 5.2 At all times Officers and Councillors should show respect to one another. Although Councillors are entitled to question Officers at meetings and require them to justify their actions, any criticism should be constructive and well founded. Officers should have the opportunity to explain what appears to be a performance failure or inconsistency. Officers should present information at meetings in an impartial and constructive manner.
- 5.3 Whenever a public meeting is organised to consider a local issue, all the Councillors representing the ward(s) affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise.
- 5.4 Local authorities are often invited and in some instances have a right to be represented on other bodies, both statutory and voluntary. These may be executive, influential or advisory bodies and may involve agency arrangements. The role to be exercised by the Council's representatives may be to represent the collective view of the local authority or to act according to individual judgement.
- 5.5 Councillors may also have to represent the Council at meetings with outside organisations where they may be negotiating or putting forward the Council's views. Councillors should bear in mind that council decisions may only be made by Cabinet, by committees or by officers who have delegated authority, and a councillor at a meeting with an outside body as a representative of the council may need to make this clear in their dealings with that body. Officers

may need to attend to provide professional/ managerial advice to Councillor representatives and may also be asked to provide appropriate briefings.

6. **Working Arrangements**

Councillors with Special Responsibilities

- 6.1 Some councillors have special responsibilities on behalf of the Council; for example the Mayor, Leader of the Council, Deputy Leader, Cabinet Members, Chair of Overview and Scrutiny Committee, other Committee Chairs and Party Group Leaders. Such councillors are likely to receive particular support from the Council or have greater access to officers but they should not seek to use their office, nor council officers, to by-pass recognised systems of working. Similarly Council officers should not use their working relationships with senior Councillors to their own personal advantage.

Political Guidance and Officer Recommendations

- 6.2 Directors and Heads of Service are likely to develop a close working relationship with their relevant Cabinet Member. They will need to meet regularly to discuss current issues, policy and budget matters, service delivery, and reports to be prepared. Officers also will often require political guidance in framing proposals. However, when officers write committee reports for Member-decision they have a duty to give advice on the basis of their professional and management expertise and in accordance with any relevant professional codes of conduct. The integrity and political neutrality of officers must be respected and Councillors should not seek to influence or require officers to present reports in a politically biased way, withhold information or make recommendations that they cannot support.

Statutory Officer Duties

- 6.3 In some situations an officer will be under a duty to submit a report on a particular matter. In particular the Head of Paid Service (Chief Executive) has a duty to report to the authority, where appropriate, on her proposals relating to:
- the manner in which the authority's functions are co-ordinated;
 - the number and grades of staff required by the authority to carry out its functions;
 - the organisation of the authority's staff; and
 - the appointment and proper management of the authority's staff.

(Note: Officer Employment procedures, including provisions in relation to the appointment and dismissal of Chief Officers and other staff, and disciplinary action, are specified in Council policy and procedure documents, and in the Council's Constitution).

The Monitoring Officer (Director of Legal & HR) has a duty to prepare a report to the authority if at any time it appears to him that any proposal, decision or omission by the authority, or one of its committees, sub-committees or officers constitutes or may give rise to a contravention of any enactment, rule of law or statutory code of practice, or maladministration. The Chief Finance Officer (Director of Finance) has similar responsibilities in relation to the use and stewardship of public finances.

Overview and Scrutiny

- 6.4 Councillors appointed to serve on the Council's Overview and Scrutiny Committee or a Scrutiny Panel have a responsibility to scrutinise and review the discharge of the Council's functions and the exercise of its powers, including decisions made and actions taken, and to hold Cabinet Members and Officers to account.
- 6.5 As well as having the right to see documents as described in paragraphs 6.7 and 6.8 and to be able to call for reports, the Overview and Scrutiny Committee and Scrutiny Panels can require members of the Cabinet and/or senior officers to attend before them to provide information in relation to matters within their remit. It is the duty of those Members and Officers to attend if so required. It is not anticipated that Officers below third tier level will be called to give evidence, except in exceptional circumstances when those Officers have specific technical knowledge or expertise. All requests for Officer attendance must be made through the appropriate Chief Officer or his/her nominated representative.

Access to information and advice

- 6.6 It can be helpful to councillors and officers alike for there to be direct communication between councillors and officers at all levels. However, councillors and officers alike must ensure that appropriate conventions are observed in such contacts and not seek to use them to exert improper influence. If a Councillor is aware that a request may be sensitive or complex, he/she should refer the matter to the Chief Officer and avoid making the request inappropriately to a junior officer. Similarly officers must not by-pass

or use their access to councillors to lobby on specific issues or in a way that could undermine normal management or supervisory arrangements. In case of any doubt both the councillor and officer concerned have a responsibility to ensure that the Chief Officer or a senior manager is aware of what is being communicated.

Access to documents

- 6.7 Councillors have a statutory right to see documents relating to business to be transacted at a public meeting of the Council, Cabinet, committee or sub-committee. This includes background papers, and applies whether or not the councillor is a member of that body. But this does not apply to drafts of report, or to documents which disclose information relating to employees, occupiers of Council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from counsel, criminal investigations and other exempt and confidential information.
- 6.8 Councillors have a common law right to see Council-held documents where they can demonstrate a need to know. This means it must be reasonably necessary for the councillor concerned to see the document in order to carry out his or her duties as a councillor. Mere curiosity or desire is not sufficient - the councillor has to demonstrate a need to know. The 'need to know' must be decided by a Chief Officer (or Senior Officer with authority to act on his/her behalf) following advice from the Director of Legal & HR and Councillors who wish to request confidential information should normally do so through the appropriate Chief Officer or Senior Manager.

Council Facilities

- 6.9 Councillors and Officers must comply with Council policies and procedures relating to the use of Council facilities, including guidelines on appropriate use. Councillors with special responsibilities and officers with particular needs arising from their Council duties, may be provided with facilities which are not ordinarily provided, for example, a mobile telephone, a lap top PC, authority to use a Council account with a private service provider. In such circumstances the individuals concerned must comply with any arrangements or requests for information concerning the use of such facilities, by the relevant chief officer or budget manager.

Communication and Publicity

- 6.10 Publicity and other material issued by or on behalf of the Council must not be party political. Publicity about individual councillors' proposals, policies or decisions should be relevant to their position within the Council, objective and explanatory and should avoid personalisation of issues or personal image making.
- 6.11 The period between the notice of an election and the election itself should preclude "pro-active" publicity, in all its forms, of candidates and other politicians involved in the election i.e. publicity initiated by the Council, not arising in response to external events. "Pro-active" events arranged in this period should not involve members likely to be standing for elections. However it is appropriate for members holding key political or civic positions to be able to comment to correct the factual position or in an emergency or where there is a genuine need for a member level response to an important event outside the Council's control.
- 6.12 Where councillors wish to express political views, they should ensure that it is clear their comments are made personally and do not necessarily represent the views of the Council as a whole.

The Media

- 6.13 The Council's press and public relations staff will provide support and guidance to councillors in their dealings with the press and other media. However, press and communications staff cannot be called upon to assist in party political communications.
- 6.14 Councillors have freedom to contact and discuss issues with the media but must have regard to their conduct relating to breaches of confidentiality and the need to represent the Council's best interests. It is also important that councillors stress to reporters, when giving a personal view on an issue, that their views may not reflect Council policy. Councillors who issue press releases or make statements to the press or the general public or part of it, without firstly seeking officer guidance may be personally liable if there are subsequently claims made for defamation, or if another party acts on incorrect information about a council decision or proposals given by a councillor.

Bullying or Harassment

- 6.15 Bullying or harassment of officers or of councillors, including sexual and racial, is unacceptable and any such complaints may be referred to the Chief

Executive. Councillors and senior managers should be aware of how their position of authority may impact on junior or inexperienced individuals.

(Workplace bullying has been described as ‘offensive, intimidating, malicious, insulting or humiliating behaviour, abuse of power or authority which attempts to undermine an individual or group of employees and which may cause them to suffer stress’. Racial harassment has been defined as ‘offensive conduct of a racial nature, or conduct based on race, which is offensive to the recipient’. Sexual harassment has been defined as ‘unwanted conduct of a sexual nature, or conduct based on sex, which is offensive to the recipient.’)

Vicarious Liability

- 6.16 The behaviour of councillors and officers could result in the Council being vicariously liable for their actions.

7. Action/decisions made under delegated authority

- 7.1 Councillors who are Cabinet Members and Officers may have authority delegated to them to make decisions or to act on the Council’s behalf. In such cases the individual concerned must consider whether they have full and sufficient information before taking a decision, and may need to consult others: a councillor should ensure that they have the advice of the relevant Chief Officers, and officers may need to consult the relevant Cabinet Member on the proposed decision. When a decision is taken under delegated powers the person to whom that authority has been delegated is personally responsible and accountable for their actions.
- 7.2 In some cases authority delegated to an officer is on the basis that it is to be exercised in consultation with the relevant Cabinet Member. Whilst, the officer must have due regard to the comments of the Cabinet Member concerned, he/she cannot be instructed on the decision by the Member and will remain accountable for the action taken. However, if there is a significant disagreement between the officer and the Cabinet Member the matter will normally be referred to the appropriate Member-level body for decision.
- 7.3 Chief Officers have delegated responsibility for the general management of their department and the day-to-day delivery of services. They also have powers and duties specifically delegated to them as well as a general delegated authority for executive functions which are not identified in the Council’s constitution as being reserved for Member-level decision. Within

this framework decisions are frequently delegated below Chief Officer level. While Officers will be sensitive to political guidance on how they exercise their delegated authority and will always consider requests and comments by Members, all delegated action must be in accordance with overall Council policies and procedures or Cabinet or Committee decisions but not individual Member instructions. Where Cabinet Members have authority to take decisions individually under delegated powers, they must be taken formally, based on officer reports and recorded and published in accordance with Access to Information Procedures.

- 7.4 A Councillor who gives an undertaking or commitment to a third party in excess of their powers of authority, may be personally liable in law for any costs or damages incurred by the third party if they act on that undertaking or commitment and it is not subsequently confirmed by the Council. An officer who similarly wrongly advises or misleads a third party may be subject to the Council's disciplinary procedures.

8. **Party Group Meetings**

- 8.1 Senior officers can be called upon to provide advice to Party groups or leading Members, and when doing so should act impartially and non-politically. This requirement upon officers should be understood and respected by Members. Party group meetings have no formal role in the Council's management arrangements - they are organised by Councillors, but may have officer support as matters relevant to council business will be discussed and it is appropriate for senior officers to be called upon to give advice, information and answer questions on specific items. Senior Officers should give, if requested, support and advice to Opposition Parties similar to that which they would give to the Majority Party. Officers should respect arrangements for confidentiality relating to party group meetings. Similarly Members should respect the limit to which officers may go in contributing to party political debate.
- 8.2 The following points should be clearly understood by councillors and officers when officers attend party group meetings:
- officer attendance is at the request of the party group concerned; officers do not have any rights to attend but when they do, they and councillors, and other attendees should observe the same protocols and formalities that would be expected at other meetings;

- officer support must not extend beyond providing information and advice on Council business. Officers must not be involved in advising on matters concerning the organisation or business of political parties, and should not be present when those matters are discussed;
- persons who are not councillors are not bound by the Code of Conduct, including the provisions relating to declaration of interests and confidentiality. Care should therefore be taken when officers provide information and advice to party group meetings which include such persons, since officers may not be able to provide the same level of information and advice as they would to a councillor-only meeting;
- party group meetings form part of the preliminaries to Cabinet or Council decision making. But they cannot make decisions on behalf of the Cabinet or Council, and their decisions cannot be acted on as if they were Cabinet or Council decisions;
- officer information and advice to party group meetings does not substitute for their providing all necessary information and advice to Cabinet or Council when the matter is discussed.

9. **Personal and Social Relationships**

- 9.1 It is important that Councillor and staff relationships are correct and businesslike. There will be occasions when councillors and officers come into contact outside of council business and in such circumstances professional and personal matters must be kept separate.
- 9.2 Under their Code of Conduct, councillors are required to declare, when relevant in considering business at council or committee meetings, any private relationship with an officer which might be regarded as influencing their actions. This includes family, business or close personal relationships. Officers similarly should inform their manager of such relationships with a councillor.

10. **Members and Officers Personal Dealings with the Council**

- 10.1 Councillors and Officers who are residents of the Borough will enjoy the same entitlement as other residents to Council services. Where services are subject

to administrative decisions, or specified eligibility criteria, or competitive assessment, Councillors and Officers must not use their position or contacts to influence decisions in which they have a private interest. For example, a Councillor applying for planning permission or housing benefits should be careful in speaking to Officers on their personal application in order to avoid any suggestion of improper pressure. In some cases it may be appropriate for a Councillor to employ a third party to act on his/her behalf in his/her dealings with the Council. Similarly, an Officer must not lobby a Councillor, or use his/her working relationship with any Councillor, to gain support or influence any employment application or service delivery to his/her advantage.

- 10.2 An officer must not allow situations to develop in which there may be, or appear to be, a conflict of interest between their responsibilities to the Council and their personal and private concerns; or situations which could create the impression that they may receive preferential treatment because of their employment by the Council. To help avoid such situations, an officer must declare any conflict of interest in writing to his/her chief officer, and as appropriate in informal discussions with other officers or with councillors must declare orally such a conflict when the matter concerned is discussed. Officers must comply with procedures relating to such situations as may be set out in the Officer Code of Conduct.
- 10.3 Because of their employment by the Council, officers who are borough residents, in some circumstances may not be able to exercise rights which are normally available to other borough residents, such as speaking at council meetings under public participation procedures, or representing organisations or groups of residents in their dealings with councillors or with the Council. In cases of doubt the advice of the employee's Chief Officer, or of the Chief Executive, should be sought.

11. **Complaints**

- 11.1 Councillors have the right and a duty to criticise reports or the actions taken by officers when they consider that acceptable standards have not been met, but they should always:
- Avoid personal attacks on officers;
 - Ensure that criticism is constructive and well-founded;
 - Not seek to undermine respect for, or the role of, officers;
 - Raise any complaint directly with the relevant Chief Officer; or with the Chief Executive if still unsatisfied or if the complaint relates to a Chief Officer;

- Not seek to influence any disciplinary action which is the responsibility of managers to take.

11.2 If a complaint is about the Chief Executive, it should be made to the Monitoring Officer.

11.3 Complaints about councillors by officers arising from their council duties should be made to the officer's manager and referred to the Chief Officer.

12. **Other Individuals who are Members of Council Bodies**

12.1 Individuals who are not councillors nor officers but who are co-opted to serve on Council Committees, or appointed to serve on partnership or liaison bodies established by the Council, may have access to information and advice in carrying out community duties which is not available to other members of the public, and may have contact with senior councillors and officers. Such individuals should comply with the principles of conduct and requirements outlined in this protocol for maintaining proper and effective working relationships with councillors and officers. Individuals may be appointed to positions on council bodies because of their involvement in local voluntary, community business or other organisations which have separate dealings with the Council, and should not use their position on the Council, or information gained through their service on council bodies, to improperly influence decisions or gain advantage on behalf of their organisation.

13. **Breaches of this Protocol**

13.1 This protocol gives guidance as to the arrangements to promote effective working relationships between councillors and officers having regard to the standards of conduct expected (Section 2) and the different roles of members and officers (Section 3). Individual minor breaches of etiquette are unlikely to have significant implications apart from indicating a less than satisfactory councillor /officer relationship which, if allowed to continue could eventually be detrimental to the overall success of the Council. Major or persistent breaches by officers should be dealt with under the Council's disciplinary procedures. Major or persistent breaches by councillors should be referred to the Chief Executive.

13.2 All complaints will be processed in accord with the Procedure agreed by full Council. Initially, the Chief Executive will consult the Monitoring Officer on whether the complaint appears to involve a breach of the Code of Conduct and will inform the Group Leader of the Member complained against (or the

Deputy Leader if the complaint concerns the Leader). If there is a potential breach of the Code, a copy of the complaint will be sent to the Member complained against unless the Chief Executive decides that this would prejudice any investigation.

- 13.3 Generally, upon receipt of a complaint the Chief Executive will explore the potential for an informal resolution in discussion with the relevant Group Leader, or if the complaint involves them, the Deputy Group Leader. If the matter is resolved informally, the complaint will not proceed further. However, the Chief Executive may determine that an investigation is warranted, and can appoint an investigator who will carry out an investigation and write a report. This will then be considered by the Standards Committee who may wish to hold a hearing into the matter.
- 13.4 If the Standards Committee decides, after consulting with the Independent Person, that a Member has failed to comply with the Code, the measures available are:
- Recommendation that the Member make an apology to full Council, which should address any matters specified by the Committee;
 - Recommendation to Council that the Member be censured;
 - Recommendation to the Member's Group Leader (or in the case of ungrouped Members, a recommendation to Council) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - Recommendation to the Leader of the Council that the Member be removed from the Cabinet, or removed from any of their portfolio responsibilities or from any other position of responsibility;
 - Recommendation that the Member should be provided with training on specific matters;
 - Recommendation to Council that the Member be removed from any or all outside body appointments to which they have been appointed or nominated by the Council;
 - Decision to exclude the Member from the Council's offices or other premises, with the exception of meeting rooms necessary for attending Council, Committee and Sub-Committee meetings and constituent surgeries.
 - Any other appropriate remedy including development or consultancy support.
- 13.5 The Standards Committee's decision, including a summary of its reasons and any recommendations and comments, is published after the hearing.

SECTION D

The Members Planning Code of Good Practice**Introduction**

The aim of this code of good practice: 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.

One of the key purposes of the planning system is to regulate the development and use of land in the public interest. **Your role as a Member of the Planning Authority is** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

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 or one of his or her staff, and preferably well before any meeting takes place.

1. Relationship to the Members' Code of Conduct

- **Do** apply the rules Members' Code of Conduct first, which must be always be complied with.
- **Do** then apply the rules in this Members' Planning Code, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning and development management. If you do not abide by this Members' Planning Code, you may put:
 - the Council at risk of proceedings on the legality or maladministration of the related decision; and
 - yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Localism Act 2011, a complaint being made to the police to consider criminal proceedings.
- **Do** be aware that, like the Members' Code of Conduct, this Planning Code is a reflection and summary of the law on decision making and not a direct replication of it. If in doubt, seek the advice of your Monitoring Officer or their staff advising at the meeting.

2. Development Proposals and Interests under the Members' Code

- **Do** disclose the existence and nature of your interest as required by your Members Code of Conduct.
- **Do take into account when approaching a decision that** the Principle of integrity is defined, by the Committee on Standards in Public Life in 2013, in terms that "*Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships*". It

is therefore advisable that you:

- **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 disclosable or other personal conflict of 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.
- **Do** note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that the Members' Code of Conduct places additional limitations on you in representing that proposal than any other member of the public.
- **Do** notify the Monitoring Officer in writing where it is clear to you that you have a financial interest or personal interest and note that: where you, a relative, or a person with whom you have a close association submits a planning application:
 - you should send the notification no later than submission of that application where you can;
 - the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers;
 - you must not get involved in the processing of the application; and
 - it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.

3. Fettering Discretion in the Planning Process

(natural justice, predisposition and predetermination)

- **Don't** fetter your discretion and therefore your ability to participate in planning decision making at this Council by approaching the decision with a closed mind. Fettering your discretion in this way and taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias, pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- **Do** be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the law. Your prior observations, apparent favouring or objections in respect of a particular outcome will not on their own normally suffice to make a decision unlawful and have it quashed, but you must never come to make a decision with a closed mind.
- **Do** keep at the front of your mind that, when you come to make the decision, you
 - must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice and the arguments from all sides;
 - are not required to cast aside views on planning policy you held when seeking election or when otherwise acting as a Member, in giving fair consideration to points raised;
 - are only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
 - are to come to a decision after giving what you feel is the right weight to those material considerations.
- **Do** be aware that you can be biased 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. (This is more than a matter of membership of both the proposing and planning determination committees, but that 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.)

- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body, provided:
 - the proposal does not substantially effect the well being or financial standing of the consultee body;
 - you make it clear to the consultee body that:
 - your views are expressed on the limited information before you only;
 - 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;
 - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
 - you disclose the personal interest regarding your membership or role when the Committee comes to consider the proposal.
- Do explain that you do not intend to speak and vote as a member of the Committee because you will be perceived as having judged (or you reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes. (*Use the disclosure form provided for disclosing interests.*)
- **Do** take the opportunity to exercise your separate speaking rights as a Ward Member (*where this is granted by the Council's standing orders or by the consent from the Chair and Committee*) where you have represented your views or those of local electors and fettered your discretion, but do not have a disclosable or other personal conflict of interest. Where you do:
 - advise the proper officer or Chair that you wish to speak in this capacity before commencement of the item;
 - remove yourself from the seating area for members of the Committee for the duration of that item; and
 - ensure that your actions are recorded
 in accordance with the Council's committee procedures.

4. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **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 seek to arrange that meeting yourself through a request to the Assistant Head of Planning & Building Control 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 Council 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.
- **Do** otherwise:
 - follow the rules on lobbying;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - report to the Assistant Head of Planning & Building Control 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:

- **Don't** attend a planning presentation without requesting an officer to be present.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **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.
- **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a committee.

5. Lobbying of Councillors

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice 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.
- **Do** remember that your overriding duty is to the whole community not just to the people or body with a particular interest or area 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.
- **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, including its addition to your register of interests where relevant.
- **Do** copy or pass on any lobbying correspondence you receive to the Assistant Head of Planning & Building Control at the earliest opportunity.
- **Do** promptly refer to the Assistant Head of Planning & Building Control any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring 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.
- **Do** note that, unless you have a disclosable or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code through:
 - listening or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Members or appropriate officers (making clear that you must keep an open mind);
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion of others in your role as a [Ward][Division] Member.

6. Lobbying by Councillors

- **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 will be seen to have fettered your discretion on the grounds of bias.
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but you should normally disclose that interest on the grounds of transparency where the 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

- **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
- **Do** be aware of the power of social media posts or re-posting and be careful to not to give the impression that you will definitively vote in a certain way or act with a closed mind if you intend to participate in the decision making on behalf of the authority.
- **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/Inspections

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
 - 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
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **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 Council and direct them to or inform the officer present.
- **Don't** express opinions or views.
- **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:
 - you feel it is essential for you to visit the site other than through attending the official site visit,
 - you have first spoken to the Assistant Head of Planning & Building Control about your intention to do so and why (which will be recorded on the file) and
 - you can ensure you will comply with these good practice rules on site visits.

8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally, in writing or by social media) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
- **Don't** participate in social media or exchanges by texting as a member of the committee during the committee's proceedings as this may give the impression of undue external influence and may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

9. Officers

- **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 Assistant Head of Planning & Building Control, which may be incorporated into any committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- **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.

10. Decision Making

- **Do** remember that, if you request a proposal to go before the Committee rather than be determined through officer delegation, your planning reasons will need to be recorded in writing and will be repeated in the report to the Committee.
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **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.
- **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.
- **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. Where a matter is deferred and its consideration recommences at a subsequent meeting, only Members who were present at the previous meeting will be able to vote. If this renders the Committee inquorate then the item will have to be considered afresh and this would include public speaking rights being triggered again).
- **Do** have recorded the reasons for Committee's decision to defer any proposal,
- **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 (it will help to take advice from officers when and where necessary to do this and, if there are no indications allowing you to do this in advance of the meeting, it may be helpful to request a short adjournment for these purposes). Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

11. Training

- **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.
- **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.

E - Guidance on good practice in licensing

Introduction

- 1 The Member Code of Conduct sets out the conduct which is expected of elected and co-opted members in carrying out their duties. The government will introduce a similar code of conduct for officers. Both Codes primarily concern individual probity and other aspects of conduct across the whole range of members' and officers' duties.
- 2 The Council has agreed Guidance on Good Practice in Planning which is directed at members and officers who are involved in the planning process, and sets out the conduct which is expected of them.
- 3 This guidance is directed at members of the Licensing Committee and its sub-committees, and at officers who are involved in the licensing process, and sets out the conduct which is expected of them. It applies to all decisions on licensing matters, whether they are made by members or by officers. Failure to follow its recommendations without good reason could be taken into account in an investigation into possible maladministration by the Council. It may also result in an allegation that a member or officer has breached their respective Code of Conduct.

The need for guidance on the conduct of licensing matters

- 4 The Council must make licensing decisions which affect public and private interests openly, transparently and impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or not well founded in any way. Decisions should be properly recorded and supported by adequate reasons.
- 5 This guidance seeks to explain the respective roles of councillors and officers, and to ensure they act in a way which is not only fair and impartial but is also clearly seen to be so. The successful operation of the licensing system relies on mutual trust and understanding of the respective roles of councillors and officers.

The general role of members

- 6 The basis of the licensing system is the consideration of licensing applications against the licensing objectives set out in the Licensing Act 2003, the

Gambling Act 2005 and the Council's statement of licensing policy. Much is often at stake in this process, and opposing views are often strongly held by those involved. While councillors should take account of these views, they should not favour any person, company, group or locality, nor should they put themselves in a position where they appear to do so.

- 7 Councillors who do not feel that they can act in this way should consider whether they are best suited to serve on a licensing committee.
- 8 Because the technical issues concerning licensing are complex, and matters of propriety are not always straightforward, appointment to a licensing committee creates a requirement for new members to undertake training on appointment, and for all members to have refresher training. Seminars may also be organised where Members may develop their specialist knowledge and where topical issues may be aired. Members are advised not to accept nomination to the Sub-Committee unless they are prepared to take on this responsibility. Members also need to familiarise themselves with the provisions of these procedures.

Gifts and hospitality

- 9 Members should be very cautious about accepting gifts and hospitality. The Member Code of Conduct requires any member to provide the Director of Legal & HR with written details of any gift or hospitality over the value of £100 which they receive in their capacity as a member. The details must be provided within 28 days of receipt, and they will go in a register of gifts and hospitality, which will be open to inspection by the public.
- 10 Similarly officers, in the course of carrying out their duties, may be offered hospitality from people with an interest in a licensing proposal. Wherever possible, such offers should be politely declined. If the receipt of hospitality is unavoidable, officers should ensure that it is minimal and must declare its receipt as soon as possible. Each department has a hospitality book to record such offers, whether or not accepted. The requirement to register hospitality is likely to be a feature of the statutory code of conduct for employees.

Registration and declaration of interests

- 11 The Member Code of Conduct seeks to separate members' personal interests from those interests which arise from their wider public life.

- 12 A member who has a personal interest must always declare it.
- 13 A member who has a prejudicial interest must leave the room, not take part in the discussion or vote and not seek improperly to influence the decision. This applies to all members, and not just those who are members of the committee concerned.
- 14 The Member Code of Conduct says a member may regard their interest as not being a prejudicial interest if it relates to another body on which he or she serves as the Council's representative. This is because their interest is not a personal interest - it arises from their wider public life. However, the member should still consider whether a member of the public, knowing all the facts, would reasonably regard their membership of that other body as so significant that it would be likely to prejudice their judgement of the public interest. If they believe a member of the public would think this, the member should regard himself or herself as having a prejudicial interest.
- 15 A member who serves as the Council's representative on another body may therefore vote on a licensing proposal on which that body has made representations, but only if they have scrupulously avoided forming a fixed view on the matter in advance and only if the proposal does not directly affect that body. If they have taken a firm view of a proposal before the decision-making meeting, they should declare this and not vote. This is not because they would have a prejudicial interest. It is because they could not demonstrate that, in voting, they have taken into account all the relevant facts and arguments. In legal terms, they would have fettered their discretion. Were they to vote, an aggrieved party might seek judicial review of the decision. If the proposal directly affects that body, they should regard themselves as having a prejudicial interest and leave the meeting.
- 16 Members who are unsure whether an interest should be declared, or whether they may vote, should seek the advice of the Director of Legal & HR or the Head of Corporate Governance & Democratic Services or their representative. However the decision rests with the member.

Licensing proposals made by members and officers

- 17 Proposals to the Council by members and officers and their close friends and relatives can easily give rise to suspicions of impropriety.
- 18 It is perfectly legitimate for such proposals to be made. However, it is vital to ensure that they are handled in such a way that gives no grounds for

accusations of favouritism. Accordingly:

- members who act as agents for people pursuing licensing proposals with the Council must play no part in the decision-making process;
- members or officers who submit their own proposals to the Council must play no part in its processing;
- members and officers must inform the Director of Housing and Safer Communities and the Director of Legal & HR of such proposals. The proposals must be reported to the committee as main items and not dealt with by officers under delegated powers.

- 19 Members would of course have a prejudicial interest in their own proposals and would be required to withdraw from any consideration of the matter. The Member Code of Conduct provides that the member should "not seek improperly to influence a decision about the matter". This means that a member should have the same right as a member of the public to seek to explain and justify their proposals to an officer, before a committee considers it.

Lobbying of members

- 20 Lobbying is a normal and perfectly proper part of the political process. Those who may be affected by a licensing decision will often seek to influence it through an approach to their elected ward member or to a member of the licensing committee.
- 21 Unless all the parties involved exercise care and common sense, lobbying can lead to the impartiality and integrity of a member being called into question. When being lobbied, members of a licensing committee should take care about expressing an opinion. If they give the impression that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments, they would not be able to vote. This mirrors the approach in paragraph 15.
- 22 In such situations, members of a licensing committee who are lobbied should restrict themselves to giving procedural advice, including suggesting that those who are lobbying should speak or write to the relevant officer, in order that their opinions can be included in the officer's report to the committee. If they do express an opinion, they should make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence

and arguments at committee.

- 23 Members of a licensing committee need to take account of the public's (and the Ombudsman's) expectation that a licensing application will be processed and determined in an open and fair manner, and that members will take account of all the evidence presented before arriving at a decision. To commit themselves one way or another before hearing all the arguments makes members vulnerable to an accusation of partiality. Determining a licensing application is a formal administrative process involving rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. An aggrieved party may appeal against the decision or seek judicial review of the way in which a decision has been arrived at. They may also complain to the Local Government Ombudsman that there has been maladministration, or to the Chief Executive that a member has breached the Member Code of Conduct.
- 24 In reality, members will often form a judgement about an application early on in its passage through the system, whether or not they have been lobbied. However, members of a licensing committee should not openly declare which way they intend to vote in advance of the planning meeting, and of hearing evidence and arguments on both sides.

Ward members

- 25 Political reality suggests that it is often important to distinguish between the role of a licensing committee member who is, and who is not, a ward member for the area affected by a licensing application. A licensing committee member who does not represent the ward affected is in an easier position to adopt an impartial stance, however strong his or her feelings about the application, and to wait until the committee meeting before declaring one way or another.
- 26 A licensing committee member who does represent the ward affected by an application is in a difficult position if it is a controversial matter around which a lot of lobbying takes place. If the member responds to lobbying by deciding to go public in support of a particular outcome - or even campaigning actively for it - it will be very difficult for them to argue that they have carefully weighed the arguments presented - perhaps in some respects for the first time - when the committee comes to take a decision on the application. The proper course of action for such a member would be to declare they have already taken a view and not vote. However they would have the right to

Speak on the matter at the meeting.

- 27 A ward member who is not a member of the licensing committee should be permitted by the Chair to speak on the matter at the meeting, unless they have a prejudicial interest.

Party groups

- 28 A decision on a licensing application cannot be made before the committee meeting, when all available information is to hand and has been considered. Any political group meeting should not therefore be used to decide how members of a licensing committee should vote.

Lobbying by members

- 29 Members are entitled to express their views on a licensing application, and this may include lobbying other members. But if they are members of licensing committees, they should not lobby other members unless they accept they will not take part in or vote at any meeting which considers the application.
- 30 Members should not put pressure on officers for a particular recommendation, and should not do anything which compromises, or is likely to compromise, their impartiality.

Pre-application discussions

- 31 Discussions between a potential applicant and the Council before the submission of an application can benefit both parties and are encouraged. However, it would be easy for such discussions to become, or to be seen, as part of a lobbying process by the applicant.
- 32 In order to avoid such perceptions, pre-application discussions should take place within the following guidelines. Although the term "pre-application" has been used, the same considerations should apply to any discussions which take place before a decision is taken:
- It should always be made clear at the outset that discussions will not bind the Council to making a particular decision, and that any views expressed are personal and provisional. By the very nature of pre-application discussions, not all relevant information may be at hand,

nor will formal consultations with interested parties have taken place;

- Advice should be consistent and based upon the Council's statement of licensing policy. There should be no significant difference of interpretation of the statement amongst licensing officers. In addition, all officers taking part in such discussions should make clear whether or not they are the decision-maker;
- A note should be made of all potentially contentious meetings. At least one licensing officer should attend such meetings and a follow-up letter is advisable, at least when documentary material has been left with the Council. A note should also be made of potentially contentious telephone discussions;
- Care must be taken to ensure that advice is not partial, nor seen to be, otherwise a subsequent report could appear to be advocacy;
- Members and officers must register any gifts and hospitality received over the value of £100.

Decisions contrary to the statement of licensing policy (Licensing Act 2003 or Gambling Act 2005) and/or officer recommendations

- 33 The law requires that regard should be had to the statement of licensing policy in making decisions.
- 34 If a licensing committee intends to make a decision contrary to the statement of licensing policy or to an officer's recommendation (whether for approval or refusal), the officer should first be given an opportunity to explain the implications of the contrary decision. *The Chair should ensure that the committee's reasons are made clear at the meeting. A full record of the reasons should be made in the minutes and a copy placed on the application file. The courts have expressed the view that such reasons should be clear and convincing.*

Site visits

- 35 The Member Code of Conduct applies whenever members are conducting official business, which will include site visits. Site visits can cause delay and additional costs and should only be used where the expected benefit is substantial. They should be carefully organised to ensure that the purpose,

format and conduct are clearly established at the outset and subsequently adhered to throughout the visit.

- 36 Comments of the applicant and objectors cannot be expressed adequately in writing, or the proposal is particularly contentious.

Site visits consisting simply of an inspection by a viewing sub-committee, with officer assistance, are in most cases the most fair and equitable approach as between applicant and objectors. Such an inspection could either be unaccompanied (i.e. without the applicant and objectors) or accompanied and run on the strict lines of a planning inspector's site inspection, so that no discussion takes place.

APPENDIX

Licensing Sub-Committee Hearings

General Information

- 1.1 The Licensing Sub-Committees will undertake those functions of the Licensing authority under the Licensing Act 2003 and the Gambling Act 2005 which have been delegated to the Sub-Committees, as defined in Part 3 of the Council's Constitution.
- 1.2 A Licensing Sub-Committee consists of three Members of the Licensing Committee. The Quorum is two Members.
- 1.3 Each Licensing hearing will be in public and will usually be conducted virtually. Each hearing will be recorded and the recording of the meeting will be publicly available on the Council's YouTube Channel for a period of 12 months.
- 1.4 Only those parties who have made written representations will be invited to and allowed to address the licensing hearing. A party may be assisted or represented by any person at the meeting, whether or not that person is legally qualified. A party may be represented by a Councillor, usually their Ward Councillor, but not by a Member of the Licensing Sub-Committee. The Committee Officer must be notified in advance of the meeting with the details of any assistant or person representing any party.
- 1.5 For each hearing the Licensing Sub-Committee will consider a report from the Licensing authority which will be displayed on the Council's website and available to all parties in advance of the hearing. The written representations made by other persons will be treated as exempt information under Part II, Section 40 of the Freedom of Information Act 2000 and will not be publicly viewable.
- 1.6 The authority may take into account additional material produced by a party in support of their application, representation or notice (as applicable) supplied after the closing date for making written representations. Such material must be supplied to the Committee Officer 5 working days before the date of the hearing. Additional material submitted after that date will not be considered and permission to rely upon it must be sought from the Sub-Committee at the hearing. Where permission to rely upon additional material is sought at the hearing, the Sub-Committee may grant permission and may seek advice from the Legal Advisor to the Sub-Committee as appropriate. The Sub-Committee will disregard such additional documents or information which is not relevant to –
 - (a) the application, representations or notice (as applicable), or
 - (b) the promotion of the licensing objectives or, in relation to a hearing to consider a notice given by a chief officer of police, the crime prevention objective. If accepted, the material submitted 5 days prior to the hearing date will be published with the remainder of the hearing papers.

Conduct of the meeting

- 2.1 Meetings will be conducted virtually. The onus is on all parties to be conversant with the technology required.
- 2.2 When joining the virtual meeting you will be held in a lobby to start with.
- 2.3 During the meeting all participants will be in control of their own microphone. The microphone should be set to mute at all times, until the Chair invites you to address the Sub-Committee. The online chat facility on the virtual platform for the virtual hearing is not permitted.
- 2.4 The Chair will have complete discretion of the procedure to be adopted for the meeting and the order in which those entitled to address the Sub-Committee are permitted to make their submissions.
- 2.5 The Chair will strictly manage time allocations. The applicant and those making representation will be afforded equal time to present their case. The maximum time for a party to speak will be determined by the Chair, taking into account the complexity of the case and the number of participants. By default, the maximum time will be set at 15 minutes. However, for more complex cases or numerous participants, the Chair may adjust time allocations as needed.
- 2.6 Those addressing the Sub-Committee should avoid repetition and use their allocated time efficiently.
- 2.7 The hearing shall not be adversarial but will take the form of a discussion led by Members. Cross-examination of any party will not be permitted unless the Chair of the Sub-Committee considers, in exceptional circumstances, that cross-examination maybe appropriate for a specific issue.
- 2.8 At the end of the hearing, the Chair will announce a general discussion. Should you wish to speak during this part you should activate the 'raised hand' function. Please be patient, the Chair will be aware you wish to speak and will come to you in due course.
- 2.9 The Sub-Committee may require any person attending the hearing who, in their opinion, is behaving in a disruptive manner to leave the hearing and may -
- (a) refuse to permit that person to return, or
 - (b) permit them to return only on the conditions that they give an assurance of no further interruptions.
 - (c) exclude the individual from the hearing.

Procedure at the meeting

Members of the Sub-Committee shall have the opportunity to ask questions at any time.

- 3.1 The Chair will ascertain whether the parties and their assistant, if any, are present.

If any party has indicated that they will not attend or failed to indicate whether or not they will attend, or do not attend, the Sub-Committee will normally hold the hearing in that party's absence but may decide to adjourn depending upon the circumstances and nature of the hearing.

- 3.2 The Chair will ascertain that parties understand that they may be assisted or represented, legally or otherwise.
- 3.3 The Licensing Officer will give details of each application case and of the number and type of objections/representations received as set out in the report.
- 3.4 The applicant and/or their representative and their witnesses will then be invited to address the Sub-Committee confirming why they consider the issues that have been raised by written representations against the application are not relevant with regard to the licensing objectives and why they consider the Sub-Committee should grant the application, or notice, as applicable. The maximum amount of time allowed will normally be 15 minutes, however, this may be extended at the discretion of the Chair depending on the complexity of the application.
- 3.5 Those making representations, or their representatives, will be invited to address the Sub-Committee confirming why they consider the issues they have raised to be relevant to the licensing objectives and how they impact upon the promotion of the licensing objectives, to enable the Sub-Committee in its deliberation of its decision. The maximum amount of time allowed will normally be 15 minutes; this may be extended at the discretion of the Chair depending on the complexity of the application.
- 3.6 A discussion involving all parties will ensue at the discretion of the Chair of the Sub-Committee. Cross-examination of any party shall not be permitted, however, it may be allowed in exceptional circumstances at the discretion of the Chair of the Sub-Committee.
- 3.7 Upon conclusion of submissions and discussions, the hearing will come to an end. The Sub-Committee will then retire to deliberate its decision. The decision of the Sub-Committee will be notified to all parties by email within 5 working days, or earlier where required by law, together with the rights of appeal.

**Procedure for considering licensing issues other than those that fall
under the Licensing Act 2003 or the Gambling Act 2005**

The procedure will be as follows:

1. The Chair will ascertain that the applicant knows that he/she may be represented.
2. The Lead Officer will give details of each application in each case and of the

number and type of objections received.

3. The applicant, or the applicant's representative, and applicant's witnesses will then be invited to address the Committee.
4. The objectors, or their representatives, will then be allowed to speak. They should cover the points raised in their original objection and may, at the Chair's discretion, deal with new points that relate to something that the applicant may have raised during their address that was previously unknown to the objector. (The applicant should be advised to note specific points during the objectors' presentation.)
5. The applicant, or applicant's representative, will be permitted to put **questions** to each objector immediately after they have addressed the Committee and to answer any new points raised by the objector.
6. The Committee Members will be able to ask questions at any time, but will generally restrict most questions to the end of the statement made by the objector, applicant or witness, as appropriate.
7. The Committee will then discuss the application and the objections, and give their decision, giving clear reasons for the decision reached.
8. Should Members wish to discuss certain issues such as whether an applicant is a "fit and proper person" to hold a licence, the Committee will move into closed session and the public will be excluded for the duration of the discussion prior to a decision on the application being announced.
9. A few days after the meeting the written Decision Notice will be issued to the applicant, which will include details of the applicant's right of appeal if appropriate. Notification of the decision will be sent to the objectors.