

## Part 5: Codes and Protocols

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# Code of Conduct for Members

## 1.0 Application

- 1.1 This code applies to you whenever you are acting in your capacity as a member of this authority and it is your responsibility to comply with the provisions of this Code.
- 1.2 You are a representative of this authority and the public will view you as such therefore your actions impact on how the authority as a whole is viewed and your actions can have both positive and negative impacts on the authority.
- 1.3 The Code is based upon the 'Nolan Principles – the seven principles of public life' which are set out as **Appendix 1**.

## 2.0 Interpretation

- 2.1 In this Code –

“meeting” means any meeting of:

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

whether or not the press and public are excluded from the meeting in question by virtue of a resolution of members.

“member” includes a co-opted member and an appointed member.

## 3.0 General Conduct

- 3.1 The Code applies to you whenever you are acting in your capacity as a member of the Council, including:
  - (a) at formal meetings of the Council, Executive, Committees and Sub-Committee, Joint Committees, Panels or Working Groups.
  - (b) when acting as a representative of the authority.
  - (c) in taking any decisions as an Executive Member or Ward Councillor.
  - (d) in discharging your functions as a Ward Councillor.

- (e) at briefing meetings with officers.
- (f) at site visits.
- (g) when corresponding with the authority (other than in a private capacity).

3.2 When acting in your role as a member of the authority:

- (a) do treat others with respect and not bully any person.
- (b) do provide leadership to the authority by personal example.
- (c) do not conduct yourself in a manner which is likely to bring the authority into disrepute.
- (d) do use your position as a member in the public interest and not for personal advantage.
- (e) do not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is:
    - a. reasonable and in the public interest
    - b. made in good faith and in compliance with the reasonable requirements of the authority; and
    - c. you have consulted with the Monitoring Officer prior to its release if appropriate
- (f) do not prevent another person from gaining access to information to which that person is entitled to by law.
- (g) when using or authorising the use by others of the resources of the authority:

1. Do act in accordance with the authority's reasonable requirements including the requirements of the authority's ICT policy, copies of which have been provided to you and you are deemed to have read;
  2. Do make sure that such resources are not used improperly for political purposes (including party political purposes); and
  3. Do have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 3.3 In politics, rival groupings are common, either in formal political parties or more informal alliances. It is expected that members will campaign for their ideas, and may also seek to discredit the policies and actions of their opponents. Criticism of ideas and opinion is part of the democratic debate, and does not in itself amount to failing to treat someone with respect.
- 3.4 Ideas and politics may be robustly criticised, but individuals should not be subject to personal attacks. This particularly applies when dealing with the public and officers.

#### **4.0 Bullying and Harassment**

- 4.1 You must not bully, harass or intimidate any person. This is completely unacceptable and will be considered to be a breach of the Code.
- 4.2 Harassment, bullying, discrimination, intimidation and victimisation (either directly or indirectly) are unacceptable and should not be tolerated. It is important to recognise the impact such behaviour can have on any individual experiencing it, as well as the wider organisation in terms of morale and effectiveness.
- 4.3 **Bullying** is inappropriate and unwelcome behaviour which is offensive and intimidating and which makes an individual or group feel undermined humiliated or insulted. It is the impact of the behaviour rather than the intent which is the key.
- 4.4 Bullying usually arises as a result of an individual misusing their power and can occur through all means of communication. Bullying can be a pattern of behaviour or can be a one-off serious incident that becomes objectionable or intimidating.
- 4.5 Examples of bullying behaviour are set out below (these are not exhaustive):
- unwelcome physical, verbal or non-verbal contact
  - intimidating behaviour including verbal abuse or the making of threats
  - making someone's work life difficult

- disparaging, ridiculing or mocking comments and remarks
- physical violence

4.6 **Harassment** is any unwelcome behaviour or conduct which makes someone feel offended, humiliated, intimidated, frightened and/or uncomfortable. Harassment can be experienced directly or indirectly and can occur as an isolated incident or as a course of persistent behaviour.

4.7 As a Councillor you should be aware of the inherent influence your role brings and ensure that you are demonstrating respect for others and encouraging colleagues to do the same.

4.8 Where you have witnessed bullying and harassment you have a responsibility to speak out. You should challenge inappropriate behaviour as it happens and consider making a complaint.

4.9 As with bullying, even if the behaviour is unintentional, it can still be classed as a form of harassment. Harassment can occur through verbal or written comments, including those made online. Examples of harassment are set out below (these are not exhaustive):

- unwelcome physical contact such as touching or invading 'personal space'
- inappropriate remarks or questioning such as comments about someone's appearance, lewd comments and offensive jokes (such as those of a racist, sexual or sectarian nature)
- intrusive questioning for example on sexual orientation, religious or political beliefs (either directly or with others)
- sending unwelcoming and/or inappropriate emails, messages or notes, circulating or displaying explicit or inappropriate images

4.10 Your specific duties as a Councillor:

- you should behave in accordance with the Code in all situations where you act as a councillor or are perceived as acting as a councillor, including representing the Council on official business and when using social media
- you should treat all individuals with respect when carrying out your duties as a Councillor. You should not participate in, or condone, acts of harassment, discrimination, victimisation or bullying.

## 5.0 Use of Social Media

5.1 The use of Social Media (Twitter, Facebook, blogs etc) is a very effective tool for Councillors to communicate with their local communities, and taking part in social networks and interactive activity online is now a majority activity which will certainly grow.

- 5.2 The Council has a Social Media Policy which members should be familiar with and sets out how to use social media in a positive way and how to avoid pitfalls.
- 5.3 There is a difference between communicating on behalf of the Council on social media and as a private citizen, and the former will be held to a higher standard than the latter.
- 5.4 The key to whether your online activity is subject to the Code is whether you are giving the impression that you are acting as a Councillor.
- 5.5 The Code of Conduct applies equally to your online activity in the same way it applies to other verbal communication or face to face meetings.

## **6.0 Disclosable Pecuniary Interests**

You must:

- 6.1 Comply with the statutory requirements to register, disclose and withdraw from participating in respect of any matter in which you have a disclosable pecuniary interest. The statutory requirements with regards to disclosable pecuniary interests are attached as **Appendix 2** to this code.
- 6.2 Ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your disclosable pecuniary interests
- 6.3 Make verbal declaration of the existence and nature of any disclosable pecuniary interest at any meeting at which you are present at which an item or business affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.

## **7.0 Other Interests**

- 7.1 You must, within 28 days of:
  - (a) this Code being adopted by or applied to your authority; or
  - (b) your election or appointment to office (where that is later), notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the following descriptions, for inclusion in the register of interests.
- 7.2 You have a personal interest in any business of your authority where either it relates to or is likely to affect:

- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) any body—
  - (aa) exercising functions of a public nature;
  - (bb) directed to charitable purposes; or
  - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),
    - of which you are a member or in a position of general control or management;
- (iii) any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.

7.3 You must, within 28 days of becoming aware of any new interest or change to any interest registered under paragraph 7.1, notify the Monitoring Officer of the details of that new interest or change.

## 8.0 Disclosure of interests

8.1 Subject to paragraphs 8.2 to 8.5, where you have a personal interest described in paragraphs 7.2 or 8.2 in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

- 8.2 (A) You have a personal interest in any business of your authority:
- (i) where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a *relevant person* to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision, or
  - (ii) it relates to or is likely to affect any of the interests you have registered as a disclosable pecuniary interest.
- (B) In paragraph 8.2(A), a *relevant person* is:
- (c) a member of your family or any person with whom you have a close association; or

- (d) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (e) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (f) any body of a type described in paragraph 7.2.

8.3 Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 7.1(i) or (ii)(aa) you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

8.4 Where you have a personal interest but, by virtue of paragraph 10, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

8.5 Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

## **9.0 Register of interests**

9.1 Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

## **10.0 Sensitive interests**

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

## **11.0 Non-participation in case of pecuniary interest**

11.1 Where you have a personal interest in any business of your authority you also have a pecuniary interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business—

- (g) affects your financial position or the financial position of a person or body described in paragraphs 6.2 or 7.2; or
  - (h) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraphs 6.2 or 7.2.
- 11.2 Subject to paragraphs 11.3 and 11.4, where you have a pecuniary interest in any business of your authority—
- (a) You may not participate in any discussion of the matter at the meeting and should leave the room during consideration of the relevant matter.
  - (b) You may not participate in any vote taken on the matter at the meeting.
  - (c) If the interest is not registered, you must disclose the interest to the meeting.
  - (d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days. In addition this Code and Standing Orders requires you to leave the room where the meeting is held while any discussion or voting takes place.
- 11.3 Where you have a pecuniary interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.
- 11.4. Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that relates to the functions of your authority in respect of:
- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (iv) an allowance, payment or indemnity given to members;
  - (v) any ceremonial honour given to members; and

- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

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

## **12.0 Interests arising in relation to scrutiny committees**

12.1 In relation to any business before a scrutiny committee of the authority (or of a sub-committee of such a committee) where-

12.1.1 That business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

12.1.2 At the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph 12.1.1 and you were present when that decision was made or action was taken;

Or

12.1.3 that business relates to a decision made (whether implemented or not) or action taken by you (whether by virtue of the Council's constitution or under delegated authority from the Leader);

You may attend a meeting of the scrutiny committee of your local authority or of a sub-committee of such a committee but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise.

## **13.0 Gifts and Hospitality**

13.1 You must within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value of in excess of £50 which you have accepted as a member from any person or body other than the authority.

13.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.

13.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose.

## **THE SEVEN PRINCIPLES OF PUBLIC LIFE**

### **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.

### Disclosable pecuniary interests

This note explains the requirements of the Localism Act 2011 (Ss 29-34) and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, in relation to disclosable pecuniary interests.

These provisions are enforced by criminal sanction.

#### 1 Notification of disclosable pecuniary interests

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

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

(In the extracts from the Regulations below, 'M' means you and 'relevant person' means you and your partner, as above)

<i>Subject</i>	<i>Prescribed description</i>
<i>Employment, office, trade, profession or vacation</i>	<i>Any employment, office, trade, profession or vocation carried on for profit or gain.</i>
<i>Sponsorship</i>	<i>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</i>
<i>Contracts</i>	<i>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.</i>
<i>Land</i>	<i>Any beneficial interest in land which is within the area of the relevant authority.</i>
<i>Licences</i>	<i>Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</i>

Corporate tenancies	<p>Any tenancy where (to M's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

These descriptions on interests are subject to the following definitions;

*“the Act” means the Localism Act 2011;*

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

*“director” includes a member of the committee of management of an industrial and provident society;*

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

*“M” means a member of a relevant authority;*

*“member” includes a co-opted member;*

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

*“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;*

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

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

## **2 Register of interests**

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the authority’s website.

## **3 Sensitive interests**

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

## **4 Non participation in case of disclosable pecuniary interest**

A) If you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,

1. You may not participate in any discussion of the matter at the meeting.
2. You may not participate in any vote taken on the matter at the meeting.
3. If the interest is not registered, you must disclose the interest to the meeting.
4. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: In addition, Standing Orders require you to leave the room where the meeting is held while any discussion or voting takes place.

B) Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

## **5 Dispensations**

The authority may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

## **6 Offences**

It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register

- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

# **Local Assessment and Review of Complaints of Breaches of the Member Code of Conduct: Criteria, Guidance and Procedure**

## **1.0 PRE- ASSESSMENT**

1.1 When a written complaint has been received, the Monitoring Officer in consultation with the independent person, will;

1.2 Determine whether the complaint should be investigated; whether to refer the decision on investigation to the Assessment Sub-Committee; or whether another course of action is appropriate, including seeking local resolution or to take no action at all.

1.3 If a complaint is raised with the Monitoring Officer verbally, the Monitoring Officer should ask the complainant to formally put the matter in writing. If the complainant does not want to do this then the Monitoring Officer should consider options for informal resolution to satisfy the complaint.

1.4 Once the Monitoring Officer has determined that the complaint should be investigated, he/she will acknowledge receipt of the complaint and the member who the allegation is made against will be informed that a complaint has been made against them alleging a breach of the member code of conduct.

1.5 Before any investigation of the complaint begins, the Monitoring Officer and the Independent Person/Assessment Sub-Committee must be satisfied that the complaint meets the following tests: -

- **It is a complaint against a named member of the Council**
- **The named member was in office at the time of the alleged conduct and acting in their official capacity**
- **The complaint if substantiated would be a breach of the member code of conduct in force at the relevant time**

1.6 If the complaint fails one or more of these tests it cannot be investigated as a breach of the code and the complainant must be informed that no further action will be taken in respect of the complaint.

## **2.0 ASSESSMENT CRITERIA**

2.1 The following criteria have been developed for the Monitoring Officer and the Independent Person/Assessment Sub-Committee to assess new complaints against and decide what action, if any to take.

## **2.2 Information**

*Has the complainant submitted enough information to satisfy the Monitoring Officer that the complaint should be referred for investigation or other action?*

The complainant must provide sufficient information to enable the Monitoring Officer and the Independent Person to decide whether or not there is prima facie evidence of a breach of the Member Code of Conduct. If insufficient information has been provided to make a decision, the matter will not normally be referred for investigation or other action.

## **2.3 Length of time**

*Is the complaint about something that happened so long ago that there would be little benefit in taking action now?*

The Monitoring Officer and the Independent Person/Assessment Sub-Committee should have regard to the length of time that has elapsed since the alleged conduct occurred. It will not normally investigate or pursue other action where the alleged conduct took place more than 6 months prior to the date of the complaint. However if there are exceptional circumstances (e.g. where the conduct relates to a pattern of behaviour which has recently been repeated) events or incidents which are more than 6 months old could be considered.

## **2.4 Seriousness of the Complaint**

*Does the complaint appear to be simply malicious, politically motivated, a repeated complaint or 'tit-for-tat'?*

The Monitoring Officer and Independent Person/Assessment Sub-Committee will not consider complaints or make a decision to refer matters for investigation, which they believe to be malicious, vexatious, trivial, politically motivated, a repeated complaint, or tit-for-tat.

## **2.5 Public Interest**

*Is it in the public interest to refer a matter for investigation?*

The Monitoring Officer and the Independent Person/Assessment Sub-Committee will determine whether the public interest would be served by referring a complaint for investigation or for any other action in cases where the subject matter has died, resigned or is seriously ill. Similarly, if the member has offered an apology or other remedial action the Monitoring Officer may decide that it is appropriate to take no further action. In making a decision to investigate, the Monitoring Officer should also consider whether the complaint is serious enough to justify the resources required to investigate.

## **2.6 Other Investigations**

*Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct, or has the complaint been the subject of an investigation by other regulatory authorities?*

If the complaint has already been the subject of an investigation or other action relating to the Member Code of Conduct, or the subject of investigation by another regulatory authority, it is unlikely that it will be referred for investigation by the Monitoring Officer.

## **2.7 Anonymous Complaints**

*Has the complaint been made anonymously?*

The Monitoring Officer and Independent Person/ Assessment Sub-Committee will not normally make a decision to consider anonymous complaints unless there is additional independent documentary evidence to support the complaint.

## **2.8 Multiple Complaints**

It is not uncommon for one event or incident to give rise to similar complaints from a number of different complainants. Wherever possible, these complaints will be considered at the same meeting by the Monitoring Officer and Independent Person/ Assessment Sub-Committee.

## **2.9 Criminal Investigations**

If a complaint made against a member is also subject to a police investigation, the Monitoring Officer and Independent Person/Assessment Sub-Committee should still investigate the facts as far as they are able to ascertain whether there has been a breach of the code of conduct.

## **3.0 CONFIDENTIALITY**

3.1 As a matter of fairness and natural justice, a member should normally be told that a complaint has been made against them alleging a breach of the code of conduct, who has made the complaint and what this relates to. However, there may be cases where the complainant requests that his or her identity is withheld from the member. Such requests should only be granted in exceptional circumstances, such as: -

- the complainant has reasonable grounds for believing that they or their family will be at risk of physical harm if their identity is revealed.
- The complainant is an officer who works with the member and they would have concerns of any consequence to their employment if their identity is revealed
- The complainant suffers from a serious health condition which might adversely be affected if their identity is revealed.

#### **4.0 Withdrawing Complaints**

4.1 A complainant may ask to withdraw their complaint before the Monitoring Officer and Independent Person/Assessment Sub-Committee has made a decision on it. The Monitoring Officer and Independent Person should consider the following when deciding whether to grant the request: -

- Does the public interest in pursuing the complaint outweigh the private interest of withdrawing it?
- Could action, such as an investigation, be properly carried out without the participation of the complainant?
- Is there a reason why the complainant has been asked to withdraw the complaint (e.g. is there any pressure/intimidation to withdraw the complaint from the member or any colleagues)?

#### **5.0 ASSESSMENT DECISIONS**

5.1 The Monitoring Officer or Assessment Sub-Committee should complete its initial assessment of an allegation within an average of 20 working days and to reach a decision on what should happen with the complaint.

5.2 The Monitoring Officer or Assessment Sub-Committee is required to reach one of the three following decisions on a complaint in relation to the Code of Conduct:

- **Refer the complaint for investigation**
- **Take 'other action' including seeking local resolution**
- **Take no action**

#### **6.0 THE DECISION NOTICE**

6.1 The Monitoring Officer/Assessment Sub – Committee is required to produce a Decision Notice which requires a written summary detailing: -

- **the main points considered during its deliberations**
- **its conclusions in respect of the complaint**
- **the reasons for its conclusions**

6.2 The Decision Notice should give the name of the member who is the subject of the allegation and details of the allegation unless doing so is not in the public interest or would prejudice any separate or subsequent investigation.

6.3 The Decision Notice will be sent to the member and the complainant unless there is a significant risk that by sending it to the member the complainant or any potential witnesses will be intimidated by the subject member or any evidence will be compromised or destroyed.

6.4 The Decision Notice should be issued as soon as possible after the Monitoring Officer/ Assessment Sub-Committee meeting and ideally within 5 working days.

6.5 The Decision Notice shall be made publicly available (e.g. at Council offices and on the Council's website) for a period of 6 years.

## **7.0 DECISION TO TAKE NO ACTION**

7.1 The Monitoring Officer/Assessment Sub-Committee can decide that no action is required in respect of a complaint. For example this could be because the Monitoring Officer/Assessment Sub-Committee does not consider that the complaint is sufficiently serious to warrant any action. Alternatively it could be because of the length of time that has elapsed since the allegation.

7.2 The decision reached by the Monitoring Officer/Assessment Sub-Committee and the reasons for it should adhere to the assessment criteria set out in this document. If the Monitoring Officer has made the decision this must be reported to the Standards Committee.

7.3 As soon as possible after making the decision, and ideally within 5 working days, the Monitoring Officer/Assessment Sub-Committee must give written notice of that decision to the complainant and the member, summarising the complaint and setting out clearly the reasons for the decision to take no action.

7.4 It is important to note that where no potential breach of the Code of Conduct is disclosed by the complaint, no matter what its source or whoever the member was, no action can be taken by the Standards Committee in respect of it. The matter of referral for investigation or other action does not arise.

# Member Code of Conduct Complaint Form

## MAKING A COMPLAINT ABOUT A COUNCILLOR

The City of Lincoln Council is committed to maintaining high standards of conduct by its councillors and officers. This form is intended to provide an opportunity for any person to report concerns that a councillor's conduct may have fallen below the expected standards. If your concern relates to an alleged criminal matter you should consider contacting the police regarding your concerns.

If you require any guidance or assistance in completing this form, please contact Democratic Services at the City of Lincoln Council, either by emailing [democratic.services@lincoln.gov.uk](mailto:democratic.services@lincoln.gov.uk), visiting City Hall, or by calling 01522 873370.

### 1. Your Contact Details

<b>Title:</b>		<b>Name:</b>	
<b>Address:</b>			
<b>Email address:</b>			
<b>Home telephone:</b>		<b>Mobile telephone:</b>	

### 2. Do you need to register this complaint anonymously?

Yes  No

Please note that it may be necessary to disclose some of your personal details to those affected by the complaint, including the relevant councillor. These details will not include your telephone number or email address unless you explicitly consent to this. However, it may be necessary to share your name and address in order for the complaint to be properly investigated. As such, if it is not possible to handle your complaint anonymously we will contact you to consider suitable options, which may include withdrawing or rejecting your complaint.

**3. If you answered yes to Question 2, please specify why in the box below:**

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**4. Which councillors are the subject of your complaint?**

<b>Councillor Name(s):</b>	
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If you are unsure of the identity of the councillor(s) you are complaining about, you may find it useful to view pictures of our councillors by [clicking here](#) (if using a computer) or by contacting Democratic Services for advice.

**5. What has caused your complaint?**

--

In order for us to investigate this complaint properly, please try to include the following information if it is relevant to your complaint:

- Which parts of the Member Code of Conduct have been breached (the Code can be viewed on our website or by request at City Hall)

- The times and dates on which any incidents occurred
- The names of any witnesses who may have observed any incidents
- The specific actions of the councillor or any other involved parties
- The words used by you or the councillor
- Whether anything in the incident relates particularly to a 'protected characteristic', such as your gender, race, or a disability

If you need additional space please continue on a separate sheet. You can also submit any photographs or other relevant items via Democratic Services.

**6. What outcome do you hope to achieve from your complaint?**

Please note that the principal purpose of submitting a complaint against a councillor is to ensure the appropriate behaviour of councillors. It will not normally be appropriate or possible to provide compensation to someone submitting a complaint. However, remedies could include an apology from the relevant councillor or for the councillor to receive training in behaving more suitably in future.

**7. Signature**

Please sign and date below to confirm that the information provided above is true to the best of your knowledge. If submitting the form by email, please complete your name and the date below.

**Name:**

**Date:**

**What will happen next?**

Your complaint will be submitted to the City of Lincoln Council's Monitoring Officer. The Monitoring Officer will consider the complaint and determine whether it requires investigation. The Monitoring Officer may consult an Independent Person regarding your complaint in order to reach a suitable outcome. Your complaint may then be resolved by the Monitoring Officer or referred to a separate group of councillors for consideration.

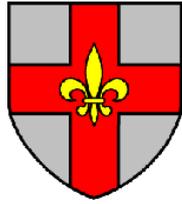
You will be advised of the outcome of your complaint when one has been reached and the Monitoring Officer will also update you during the course of any investigation regarding any progress if this is appropriate and necessary.

## **Hearing Sub-Committee: Outline Procedure for Hearings Panel (Contested)**

- 1 Preliminary Procedural Issues
  - a. Introductions
  - b. Declarations of Interests
  - c. To consider any requests for the exclusion of the Press and Public
- 2 Monitoring Officer (or his/her representative) to present summary of the case and refer to outcome of any pre-hearing process.
- 3 Investigating Officer to present the report and call such witnesses (including the complainant) as he/she considers necessary, and make representations to substantiate his/her conclusions within the report.
- 4 The Sub-Committee to raise any issues or clarify any matters with the Investigating Officer's report and to question and clarify matters with any of the witnesses called.
- 5 The member to raise any issues or clarify any matters with the Investigating Officer's report and to question and clarify matters with any of the witnesses called
- 6 The member responds to the investigation report, makes representations and calls such witnesses as he/she considers necessary.
- 7 The Investigating Officer to raise any issues, question or clarify any matters with the member and any witnesses called.
- 8 The subcommittee to raise any issues, question or clarify any matters with the member and any witnesses called.
- 9 Views of the Independent Person sought.
- 10 The Sub-Committee then retires along with the Monitoring Officer to determine whether there has been a breach of the code of conduct.
- 11 The Sub-Committee will either return to the Hearing to report the decision or (in more complex cases) the decision will be reported back by the Democratic Team Leader and Elections Manager.

### Action to be taken

- 12 Monitoring Officer (or his/her representative) to outline possible sanctions
- 13 Member to respond with any mitigation
- 14 Views of Independent Person sought
- 15 Sanction (if any) given



Employee Code of Conduct Policy

**1 The Purpose of this Code**

1.1 The public is entitled to expect the highest standard of conduct from all local government employees so they have complete confidence in the Council. This code is to make sure that you understand the standards of behaviour and conduct we expect of you.

1.2 This code includes new as well as existing policies and requirements, but it is not exhaustive. It gives examples of the type of conduct we expect but it may depend on particular circumstances so, if you are not sure, ask your manager. The code covers:

- your role
- the principles of conduct
- customer care
- colleagues
- time keeping and attendance
- laws, regulations and guidelines
- disciplinary action
- outside interests
- additional employment
- declaration of interests
- political considerations
- confidentiality
- care of council resources
- computer security
- patent and copyright
- accepting gifts
- foreign travel
- promotional sales
- alcohol and drugs
- smoking at work
- whistle blowing
- dealing with the media
- equalities.

1.3 It is important that you read this code and ask about anything that is not clear. We would not accept ignorance as a defence if the Council decided to take disciplinary action against you for not complying with these standards.

#### 1.4 **Your role as a public servant**

The Council provides services that the public pay for; they are our main customers so your role as a Council employee is to serve the public in the best way possible.

## 2 **Responsibilities**

### 2.1 **Responsibility of Directors/Assistant Directors/Managers**

- To follow this code of conduct and to ensure that any breaches of the code are dealt with in accordance with Council policy.
- To make sure new employees are aware of the code of conduct and that it is explained to them during the induction period.
- To ensure that the content and ramifications of the code of conduct is included in staff briefings and to ensure that all team members complete the Council's Code of Conduct E'Learning programme at least once in a 3 year period.
- To give Trade Union representatives the time required to support their Membership.

### 2.2 **Responsibility of HR**

- To advise Managers and staff on the application of this Policy as required.
- To regularly review and update this policy as required.

### 2.3 **Employee Responsibility**

- This code applies to all council employees and it is each employee's responsibility to be aware of and follow this code.
- All employees must ensure that they complete the Council's Code of Conduct E'Learning programme at least once in a 3 year period.

## 3 **Principles of conduct**

3.1 These principles of conduct set out how the Council expects you to behave when doing your job. We have expanded on some of them in later sections.

- **Leading by example** - promote this principle by behaving in a way that gives people complete confidence in the Council.

- **Uphold the law** - you have a responsibility to uphold the law, and to act in line with the trust the Council, and the public it serves, places in you.
- **Constituency** - you have a responsibility to help the Council to act in the interests of the whole community that it serves, as far as possible.
- **Public interest** - you must never use your position to make gains for yourself, family, friends or others. This includes financial benefits, preferential treatment or any other advantage.
- **Honesty, integrity and propriety** - you must not get in a position where your integrity could be questioned by a financial or any other obligation. As well as avoiding actual impropriety, you must be **seen** to avoid it so that your honesty and integrity is beyond question.
- **Gifts and hospitality** – the golden rule is that you should not accept gifts or hospitality. Even with the best of intentions, people could think gifts or hospitality might influence, or be intended to influence, your judgement. The exceptions to this are set out in the attached Gifts and Hospitality Guidance.
- **Objective decisions** – any decision you make in your job must be made solely on merit, including appointing someone, awarding contracts or recommending people for rewards or benefits.
- **Accountability** - you are accountable for your actions and for your part in making decisions, so you must cooperate with whatever scrutiny is appropriate to your post.
- **Openness** - you must be as open as possible about your actions and your part in reaching decisions, and seen to be open so that people are confident there is nothing underhand about your conduct.
- **Confidentiality** - you must make sure that you handle anything confidential, including information about others, in accordance with the law; you must not use it for private purposes.
- **Council resources** - you have a responsibility to make sure that the Council uses its resources prudently and in accordance with the law.
- **Declarations** - you have a legal duty to declare any private interests relating to your employment and to resolve any conflicts that may arise.
- **Relations with colleagues and councillors** - respect councillors and other employees, treating them with mutual respect at all times.

#### 4 **Customer care and courtesy**

- 4.1 We expect you to be welcoming, helpful, informative and courteous as well as being professional to the public and to our internal and external clients.
- 4.2 You must be presentable and suitably dressed for your particular job, including wearing safety clothing and equipment, if appropriate to your duties, under Health and Safety regulations.

- 4.3 Your own department or section may have its own customer care policy, which you must follow in addition to these corporate standards.
- 4.4 Employees working with children and adults have a responsibility to safeguard and promote the welfare of children and adults during the course of their work.

## **5 Conduct towards colleagues**

- 5.1 You must always act in a polite and friendly manner to colleagues, making sure that your behaviour does not cause offence.
- 5.2 The Council will not tolerate any form of bullying, oppression, sexual harassment, violence or aggression and will use its Disciplinary Policy to support this.

## **6 Time-keeping and attendance**

We expect you to be ready and able to carry out your duties at agreed times, within reason. You must record your time at work accurately, as falsifying records is a disciplinary offence.

## **7 Complying with written guidelines, laws and regulations**

- 7.1 Make sure that you comply with the laws and regulations relevant to your job which you are aware of, or are told about. If in doubt, get advice.
- 7.2 Make sure that you understand the conditions of service under which you are employed. The details are in the HR Policy Handbook. Ask your manager for clarification about anything you are not clear about.
- 7.3 You must also comply with corporate guidance, such as contract procedure rules and financial regulations, as well as any specific departmental guidelines.
- 7.4 You, together with all employees, have a responsibility to contribute to developing new procedures and to respect them when they are in place.
- 7.5 If you are a member of a professional institute or association, you are also obliged to comply with the professional code and standards of practice relating to that organisation.

## **8 Conduct and disciplinary action**

- 8.1 The Council will use its disciplinary process to deal with any conduct that falls below that expected, if serious. Full details of misconduct and gross misconduct are in the Disciplinary Policy and Procedures, but here are some examples...

**Misconduct** examples could be:

- refusing a reasonable instruction
- unauthorised absence
- abusing the sickness procedure
- failure to report the offer of a bribe or inducement.
- Refusal to carry out reasonable instructions.
- lateness.
- Failure to comply with the sickness absence procedure.
- Failure to perform to standards as set out by City of Lincoln Council.
- Computer misuse or abuse.
- Unauthorised outside employment or self-employment.

**Gross misconduct** examples could be:

- deliberately falsifying time sheets or other records
- disclosing confidential or exempt information
- gross dereliction of duty
- accepting bribes or inducements.
- Theft of Council's, clients' or employee's property or money
- Housing Benefit or Council Tax fraud or deliberate falsification of timesheets or other records.
- Fighting, intimidation or physical assault.
- Deliberate damage to Council's, clients' or employees' property.
- Conflict of interest/failure to disclose other employment or outside interests which could potentially lead to a conflict of interest arising.
- Deliberate disclosure of privileged and/or confidential information to unauthorised people.
- Falsification of particulars on seeking employment.
- Serious negligence which causes or might cause unacceptable loss, damage or injury.
- Serious disregard of health and safety rules.
- Unauthorised removal of Council's, clients' or employees' property.
- Gross abuse or insubordination.
- Bringing the City of Lincoln Council into serious disrepute.
- Criminal activities.
- Breach of suspension conditions.
- Serious incapability whilst on duty brought on by alcohol or drugs.
- Serious breaches of an individual's human rights.
- Serious computer misuse or abuse.

## **9 Outside interests**

- 9.1 Your life away from work is your own concern but you must not put yourself in a position where your job and your personal interests conflict. This includes behaviour which, because of the nature of your employment, would undermine the Council's confidence or trust in you.

- 9.2 An example would be if you are facing criminal charges, regardless of whether these were incurred on or off duty. You must tell your manager immediately particularly if the charges are in any way relevant to your employment, such as drug offences, crimes of violence, dishonesty or driving offences if your job involves the use of a car or Council vehicle. If you are in any doubt about this, consult your line manager.

## **10 Additional employment**

Employees have a duty to take reasonable care of their own health and safety.

- 10.1 The Council will not stop you taking additional employment as long as it does not affect your duties and responsibilities or conflict with the interests of, or weaken public confidence in the Council.
- 10.2 If you are thinking of taking on additional work, you must get permission from your manager beforehand by completing the online Secondary Employment form on City People and we will maintain a record of approval. This conduct rule applies to any employment, paid or unpaid, for example taking up office in an outside organisation. This would include charities such as local community associations.
- 10.3 If you are paid for work which arises principally as a result of your work-related skills, you must not use assets or information belonging to the Council, without getting prior permission from your Assistant Director.
- 10.4 You must also make sure that any customer realises the private nature of the work you are doing, which is in no way connected to the business of Council.
- 10.5 You must declare any income received to Inland Revenue, but you do not have to inform Payroll as well.

## **11 Declaring interests, including financial or other interests in contracts**

- 11.1 If a conflict of interest, or even a potential conflict, arises during the course of business, you must declare it immediately. Management will then consider whether it is appropriate for you to take any further part in the matter.
- 11.2 An example would be a financial or other interest in a contract being awarded by the Council, and may be a direct or indirect interest. An example of a direct interest would be if you or your partner were involved with the contract. Indirect interests can relate to close family members or friends being involved in contracts.

11.3 The responsibility to declare an interest lies with you. If it came to light later, you could be challenged for not disclosing it earlier. You must also consider whether others would consider whether there is a direct or indirect conflict of interest.

If you have any concerns about actual or potential conflicts of interest, discuss them with your line manager straight away.

11.4 When you do declare an interest, it must be recorded in the register of interests held by the Chief Executive's department.

## 12 Political considerations

12.1 Politically restricted posts fall into two broad categories: specified posts and sensitive posts.

### **Specified posts:**

- the Head of the Paid Service (s4 LGHA)
- the Statutory Chief Officers and Non- statutory Chief Officers (Corporate Directors)
- Deputy Chief Officers (Assistant Directors)
- the Monitoring Officer (s 5 LGHA)
- officers exercising delegated powers, i.e. persons whose posts are for the time being specified by the authority in a list maintained in accordance with s 100G(2) of the LGA 1972
- Assistants to political groups

12.2 All these post holders are politically restricted without rights of appeal for exemption to the Local Authority's Standards Committee (in England) or to the Independent Adjudicator to Local Authorities in Wales.

12.3 **'Sensitive' posts.** A sensitive post is one which meets one or both of the following duties-related criteria:

- giving advice on a regular basis to the Council itself, to any committee or sub-committee of the Council or to any joint committee on which the Council is represented; or where the Council are operating executive arrangements, to the executive of the Council; to any committee of that executive; or to any executive councillor who is also a member of the authority.
- speaking on behalf of the authority on a regular basis to journalists or broadcasters.

12.4 These employees may not stand for a political post or engage in certain political activities - such as canvassing or speaking publicly. Other employees are not eligible to stand for office as a member of parliament or of the City Council, but may participate in any county, borough or parish council activities.

- 12.5 As a Council employee you are required to serve the Council, therefore you cannot be accountable to political groups. You should follow the Council's protocol for relationships between members and staff when considering participation in political activity.

### **13 Confidentiality and use of information**

- 13.1 In your job you will come across confidential information. You must maintain the privacy and confidentiality of such information at all times, unless you are expressly authorised to divulge it, or are required to do so by law.
- 13.2 You must not supply information about another employee's private affairs to anyone outside the Council without the consent of the employee, nor to anyone within the Council unless that person has authority or responsibility for such information.
- 13.3 You must not use Council contracts or purchasing arrangements for personal benefit or to benefit any external function or organisation, unless you get written approval from your Assistant Director beforehand.
- 13.4 You must not divulge any business information, for example charge-out rates, unit costs, work plans, quality assurance documents and so on to any third party or use it other than for the purpose of furthering the interests of the Council.
- 13.5 You must not disclose the proceedings of any committee meeting unless you are legally required, or have been authorised, to do so. If you are obliged to disclose information, you must make sure that it is accurate.
- 13.6 If you have any reservations about any request to supply information, refer it immediately to your line manager

### **14 Caring for and using the Council's resources**

- 14.1 You may not use Council resources, whether tangible assets such as materials, equipment and cash or business information such as trade secrets, other than for Council business.
- 14.2 All equipment belonging to the Council should be treated with due care and respect. If you wish to use something or make equipment available to someone else for non-Council business, you must get permission from your manager in advance.

## **15 Computer security and data protection**

- 15.1 The information stored and processed on the Council's information technology systems is of paramount importance to its day-to-day activities. Consequently, it is essential that the data and systems are adequately secured against risks such as operator errors, equipment theft, unauthorised access to or copying of programmes, use of unauthorised software on Council machines - which increases the risk of importing computer viruses - and natural hazards such as fire, flood and power failures.
- 15.2 You must comply with all the Data Protection policy, General Data Protection regulations (which come into force in May 2018), IT Policies and any supplementary guidance which can be found on the intranet in order to ensure that all customer and employee's personal data is protected. You must further comply with the Computer Misuse Act, which seeks to secure computer material against access or modification.
- 15.5 The Council has issued specific guidance on computer security to all employees and you can obtain copies from the IT section of City People.
- 15.6 You must make sure that no unauthorised person gains access to equipment or data that you are responsible for.
- 15.7 You must not disclose your user password to anyone, and should change these regularly.

## **16 Patent and copyright**

### **16.1 Patents**

You must tell your manager about any issue, item or idea capable of being patented under the Patents Act that you develop or discover, on your own or with colleagues, in the course of your duties. Subject to the provision of the Act, anything like this belongs to the Council. It is then the Council's responsibility to decide whether to apply for patent or other protection in law for any such invention.

### **16.2 Copyright**

- 16.2.1 All records, documents and other papers that you compile or acquire in your job relating to the Council's finance and administration are the Council's property together with the copyright.
- 16.2.2 It is your responsibility to be aware of, and not infringe, any third party copyright and take reasonable steps not to allow others to infringe those rights.

16.2.3 However, the copyright will belong to you of any academic work you do, such as projects you do as part of a course to further your professional career, including books, contributions to books, articles and conference papers.

## **17 Accepting gifts and hospitality**

17.1 You must be very careful about accepting any offer of a gift or hospitality but you can accept items of low intrinsic value, such as diaries and calendars, if used at work.

17.2 You can also accept reasonable hospitality, such as a working lunch, but you must record it. You must decline, politely but firmly, anything of greater value or significance - taking care not to give offence by explaining why, as a local government employee, you may not accept. Even when you decline offers, you must record them in the appropriate gifts and hospitality registers. More information can be found in the Gifts and Hospitality guide which is attached to this code.

## **18 Foreign travel**

18.1 You must seek approval in advance from committee for all foreign travel on Council business. Once approved, details of all foreign travel must be recorded in the register maintained by the Chief Executive.

## **19 Promotional sales**

19.1 You must decline offers from companies of promotional sales and tell your manager, who will then inform the Chief Finance Officer. Improved discounts are the only form of promotion that the Council would normally find acceptable.

## **20 Alcohol and drugs**

20.1 Alcohol is not permitted on Council premises, unless specifically approved by your manager.

20.2 The Council prohibits the use, possession, distribution or sale of illicit or illegal drugs at work, or when doing Council business and will report any such activity to the Police.

20.3 We may use the disciplinary procedures to deal with any unsatisfactory performance, attendance or behaviour caused by excess alcohol consumption or by drugs, depending on circumstances.

20.4 We view alcohol and drug dependency problems as medical cases, and managers will provide help, whenever possible.

20.5 Support and counselling is available by way of HR to all employees on this and other issues relating to breaches of this Code of Conduct.

## **21 Smoking at work**

- 21.1 Smoking is strictly prohibited on all parts of the Council's premises, and at City Hall and Hamilton House. The Council has adopted a Smoke Free Policy which can be found on City People. The smoke free policy has extended the smoking ban to include entrances or anywhere on its grounds including car parks.
- 21.2 The policy further states that if employees want to smoke this must take place in their own time either before work at lunch time or after work outside of Council premises and their grounds and this includes whilst on site visits.

## **22 Whistle blowing - reporting criminal offences and poor conduct**

- 22.1 You are expected to report any suspected cases of fraud, irregularity or conduct issues to your manager. The Council has developed a separate whistle blowing policy under which you can disclose information. Any information you provide in good faith will not lead to disciplinary action being taken against you but we will treat any malicious reports very seriously.
- 22.2 If you were identified as participating in fraudulent activities disciplinary action may follow.

## **23 Dealing with the media**

- 23.1 You may only talk to the media as a representative of the Council if you have been specifically authorised to do so. We have specially appointed employees to deal with media enquiries as well as preparing and issuing public statements or press releases
- 23.2 If your comments are required, make sure that they are well considered, sensible, well informed, in good faith, in the public interest, without malice and that they enhance the Council's reputation and status.
- 23.3 Trade Union representatives can speak to the media as representatives of their respective unions. However, this will not be as a representative of the Council.

## **24 Use of Social Media**

- 24.1 The Council respects an employee's right to a private life. However, the Council must also ensure that confidentiality and its reputation are protected, and that its Employees are protected.

24.2 Employees should be aware that social networking websites are a public forum, particularly if the employee is part of a “network”. Employees should not assume that their entries on any website will remain private.

24.3 The Council therefore requires employees using social networking websites to:-

- ensure that they do not conduct themselves in a way that is detrimental to the employer;
- ensure that abuse or defamatory messages are not posted about the Council and/or its employees
- take care not to allow their interaction on these websites to damage working relationships between members of staff and clients of the Council.
- You may be entitled to use social media for investigations into individuals however this must be done in accordance with the Regulatory of Investigatory Powers (RIPA) Policy which is on the intranet.

Any employee breaching the above may be subject to disciplinary action.

## **25. Equality issues**

25.1 Your behaviour should accord with the spirit and the detail of the Council’s Equality and Diversity Policy. We will not tolerate racist, sexist, homophobic and other discriminatory remarks and behaviour. Deliberate discrimination will result in disciplinary action.

## **26. Review of Policy**

26.1 This policy will be reviewed at intervals of three years, or earlier at the request of either the management or staff side.

### **Human Resources Reviews**

February 2018

### **Approving Body & Date**

**Executive** – February 2018

## Gifts and Hospitality Corporate Guidance

### **1 The Purpose of the guidance**

- 1.1 The main reason for having guidelines is to ensure that Councillors and Officers maintain high standards of the Council. High standards are expected of Local Government generally and their maintenance is necessary to uphold the integrity and reputation of the Council.
- 1.2 All Councillors and Officers are subject to the provisions in Financial Regulations relating to Gifts and Hospitality; Officers have further guidance contained within the Local Joint Scheme of Conditions of Service. Councillors will also be subject to a code of conduct adopted in compliance with legislation. The purpose of these guidelines is to re-inforce these provisions.
- 1.3 The third and perhaps most important reason for these guidelines is that failure to comply with Financial Regulations and Conditions of Service can give rise to disciplinary action including dismissal. Criminal proceedings can arise from failure to declare pecuniary interests in accordance with the Local Government Act 1972 and under the Prevention of Corruption Acts.

### **2 Seek advice; be open and honest; apply common sense.**

- 2.1 The Council does not encourage the practice of giving or receiving gifts, even of nominal value. When gifts, hospitality, favours or other benefits are given or received they should pass (at least) the following tests.
  - Is it lawful and ethical?
  - Is it necessary?
  - Is it considered to be of nominal or moderate value?
  - Is it received too frequently?
  - Is it capable (in most cases) of reciprocation?
  - Is it properly authorised and recorded?
  - Could it be interpreted reasonably as an improper inducement?
  - Is it considered appropriate to the business responsibilities of the individual concerned?

They should not be interpretable as an improper inducement, nor be extravagant or too frequent.

- 2.2 There will be occasions when a gift, hospitality or other benefit is offered which is not covered by these guidelines, but which may nevertheless be acceptable. Similarly there will be occasions when hospitality offered appears to come within these guidelines but should nevertheless be refused. These guidelines attempt to cover most areas, but are not meant to be a substitute for judgement and commonsense.

### **3. Potential Conflict between personal and job roles**

- 3.1 It is sometimes difficult to distinguish between personal and job roles. On some occasions an offer of hospitality etc will clearly be personal in that there is no connection whatsoever with your job. On other occasions an offer of hospitality will be clearly made to you in your job role.
- 3.2 However, there is an area in which the two roles merge, particularly with Chief and Senior Officers. It is difficult to give guidance which would cover all circumstances, but the following are examples:
- If an offer of a gift, hospitality, favour or other benefit purports to be personal, the Officer should question whether it would have been made if he or she did not hold their position within the Council. If not, then almost certainly it should be treated as job related.
  - If the person or organisation making the offer has any connection or potential connection (say via a third party) with the Council, the offer should be treated as job related.
- 3.3 If you are in any doubt, the only safe course is to treat the offer as job related; at the very least advice must be sought from a Senior Officer.
- 3.4 If an offer of a gift, hospitality, favour, or other benefit is job related these guidelines must be applied to it.
- 3.5 These guidelines may not cover all types of job related offers; job related offers may on occasion be made outside the normal workplace and out of normal working hours. Councillors and Officers must be alert to job related offers that may not, at first, appear obvious. Job related offers can also be made indirectly by another party or agent, which could be construed as having originated from another source perhaps linked to the Council.
- 3.6 Councillors and Officers of the Council are responsible to avoid any real or apparent conflict between their own personal interests and those of the Council.

### **4. Acceptance of Gifts**

- 4.1 Gifts should not be accepted other than items of very small intrinsic value such as business diaries, calendars or pens which must be used in the workplace.
- 4.2 There are few permissible exceptions to this general rule, but there are occasionally special circumstances such as:

- Civic occasions - From time to time there are civic occasions on which personal gifts may be given to Councillors and Officers. For example, a Councillor or Officer may be given a personal gift by a delegation from abroad which is here as part of a twinning arrangement. To refuse it would cause unnecessary offence. Therefore in such circumstances, it is permissible for the Councillor or Officer to accept the gift provided its value is not excessive. If it is a gift which is not personal, it should be treated as belonging to the Council and dealt with accordingly. The important point is that such matters should be dealt with openly and honestly.
- Unsolicited Gifts of Value - You may receive unsolicited gifts of more than small but still modest value, for example, bottles of spirits at Christmas. If you do, you should consider whether they should be immediately returned, together with a note explaining why you cannot accept. If this is impracticable or would cause unnecessary offence, the gift should be presented for charitable purposes (e.g. the Mayor's Charity), or similar appropriate action taken. In such circumstances tell the donor what you have done and why. In any event, valuable gifts must be returned.

## **5. Acceptance of Hospitality**

- 5.1 Reasonable hospitality may be accepted where it is secondary to a specific working agreement (ie an integral part of a working arrangement). Caution should be exercised where the invitation is predominantly of a social nature unless it falls into one of the exceptions mentioned later in this guidance.
- 5.2 A test which Councillors and Officers should apply in considering any offers of hospitality is that of public scrutiny. Would the acceptance of such hospitality, if made public, be open to misrepresentation or doubt as to the integrity and motives of the provider and the recipient?

Lunches, dinners and drinks - they must be of a small or modest value; extravagance must be avoided.

Civic hospitality - it is permissible to accept Civic or Twinning hospitality provided by other Local Authorities, and similar hospitality provided by other public organisations. On such occasions Councillors and Officers will receive formal invitations and any such hospitality is open and above board. Similarly, it is acceptable if you are invited in your official capacity to represent the Authority at a function or event unless it falls into one of the excluded categories in these guidelines.

Commercial organisations - this is an area which requires utmost care and is divided into two areas:

1. Existing Business

Hospitality provided by a commercial organisation with which the Council has an existing business relationship. In this situation modest hospitality is an accepted courtesy of a business relationship. This is likely to fall into two categories:

- a) The kind which is secondary to the specific Council business.
- b) The kind which is not specifically business related but which is provided for representatives of the Council as a client. It is reasonable to accept this kind of hospitality as long as it is modest unless:
  - The renewal of the firm's contract with the Council is imminent
  - The firm is or is likely to be seeking other contracts with the Council in the immediate future.

However as a general rule business relationships must not become too cosy or too close and a proper distance should be kept; Officers must be able to remain fair and objective in all business dealings.

## 2. New Business

Hospitality provided by a commercial organisation with which the Council does not have an existing business relationship. The general rule must be to refuse. There may be possible exceptions, for example, a local connection such as a firm with its headquarters in the City, which invites leading Councillors and / or Chief Officers of the Council. However, any exceptions must be carefully considered and, if need be, advice sought.

## 6. **Conferences and / or Seminars.**

- 6.1 It is the practice at some Conference / Seminars for the sponsors or interested organisations to provide hospitality / entertainment for those participating generally, it is permissible for Councillors or Officers to accept this kind of hospitality but a distinction needs to be drawn between such hospitality which is generally provided (ie all the participants or a large group of them are invited) and individual hospitality, for example, you alone are invited by a sponsor or firm. The former is acceptable, but the latter is unlikely to be acceptable.

## 7. **Study Trips**

- 7.1 If these are promoted by commercial organisations or involve commercial organisations they should be dealt with as under section 6. Generally you should participate only if the invitation to join is one which is general and not confined to you or a select few.

## 8. **Exhibitions / Demonstrations / Tours of Inspection (premises etc)**

- 8.1 Care should be exercised before accepting offers to visit exhibitions / demonstrations or premises; at the expense of other organisations. If there is a good reason to inspect equipment etc which the Council is considering purchasing then it may be acceptable. Even in such

circumstances you should give consideration to the Council meeting any costs. An invitation which is made to a wide range of people is more likely to be acceptable than one which is made to you alone. Hospitality provided in such cases must not be extravagant. Where hospitality is not required or would appear unnecessary (for example a short visit, made locally) ; this should be made clear before hand.

## **9. Entertainment.**

- 9.1 Generally guidance given above relating to the acceptance of hospitality also applies to the acceptance of invitations coming under the heading of Entertainment, such as invitations at someone else's expense to sporting occasions, theatre trips etc. Generally such invitations should not be accepted unless they can be justified under one of the sections within these guidelines.

## **10. Trips abroad**

- 10.1 If you are invited to go abroad at the expense of someone else (for example, a study visit or conference) and wish to accept you must obtain approval from Committee.

## **11. Pressure Selling / Company Inducements to Purchase**

- 11.1.1 Be aware of the possibility of personal inducements being offered by companies in order to achieve orders for goods. The acceptance of such a personal inducement would lay you open to criminal prosecution and disciplinary action including dismissal. Any such offer should be reported to your Assistant Director or line manager, who in appropriate cases, will alert the Director of Resources and other relevant Chief Officers. Care needs to be taken if the Council still wishes to purchase goods from the firm concerned notwithstanding that the personal inducement has been refused and reported. It would be appropriate for written representations to be made to the firm concerned to make them aware that the practice was unacceptable and should cease.
- 11.2 You should take care where companies offer free goods when placing orders; some companies make it very clear what "free" items are available; verbal offers may also be made at the time of ordering. You should avoid companies that offer personal incentives which are not for the benefit of the Authority and you should report these to your line manager. You should remember that even if goods are described as free, if they are received, they remain the property of the Council.

## **12. Acceptance, Refusal and Recording.**

- 12.1 In any circumstance where a gift, hospitality, favour or other benefit is made, full details must be recorded in the appropriate register.

12.2 Each department maintains a register of all gifts / hospitality offered.  
The entry will include:

- The amount of money, nature of gift, type of hospitality or other benefit offered
- From whom it was offered
- The reason the offer was made
- Whether it was accepted or refused

12.3 Councillors should record the required details in the register maintained by the Chief Executive

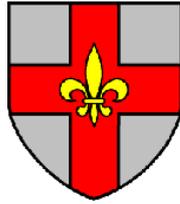
### **13. Review**

13.1 These guidelines will be reviewed to reflect changes in legislation and other developments as and when they occur.

**Human Resources  
October 2014**

**Approving Body & Date  
JCC 13 January 2015**

**Executive 19 January 2015**



## **Smoking Policy**

### **1 Introduction**

- 1.1 The Council recognises that the health, safety and welfare of employees, councillors, any contractors who undertake activities on behalf of the Council on our premises and anyone else directly affected by the council's operations are of prime importance. The Council has therefore developed and enforces a dedicated smoking policy, conforming to the requirements of the smoke-free legislation.

### **2 Application**

- 2.1 This policy is applicable to all employees, councillors and contractors who undertake activities on behalf of the Council on our premises and visitors and customers at City Hall and Hamilton House. This policy and its mandatory application will be communicated to all employees, councillors, contractors who undertake activities on behalf of the Council on council premises visitors and customers.
- 2.2 As part of the Council's induction process, new starters will be told about this policy and shown where it is located. Employees are responsible for informing the visitors and customers that they are serving of this policy.

### **3 Prohibition on smoking**

- 3.1 Smoking is strictly prohibited on all parts of the Council's premises, and at City Hall and Hamilton House this also includes entrances or anywhere on its grounds including car parks.
- 3.2 If employees want to smoke this must take place in their own time either before work at lunch time or after work outside of Council premises and their grounds this includes whilst on site visits.

### **4 Vehicles**

- 4.1 The Council does not permit employees to smoke in company vehicles.
- 4.2 Privately owned vehicles used for Council business are to be smoke free at all times when being used for work related activities.

### **5 Homeworkers**

- 5.1 Homeworkers are not required to refrain from smoking during the course of work that is carried out for the Council in their home, unless they invite others into an area of their home for work purposes.

## **6 Electronic cigarettes**

- 6.1 Although electronic cigarettes fall outside the scope of smoke-free legislation, the Council prohibits the use of electronic cigarettes in the workplace. The Council's rationale for a ban on e-cigarettes is that, some e-cigarette models can, particularly from a distance, look like real cigarettes, making a smoking ban difficult to police, and creating an impression for visitors, customers and other employees that it is acceptable to smoke on council premises.
- 6.2 This ban will also extend to the charging of electronic cigarettes on Council premises.

## **7 Signage**

- 7.1 The Council displays signs that make it clear that smoking is prohibited on its premises.

## **8 Assistance for employees to give up smoking**

- 8.1 The Council recognises the difficulty that employees who wish to give up smoking may face, and will support employees who wish to stop smoking.

## **9. Non-compliance**

- 9.1 Any infringement of these rules by an employee may result in appropriate disciplinary action, which will be dealt with in accordance with the Council's Disciplinary Policy.
- 9.2 Customers who are smoking in smoke-free areas should be reminded of the no-smoking signs and asked to stop.

## **10 Review**

- 10.1 This policy will be updated to accommodate legally binding changes, and reviewed every 3 years or at the request of Management or Trade Unions.

### **Approving Body & Date**

**JCC 5<sup>th</sup> August 2014**

**Executive 22<sup>nd</sup> September 2014**

## **Probity in Planning: Code of Practice**

**A guide to procedures and protocol for Councillors and Officers involved in making decisions on planning applications and other planning matters.**

## **1. PREFACE**

- 1.1 The Code has been prepared for the guidance of Councillors and officers, having regard to the recommendations of the Nolan Committee, guidance prepared by the Local Government Association, the National Code of Conduct for Councillors, and the Royal Town Planning Institute Code of Conduct for Chartered Planners. The Code also takes account of the Government's proposals for a new ethical framework for Local Government.
- 1.2 The intention of having this Code is to enhance openness, propriety and accountability in serving the planning role within the Authority. The Code is intended to ensure there is fairness and impartiality in decisions made by the Authority and that the public clearly see this to be so. The planning role includes determination of planning applications; policy-making decisions relating to the development plan; the making of tree preservation orders and enforcement issues. Planning issues will usually be determined under the scheme of delegation or at the Planning Committee.

## **2. INTRODUCTION**

- 2.1 Planning Authorities make statutory decisions which can have a considerable effect on the value of land and on the lives and amenities of people living near development sites. The principles upon which decisions must be made are set out in national Planning Policy Guidance Notes, and in statutory County Structure Plans and Local Plans. The Town and Country Planning Act requires decisions to be made in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 2.2 However, many planning decisions depend to a greater or lesser degree upon judgement and interpretation of policies and guidance. It is therefore essential that decisions are made having regard only to proper planning considerations and are made impartially and in a way that does not give rise to public suspicion or mistrust.

## **PART 1 : CONDUCT OF COUNCILLORS AND OFFICERS**

### **1. Voting and Impartiality**

- 1.1 Councillors should vote in the interests of the whole District. Their overriding duty is to the whole community, rather than just the people living in their Ward.
- 1.2 Members of the Planning Committee must not declare which way they intend to vote, in advance of the consideration of an application by the Committee. To do so would in effect be pre-judging the application and expose the Council to the possibility of legal challenge or charge of maladministration. Members must not make their minds up until they have read the relevant Committee reports and heard the evidence and arguments on both sides.
- 1.3 If a Member of the Committee does declare his or her outright support or opposition for a proposal before the matter has been put before the Planning Committee where that Member would be entitled to vote, he or she must make an open declaration of their view to the Committee and take no part in the voting on that particular item. This does not mean that Members of the Committee cannot make a comment or reflect local concerns about a proposal before it is considered by the Committee. But the view or comment must not pre-determine or be seen to pre-determine the way that Members will vote.
- 1.4 Also Members of the Committee should not organise support for or against a planning application and should not lobby other Councillors since this would also signal that they had made up their mind before hearing the evidence. Each Member should make up his or her own mind on the evidence and facts presented to the Committee. (See Section 7 re lobbying).
- 1.5 Councillors must not favour or show bias against any particular person, company or group, or any particular site or locality. They should not put themselves in a position where they may appear to do so.

### **2. Gifts and Hospitality**

- 2.1 Councillors must not accept any gift or hospitality (other than minor refreshments) and must record all 'offers' of hospitality whether or not accepted, in a Hospitality Book kept at the Council Offices by the Chief Executive.

### **3. Independence and Impartiality of Officers**

- 3.1 Councillors should not instruct Officers to take a particular course of action or make a particular recommendation other than through a decision of the Council or one of its Committees. Officers must always

act impartially and advise the Council of their professional opinion. Chartered Town Planners must abide by the Royal Town Planning Institute's Code of Professional Conduct. Chartered Town Planners may only advocate their own professional view and cannot be required to attend or advise party political meetings.

- 3.2 Whilst Chartered Town Planners appearing as the Council's expert witnesses at Planning Inquiries have a duty to set out the Council's case, they must, if asked, give their own professional view in accordance with the Royal Town Planning Institute's Code of Professional Conduct.

#### **4. Declarations of Interests**

- 4.1 Members must always declare personal interests in accordance with the Members Code of Conduct. If in doubt an interest should be declared. It is the duty of each Member to declare an interest and also to advise the Chief Executive of any new interest which must be added to the Register of Members Interest.
- 4.2 Personal interests are defined in paragraph 5 of the Members' Code of Conduct.
- 4.3 Declaring a personal interest does not debar a member from speaking and voting, unless the interest is also a pecuniary interest.
- 4.4 Pecuniary interests are defined in paragraph 9 of the Code of Conduct for Members. The test is whether a member of the public with knowledge of the relevant facts would reasonably regard the interest as so significant, that it is likely to prejudice the member's judgement of the public interest.
- 4.5 Interests should whenever possible be declared at the beginning of a meeting. At the very latest, interests should be declared before the item to which they relate is considered. If it only becomes apparent during consideration of an item that a member has an interest in it, he or she should declare it as soon as it becomes apparent. Whenever a matter in which a member has a pecuniary interest is under consideration, he or she must withdraw from the room, and must not attempt to improperly influence the committee's decision in any way.

#### **5. Involvement of Councillors with Applicants**

- 5.1 Members of the Planning Committee should not act as agents, or submit planning applications for other parties or voluntary bodies. To do so would give rise to suspicion that the Member was not impartial or may influence other Members in the decision making process. Any Member who is a planning or similar agent should not be appointed to the Planning Committee.

- 5.2 Where Councillors need to submit planning applications on their own behalf, or on behalf of their employer as part of their job, they must declare an interest and take no part in the processing of the application or in the decision making process. Decisions on any proposals submitted by or relating to land owned or controlled by a serving Councillor should only be determined by the Planning Committee (or Full Council).
- 5.3 The same rules apply if a Councillor's employer submits an application, irrespective of whether the Councillor is involved in the application, its preparation or submission.

## **6. Council Development Proposals**

- 6.1 The Council's own proposals for development must be dealt with on exactly the same basis as applications submitted by members of the public. Officers must make recommendations having regard only to proper planning matters and must not have regard to any other benefit, financial or otherwise, which may accrue to the Council as a result of any particular decision on a planning proposal.

## **7. Lobbying of Councillors and Circulation of Unofficial Information**

- 7.1 Lobbying is an attempt to influence a Councillors view in order to achieve a particular decision. It is a normal part of the political process but where Councillors are making statutory decisions, such as planning decisions, it can result in decisions being made improperly. Planning decisions must be made strictly on the basis of the facts and policies relating to each case. Members must not only act in a way that is fair to all parties but must be seen to do so. In particular Members must not prejudge proposals before they have read the officer's reports and considered all the evidence.
- 7.2 Lobbying can take two forms:
- Lobbying of Councillors by applicants, agents or objectors.
  - Lobbying by other Councillors.

Lobbying may be verbal or by the circulation of letters or documents to all or some Councillors.

- 7.3 It can cause particular problems if Members are given information or assurances by applicants, which are not part of the formal application or proposal and which are not therefore enforceable. Problems can also arise if Members are given information by objectors which may be misleading, untrue or irrelevant. It is also problematical if officers are unaware of submissions by applicants and objectors and are therefore unable to consider them and advise the Committee about their relevance or enforceability.
- 7.4 Circulation of unofficial papers at a Committee meeting also constitutes lobbying. Planning applications must be determined on the basis of the documents and information formally submitted. Only submissions from applicants, agents or objectors, which are formally

received by the Department of Planning can properly be taken into account in making a decision. The Committee could be materially misled if Members or other parties circulated 'unofficial' documents or introduced new information on behalf of an applicant or objector, or expressed what they believed to be an applicant's intention, if this did not form part of the application documents and correspondence which had been submitted to the Department of Planning. (See also Appendix 1 Committee Procedures).

## **8. Ward Member / Planning Committee Member**

- 8.1 Members serving on the Planning Committee and deciding planning applications will be contacted by applicants or objectors. A Councillor's role as a Ward Member is quite distinct from that as a member of the Planning Committee. It is appropriate, therefore, that a Ward Member not sitting on the Planning Committee is able to take a view if convinced of a particular argument. She/he would, therefore, be able to take an advocacy role, either for or against a proposal, and with the Committee's approval present it accordingly. Any member wishing to act as an advocate in respect of a planning application must inform Democratic Services by 4pm on the day before the meeting.

## **9. Political Decisions on Planning Applications**

- 9.1 Decisions on planning applications must not be taken in political group meetings prior to a Committee meeting. The view of the Ombudsman is that 'the use of political whips at group meetings is contrary to the National Code and amounts to maladministration.' It could also give rise to a legal challenge of any decision by Judicial Review.

## **PART 2 : THE DECISION MAKING PROCESS**

### **1. Pre-Application Discussion**

- 1.1 Councillors should not, themselves, seek to advise applicants or agents about the likely acceptability of planning proposals. They should advise prospective applicants to contact the appropriate Officer for advice on both merits and procedures. If Councillors do give an indication of their initial reaction to a proposal they should make clear that they will only be in a position to take a final decision after having considered the officer's reports and any representations, and heard any debate at the Committee meeting.
- 1.2 Councillors must not have discussions with applicants or agents in connection with major or contentious proposals or enter into negotiations about such proposals either prior to or after the submission of an application, unless at least one Professional Officer is present. Such meetings must be arranged through the Chair of the Committee who will ensure that the appropriate officers are present.
- 1.3 A note will be taken of any such meetings held. This will be put on the office working file and will constitute a Background Paper for the purposes of the Access to Information Act. The fact that Councillors have discussed any such proposal with the applicant or objectors must

be made clear when the application is before the Committee for determination.

## **2. Reports to Committee**

- 2.1 Officer reports to Committee should be concise, clear and accurate, avoid the use of jargon, and cover all the relevant policies, considerations and issues, the views of consultees and objectors. Members must have regard to any planning policies or national advice e.g. PPG's, referred to in officers' reports. Reports should contain a clear written recommendation.
- 2.2 All relevant information, material to the decision to be made, which has been received prior to 16:00 on the working day preceding of the meeting, will be summarised in an 'Update Sheet' circulated prior to the meeting commencing. Information received after 16:00 on the working day preceding the meeting will not normally be reported or taken into account.
- 2.3 Amended plans and additional information of a substantive nature submitted to overcome an identified objection can only be taken into account if they are received in time for the amendment to be properly assessed by the Council's Officers, this will be a minimum of 5 working days prior to the committee meeting. A further site inspection or further consultations may be necessary. Only minor amendments can be taken into account after the Agenda has been printed.

## **3. Decisions Called In for Determination by Committee**

- 3.1 Where Members wish an application to be determined by the Committee rather than through powers delegated to the Strategic Director of Communities and Environment, members must complete a pro forma supplied by the Strategic Director of Communities and Environment giving clear reasons for the request and identifying full and clear planning reasons for "calling in" the application.

## **4. The Committee's Decisions**

- 4.1 The Committee's decisions must be in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. Where Members propose to make a decision contrary to the officer recommendation, the proposer must set out clearly the reasons for so doing. The Chair will ensure that the planning officer is given an opportunity to comment before a vote is taken.
- 4.2 Any decision contrary to the provisions of the Development Plan or officer recommendations must be clearly justified and recorded. The personal circumstances of an applicant will rarely provide such grounds.
- 4.3 There should be good and substantial planning reasons which need to be formulated and recorded as reasons for refusal of planning applications, contrary to officers' advice. Members should be aware that in the event of an appeal, an order for costs could be made against the Council for unreasonable behaviour in, for example, failure to substantiate reasons for refusal, or failure to take into account relevant policy statements, and in the matter having to be determined by the Inspector or the Secretary of State.

- 4.4 In the event of an appeal against the refusal of permission Members should have an opportunity to support the Council's case, irrespective of whether or not the decision was contrary to recommendation. Where a refusal is against recommendation and is subject to an appeal, then it may be appropriate in certain instances for a Member or Members to form part of the team representing the Council at any subsequent hearing or inquiry.

## **5. Councillors Invited to Committees**

- 5.1 Any Ward Member, not on the Planning Committee, who is invited to address the committee in respect of any application shall be aware that the committee will only take into account any material planning considerations in determining the application. Furthermore, that Members shall be required to comply with this Code of Practice in addressing the committee.

## **6. Public Speaking on Planning Applications**

- 6.1 National guidance and indicators encourage Local Authorities to enable applicants for planning permission or their representatives, and objectors or their representatives, to be given the opportunity to attend the Planning Committee to express their views on planning applications.
- 6.2 In accepting the principles of public speaking on planning applications, the Council wish to ensure that the enhanced role of non-regulatory committee members is recognised. Such members are best placed to act as advocates, either for or against proposals, and speak on behalf of the local community. Further guidance will be provided on public speaking on planning applications and will be appended to the Code of Practice in due course.

## **7. Committee Site Visits and Deferrals**

- 7.1 The decision on any application should not be deferred without proper justification. Justification for deferring a decision might be to ensure that all the proper consultation procedures have been followed, or to secure amendments, without which the application would have to be refused. However, where an amendment would be significant a fresh application should be requested since re-consultation/re-notification of interested parties will also be necessary.
- 7.2 Any requests for Committee site visits must be justified in planning terms. The reason for deferring for a site visit must be clearly set out by the proposer and recorded in the Minutes.
- 7.3 Site visits must be carried out in accordance with the Council's agreed procedures (see separate procedure note - Appendix II). Applicants, agents, objectors or other parties will not be allowed to make representations at a site visit.

## **PART 3 : ADMINISTRATIVE MATTERS**

### **1. Member Training**

1.1 In accordance with Council policy, all Councillors are required to attend annual training sessions. Members who do not participate in training will be excluded from voting on planning matters. Members will be given regular updates to keep them informed of important changes in legislation, procedures or practices either verbally, at meetings, or as briefing notes (for example in the Members Information Bulletin).

1.2 A record will be kept by the Chief Executive of the training undertaken by each Member. The Monitoring Officer will be advised of any Member who fails to meet the training requirements determined by the Council.

## **2. Record Keeping**

2.1 The planning application files should contain sufficient information itemising events so that the reason for the ultimate decision can be understood by anyone who reads the file without a detailed knowledge of the application. However, only 'Background Papers' as defined in the Access to Information Act, are automatically available as of right to third parties. This would include in addition to the application documents and associated letters, and supporting information, replies from consultees and letters from objectors.

## **3. Monitoring of Decisions**

3.1 The Planning Committee will monitor planning decisions taken, on an annual basis, both in terms of quality and consistency.

3.2 A review of decisions will take place each year (normally in June). This will include a sample of a broad range of categories of applications and sample appeal decisions, enforcement cases and, where appropriate, Listed Buildings and advertisements. The results of the monitoring will be summarised and reported to the Committee along with any recommendation to improve quality, consistency or performance. The monitoring report will also be submitted to the Performance Scrutiny Committee.

## **4. Monitoring of Appeals**

4.1 All notification of appeals against refusal of consents will be reported to the Planning Committee for comment and consideration of Member involvement.

4.2 All notification of appeal decisions, including any awards of costs, will be reported to the Planning Committee. The Performance Scrutiny Committee will also receive regular reports on appeals and the decisions thereon.

## **5. Complaints**

5.1 Any complaints received in writing about the way in which a planning application or other planning matter have been dealt with in terms of procedures or fairness, will be investigated under the Council's Complaints Procedure. The fact that someone may disagree with the decision the Council has reached is not a complaint which will necessitate investigation as such, although officers will endeavour to explain the reasons for the Council's decision in any particular case.

- 5.2 Where any complaint about a Council decision made contrary to the officer's recommendation is received, a copy will be forwarded to the Chair of the Committee.

# **Probity in Planning: Code of Practice - Appendix I**

## **Planning Committee Procedures**

This note sets out the procedures to be followed by the Council's Planning Committee in determining planning applications. These procedures have evolved in order to ensure that most applications can be determined within the handling targets set by the Government, whilst at the same time ensuring that Members have before them all relevant information and responses.

Local Planning Authorities are judged nationally on the percentage of applications they are able to determine within set timescales. Any applications deferred by the Committee will therefore have a significant effect on the Council's overall performance figures, and could contribute to the risk of the Local Planning Authority being put in 'special measures'.

### **1. Standing Orders**

The Council Procedure Rules will apply to the conduct of business, unless suspended by resolution of the Committee. Any suspension of Council Procedure Rules shall be for the duration of the discussion of the specified item(s) under consideration only.

### **2. Decisions on Items in the Planning Report**

The Chair will call each item in the report. No vote will be taken at that stage unless a proposition is put to alter or amend the printed recommendation. Where a proposition is put and a vote taken, the item will be decided in accordance with that vote. In the case of a tie where no casting vote is exercised the item will be regarded as undetermined.

At the end of the Planning Report on all applications the Chair will put a proposition that the report and recommendations therein, with the exception of any items previously voted upon (including those items that remain undetermined) be adopted, and that the wording of any new or amended conditions or reasons for refusal be delegated to the Chief Planning Officer.

### **3. Expiry of Representation Periods**

In order to avoid unnecessary delay in determining applications some applications may be reported to Committee prior to the expiration of the formal consultation/notification period. However, no decisions will be issued until the relevant period has expired.

In cases where recommendations are headed "Subject to no contrary representations being received by .... [date]" a planning permission will not be issued where representations are received within the specified time period which relate to matters not previously raised. The application with the representations received within the prescribed consultation/notification period will be presented to the next available meeting of the Committee for determination.

#### **4. Update Sheets**

Any information received after the preparation of the planning report, which is relevant to the determination of an application will be summarised on an update sheet circulated immediately prior to the commencement of the meeting, provided that such information is received by the Planning Department by 16:00 on the working day preceding the Committee Meeting. Information or documents received after 16:00 on the working day preceding the meeting will not normally be reported or taken in account.

#### **5. Amended Plans**

Amended plans received after the preparation of the printed Committee Report will not normally be able to be taken into account in determining an application, unless they are able to be checked carefully by the Council's officers, and involve only minor changes to a proposal which would not necessitate re-consultation to neighbours or other interested parties.

Amended plans seeking to overcome a reason for refusal of an application set out in the printed Committee papers will rarely be able to be taken into account, since there will be insufficient time for officers to assess the proposals and carry out consultations.

In such cases the Committee should normally determine the application as submitted and, where appropriate, advise the applicant that a fresh application should be submitted.

#### **6. Deferments and Site Meetings**

Decisions on applications should not be deferred by the Committee, unless it is to enable information to be obtained which has not previously been requested, or where Members feel that they are unable to accept the officer's advice without assessing a proposal on site.

The reasons for a deferment should be clearly set out by the proposer and recorded in the Minutes. Applications should not normally be deferred to request or consider amended plans since re-assessment, re-notification and re-consultation will normally be necessary, which ought to be secured by means of a fresh application.

NB The protocol for the Members Site Visits is set out in Appendix II.

#### **7. Statements by Members at Committee**

Members should not seek to report to the Committee information they may have been given or told by applicants or a third party, which has not been submitted to the Planning Department in connection with the application under consideration. To do so could lead to the Committee being materially misled, and it may be that such hearsay information, if submitted in advance, would have resulted in officers recommending planning conditions or restrictions in a legal agreement.

#### **8. Clarification and Correction of Information by Officers**

Where statements are made by Members at a Committee meeting in relation to any particular application, the Chair of the Committee should give the Officers present the opportunity to seek clarification, or to comment upon or correct anything which has been said, prior to the item being put to a vote.

#### **9. Circulation of Unofficial Documents at Committee**

The only documents which may be taken into account in determining a planning application are those submitted formally to the Planning Department, in connection with the application under consideration.

Councillors, applicants or third parties must not circulate other papers to Members in the Committee Room/Chamber, prior to or during the meeting. All documents need to be seen by the Council's officers prior to 16:00 on the working day preceding the Committee Meeting, so that they can be properly assessed and incorporated in the 'Update Sheet.'

Taking into account letters or documents which have not been submitted as part of the application could result in the Council's decision being challenged.

#### **10. Declaration of Letters and Documents Received by Members**

Any Member receiving a letter from or on behalf of an applicant or third party, in connection with an application before the Committee, should establish whether the letter has first been formally submitted to the Council (via the Planning Department), and if not the Member should declare receipt of such letter or document to the Committee prior to any decision being taken on the application.

#### **11. Decisions Contrary to Officers Recommendations**

Where a proposition is put contrary to the officer's written recommendation (or amended recommendation on the Update Sheet) the proposer must set out clearly the planning justification in support of the proposition and, as appropriate, the proposed reasons for refusal or the principal conditions to be imposed.

The final formal wording of reasons for refusal and planning conditions shall be delegated to the Strategic Director of Communities and Environment to determine, and shall appear in the official Minutes of the Meeting reported to the Council.

#### **12. Background Papers**

For the purposes of Section 100 (d) of the Local Government (Access to Information) Act 1985 all consultation replies listed in the planning report, along with the application documents and any accompanying letters or reports submitted by the applicant, constitute Background Papers which are available for inspection following publication of the Committee report, unless such documents contain Exempt Information as defined in the Act.

**CITY OF LINCOLN COUNCIL**

**PLANNING COMMITTEE**

**SITE VISITS CODE**

## **1. Introduction**

- 1.1 This Code has been prepared following recommendations from the Probity in Planning Audit 1999/2000. The recommendations from that report sought ground rules for transparency to be established and for a site visit code.
- 1.2 This code therefore covers the procedures to be followed when a site visit is required or requested; circumstances when site visits may be necessary; arrangements for and attendance on visits; protocol covering conduct on site through to final decision.
- 1.3 Much of what follows is generally already followed as standard in Development Control but it has not, to date, been recorded as a standard procedure. Based upon the District Audit recommendations and agreed actions, this code is for inclusion into the Planning Code of Conduct - which has been dependent on Corporate progress following national requirements for a general code for Members of the Council. The Planning Code of Conduct was described as being a need for a clear statement to stakeholders about what to expect from decision makers.

## **2. The decision to hold a site visit**

- 2.1 The general philosophy behind the Scheme of Delegation and reporting to Committee is that Committee considers only those applications where any one of the following apply:
  - a] a planning related objection is received and there is a recommendation to grant,
  - b] the application is contrary to Plan policy or adopted guidance and there is a recommendation to grant,
  - c] the application site has a significant or controversial planning history or Committee consideration history.
- 2.2 When an application comes to Committee, the written report should clearly set out all material facts, assessment and recommendation.
- 2.3 Notwithstanding the desire to improve presentational techniques at Committee to reduce the need for site meetings there will still be occasions where a visit is desirable and necessary. Whilst these have traditionally been triggered by a Committee decision having considered a report leading to a recommendation it is clear that this route adds delay to the process. If there is a clear understanding that a site inspection is going to be necessary to help the consideration and determination of a proposed development then, with the approval of the Chair, Members or Officers will be able to suggest that a site visit takes place. An example of this may be to understand the complexities of issues associated with a Masterplan which need to be fully understood within the townscape context.
- 2.4 In view of the overall target of determining all applications within 8 weeks, and the local Performance Indicator of recording and monitoring reasons for delay - site visits should be restricted to those matters where it appears essential and a case can be recorded

sufficient to justify the delay if a deferral and site visit would take the application determination period outside of 8 weeks.

- 2.5 Most often, the reasons for a site visit have been given as Members needing to familiarise themselves with site distances or relationships on contentious proposals when the considerations appear to be weighted evenly or when objections need to be assessed on the ground and for Committee to seek a compromise in a direction which may not have been considered before.
- 2.6 The recorded reason for an inspection should give a clear brief for the site visit to inform the applicant and interested parties, and to indicate any additional Officers which are required to attend.
- 2.7 Delays attributed to deferrals for site visit is less than 3% of out of time applications for the period Jan to June 2001. In that period, 75% of decisions were delegated and therefore were not determined by Committee.

### **3. Checklist for arranging Committee site visit**

- 3.1 The applicant/agent should be advised in writing of the decision to hold a site visit and of the recorded reason. A target should be established that this letter will be despatched [e-mail] within a defined number of days following the Committee decision.
- 3.2 Similarly, consultees who have expressed an interest [objected] to the scheme, or who may have requested that the Committee hold a site visit should receive notification within the same timescale.
- 3.3 Both the applicant and 'objectors' letters should contain, mostly standard, paragraphs - as appropriate, setting out the following:
  - ◇ date, time, reason for site visit [normally 4.15pm on the afternoon of the next scheduled meeting although in winter months an earlier time will be necessary to ensure sufficient daylight].
  - ◇ requesting permission to enter site [with their confirmation in writing.
  - ◇ how the visit will be conducted [see para.4].
  - ◇ that Committee may wish to see the site from a particular vantage point [objectors' house] and would it be convenient etc.
  - ◇ that it is not expected that Committee will wish to hear from either side on the pro's and con's of the of the application, but they may have factual questions for them.
- 3.4 Any additional Officers to attend, which had been identified by Committee, should receive confirmation of arrangements.
- 3.5 Officers will be responsible for ascertaining any particular Health and Safety requirement i.e. protective clothing and providing it.
- 3.6 Final arrangements, confirmation of permissions, any special entry arrangements will be confirmed by the Case Officer by a telephone call a few days before the scheduled visit.

3.7 On multiple site visits, the Chief Development Control Officer in consultation with the Chair will agree the order of inspections, intended purely to achieve the most efficient route between sites.

#### **4. Procedure on site**

4.1 Members have traditionally made their own way to the site visit. Where additional arrangements are necessary to transport the Committee 'en bloc' the Chief Executive will arrange coach hire.

4.2 The visit is 'chaired' by the Chair of the Committee but it is not a formal meeting. Formal considerations of the application are undertaken in Committee at the public meeting to follow.

4.3 The Chief Development Control Officer, out of courtesy, advise the applicant/agents that a visit is taking place. That Officer will also, at the conclusion of the visit, advise the same that the meeting is finished. Will also go to any other properties who might have been expecting a visit - to let them know that, for example, Committee have left and they chose not to go to other properties.

4.4 Generally, the CDCO would introduce item to assembled Members, recount application, objectors, reason for visit and be able to answer any questions.

4.5 Under the leadership of the Chair, Members endeavour to stay together so information can be shared by all.

4.6 Applicant or other interested parties may listen to the proceedings. There should be no communication between Members and these parties, in common with formal meetings, unless the Members have questions for them which are necessary to attain facts not opinion.

4.7 There are occasions when applicant will need to accompany the group around a site at all times [Health & Safety] and Officers will ensure all necessary Risk Assessments are in place. Refer to para 6.

#### **5. After the site visit**

5.1 Consideration of the application the subject of a site visit will follow at the Committee meeting immediately after the visit.

5.2 An existing Officer recommendation would not normally have changed between the resolution to undertake a site visit and the finalisation of the report to be considered following the site visit.

5.3 Due to the compact nature of the City of Lincoln and detailed knowledge by Members of the City it is reasonable for Members to decide what role they can play in the decision making process if they have not been able to attend the site meeting. Each Member must exercise discretion when, because they feel insufficiently informed, to take a reasonable and active role in the determination.

5.4 The debate and resolution on the application, the subject of the visit should, in the minute, record the reason for the visit and the debate and decision which followed it at the committee meeting.

## **6. Health & Safety (Independent Visits)**

- 6.1 If a councillor is unable to attend the committee site visit for any reason and chooses to access the site independently where the site can be viewed from a public area, he/she should adhere to the protocol established for site inspections respecting the principle that no communication takes place with other parties.
- 6.2 Where a visit requires access to a site beyond a public area independent site visits should not be carried out. To do so would raise probity issues and potentially places the councillor at a Health and Safety risk

# Protocol on Public Speaking

## COMMENTING ON PLANNING APPLICATIONS AND PUBLIC SPEAKING AT PLANNING COMMITTEE

### 1. YOUR CHANCE TO COMMENT

Finding out what members of the public think about new development and planning applications, is a fundamental part of the Development Control Service. The City Council aims to consult as widely as possible, in order that the views and opinions of local citizens can be considered when the City Council is determining whether planning permission should be granted or not.

In addition to consulting the general public, the City Council also has a responsibility to consult a range of statutory consultees. These can include:

- Highway Authority
- Environment Agency
- English Heritage
- Anglian Water

Anyone can comment on a planning application. The plans and other information submitted as part of the application are available to be viewed at the reception of the Planning Department in City Hall.

- You can comment in writing, by e-mail, by fax or on audio cassette tape. We cannot accept formal comments over the telephone as they could be misinterpreted.
- There will always be an officer to help you at Planning Reception, but if you need to speak to a Planning Officer you may need to make an appointment.
- You may also wish to discuss your concern with your Ward Councillor, who may wish to support your objection in writing.
- If you are genuinely unable to come and see the application e.g. you are unwell or infirm, contact the Planning Officer who will be able to send you the plans or visit you.
- We will disregard any objections and comments containing racial abuse or racist views or defamatory comments.

#### Relevant Comments

When making decisions on planning applications, the Council can **only take into account relevant planning matters.**

These include whether:

- The proposed use is a suitable one for the area.

- The appearance and size of the new building is in keeping with the surrounding area.
- The external alterations are in character with the existing property
- Adjoining properties will be overshadowed or overlooked, or will suffer a loss of privacy.
- There will be any increase in noise and disturbance e.g. from extra traffic or other activities (but not associated with the construction works).
- There is adequate car parking.
- The new roads and access are safe for road users and pedestrians.
- Any advertisement would be too brightly lit or out of scale with its surroundings.
- The proposal accords with planning policies contained within the City of Lincoln Local Plan.
- The proposal takes proper account of the effect on established trees which have amenity value within the site.

We cannot take into account:

- × Loss of your view.
- × Boundary and other disputes between neighbours.
- × Loss of trade from individual competing companies.
- × Loss of value to your property.
- × Moral objections e.g. to betting shops or amusement arcades.

All relevant comments will be taken into account when reaching a decision on a planning application and will be recorded on the planning application file (which is a public document available for anyone to look at).

### **Delegation**

Not all applications are considered at Committee. Only those where:

- the application is recommended to be granted and objections have been received
- Councillor asks for the application to be considered at Committee
- the decision is finely balanced

The same criteria will apply to those applications which have a request for someone to speak on them. Therefore a request to speak will not necessarily guarantee that the application is considered at Committee.

## **2. PROCEDURES AT COMMITTEES**

We support public debate about planning applications and allow for the principle that people may be better able to communicate their views if they are not limited to making comments in writing. For those applications considered at Committee, public speaking allows those directly affected by the planning process a chance to have their say.

The remainder of this leaflet answers a number of basic questions about how the system for public speaking at Planning Committee works at the City of Lincoln Council.

### **Who can speak?**

A member of the public or their spokesperson who wishes to object to or support an application will be given an opportunity to do so providing the arrangements set out below are complied with. An applicant or agent appointed to deal with the application will be given the opportunity to reply to an objector's presentation.

- Public speaking will only be permitted where you are the applicant or agent or your comments have previously been submitted in writing within the consultation period (or in another approved form – see above) and the procedure for registering to speak has been complied with.
- The Democratic Services Officer must be notified by 4pm on the Tuesday immediately preceding the Committee meeting in either writing, e-mail, fax or by telephone. You must leave your name, address, a daytime contact number and details of the application. You must also indicate what your interest in the application is.
- The number of people permitted to speak will be limited to one from each side (i.e. either in objection or support). Where several people wish to speak on an application, the Chair will require that a spokesperson be appointed to represent the issues of the supporters or objectors as the case may be.
- If a member of the public speaks in support of an application or is objecting to an application, the Chair shall allow one member of the public a right to reply even if that member of the public has not given prior notice of their right to speak.
- No member of the public will be permitted to speak for longer than 5 minutes. Those people addressing the Committee will be advised when they have one minute of their allotted five minutes remaining. They will have to cease talking immediately on being advised that the five minutes are up.
- No member of the public shall distribute any photographs or other documentation at the committee meeting or raise any new issues.

If consideration of the application is deferred for any reason members of the public wishing to speak will be able to do so either at the meeting when the proposal is first considered or at the meeting following the deferral, or both.

*Any Councillor may speak at Committee on behalf of the community either in support of a proposed development, objecting to it or, indeed setting out both points of view. They may then not be involved in voting for or against the proposal. These speakers will also not be permitted to speak for longer than 5 minutes.*

### **3. ORDER OF BUSINESS**

The Chair will open the meeting and invite Councillors to declare if they have an “interest” in any item on the agenda. The order set out in the written agenda will be followed as far as practicable but efforts to accommodate applications with speakers present will be taken.

- The Chair will introduce each item and advise the meeting of the recommendation.
- The Planning Officer will advise the meeting of any new relevant information and then the Chair will invite the speakers (including members) to present their views.
- The Committee will then consider the application and ask questions of the Planning Officer who will be allowed to make concluding remarks.
- The Committee will then vote on any proposition or amendment which is moved and seconded. The Chair will clearly communicate the decision to committee members, members of the public and others present, i.e. the press.

Members of the Committee will not speak or vote on any matter on which oral representations have been received from or on behalf of the applicant or any member of the public unless they have been present throughout the presentation of all such representations.

# Code of Practice on Publicity for Planning Applications

Approved by the Planning Committee on 14 September 2016.

## **INTRODUCTION TO THE CODE**

The planning system involves taking decisions about the use and development of land in the wider public interest having regard to the Development Plan, National Planning Guidance and other material considerations. Planning can be highly contentious because its decisions affect the daily lives of individuals, landowners and developers. This is heightened by the openness of the system and legal nature of Development Plans and decision notices. In considering planning applications and reaching planning decisions the requirements of the individual whether the applicant or a neighbour, have to be balanced against the broader public interest.

This is the Code of Practice of the City of Lincoln Council for publicity for applications made under all the Planning Acts. It is a local code, based upon local circumstances and it describes, in those areas where there is discretion over the manner in which planning applications are advertised in a locality, what the policy of this Local Planning Authority will be. This Code of Practice is designed primarily to assist officers in the Planning Service so that any elected Members, applicants, developers and interested members of the public can see the guidance that officers are working to.

The responsibility for advertising planning applications falls to local planning authorities (i.e. City of Lincoln Council). These legislative requirements for publicity can be found at <http://planningguidance.communities.gov.uk/blog/guidance/consultation-and-pre-decision-matters/>. This Code is, therefore, largely concerned with the notification to neighbours of the receipt of a planning application and its publicity in a locality. Because the discretion is restricted by the planning legislation, this Code could be the subject of change if the legislation changes.

It is vital that the consultation process is consistent, as the level of publicity given to applications is often under scrutiny by the public and by Members.

## **DEVELOPMENT DEFINITIONS USED IN THIS CODE**

### **'Primary Application'**

Developments which require or are accompanied by an environmental statement; applications which represent a Departure from the Development Plan or applications which affect a public right of way.

### **'Major' Applications**

Developments which involve 10 or more houses or where the site area is greater than 0.5 hectare (1.24 acres); and in other cases where 1,000 sq.metres (10,700 square feet) or more of floorspace is created or where the site area is 1 hectare (2.47 acres) or more.

### **'Minor' Application**

Those applications which are neither 'Primary' applications, or 'Major' applications.

### **Neighbour Notification**

The legal requirements for neighbor notification are set out in Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, as amended.

15(5) and by giving requisite notice –

- (a) by site display in at least one place on or near the land to which the application relates for not less than 21 days; or
- (b) by serving the notice on any adjoining owner or occupier.

15(10) In this article –

“adjoining owner or occupier” means any owner or occupier of any land adjoining the land to which the application relates

**'Adjoining the land to which the application relates'** – This is not further defined, but we are interpreting that as including land that adjoins a boundary of the land to which the application relates. 'To which the application relates' will include all adjoining land where the development is located. So for a front dormer application or a front extension to a house, an adjoining property to the rear would count as land to which the application relates.

Letters remain an effective method of notification, when properties may be affected and the owners/occupiers are unknown. They are considered necessary for hard to reach communities and residents without access to the internet. For this reason, even though they are more expensive to administer than site notices, we will use letters for adjoining land to which the application relates and any others close by that are directly affected. (Wherever an e-mail address is known, e-mail will be used for notification in preference to a letter, as it is much quicker and can provide a link to the relevant documents on the web site)

1.0 Application publicity

- 1.1 For the purposes of this Code, the previously referred to definitions of Primary, Major and Minor applications are employed here.
- 1.2 For Primary applications, the City Council will publish a press notice, post a site notice and undertake individual Neighbour Notifications.
- 1.3 For Major applications, the City Council will publish a press notice, post a site notice and undertake individual Neighbour Notifications.
- 1.4 Wider neighbour notification will be appropriate where the development proposed is considered to have the potential for widespread impacts, such as a major development leading to significant traffic increases or the proposed development being widely visible and potentially visually obtrusive.

Wider notification of adjacent residential properties that might be affected by the development proposed is considered to be appropriate for the following development types, for example:

- Hot food take-aways
- Bars
- Nightclubs
- Telecommunication masts
- Wind turbines
- Industrial polluters
- Traveller's sites

**'affected'** – refers to material planning considerations only.

This list refers to significant applications – new uses, extended hours, new flues etc. - not minor alterations, amendments, small apparatus, condition discharge, non-material amendments etc.

**How:**

Typically, wider neighbour notification will be achieved through residents, businesses and community groups registering with the Council their interest, statutory advertisements in the local press (where required), and media coverage.

Where wider neighbour notification is considered appropriate, letters will be sent to adjacent residential properties.

**'adjacent'** – means nearby properties and those directly opposite.

Where considered relevant, notification will include additional site notices on the immediately surrounding main streets affected. Whilst letters are considered desirable to reach all occupiers of residential

properties, for non-residential properties it is reasonable to rely on site notices. The Council will determine the appropriate mix of measures.

- 1.5 For Minor applications, the City Council will undertake individual Neighbour Notification.
- 1.6 If there has been a recent similar application in the previous three years, this will be examined and any consultees community groups/elected representatives that might possibly still have an interest, including the secretary/chair of an action group and the organiser of a petition will also be notified. Wider notification will be in accordance with this Code of Practice, not a repeat of historic practices.
- 1.7 All supplementary and amended plans submitted are scanned as soon as possible after submission and indexed to identify them on the Council web site. The case officer will judge when substantial amendments or amendments which may significantly worsen or add new areas of concern for neighbours merit an additional round of individual neighbour notification to those directly affected by the amendment. A reduced consultation period may be reasonable if the content of the proposal is still broadly similar, but any reduced consultation period shall never be less than seven days from the date of the notification letter or site notice.
- 1.8 The accuracy, extent and coverage of Neighbour Notification will be checked at the time of the Case Officer's site visit. Any additional notifications required would then be initiated.
- 1.9 The occupiers of the properties which are the subject of development proposals will be notified when those persons are not the applicants and where there is no obvious relationship between them and the applicant.
- 1.10.1 In addition to those individual Neighbour Notifications described above, the Council has a local list of local amenity, special interest and other interested parties to notify specified types of application.
- 1.10.2 Following the introduction of the new public access system the Council will encourage all local amenity, special interest and other interested parties to register to use the system. Public access will allow users to choose the exact area and type of applications they are interested in and submit comments online. Those who register on the system will be notified weekly of the applications they have chosen to be notified of. A tracking option is available which allows users to identify applications they are most interested in and will be notified when the status of an application changes. Existing local amenity societies etc will also be encouraged to use the new system.

1.10.3 To register for public access please go to the following website and choose the register option <https://development.lincoln.gov.uk/online-applications>. Or contact the development team between the hours of 9am to 4.30pm Monday, Tuesday and Thursday, 10am to 4.30pm Wednesday and 9am to 4pm Friday who can take you through registration step-by-step or register for you.

1.11 The application form and plans can be viewed online by visiting our website <https://development.lincoln.gov.uk>. The application file can be inspected at City Hall, by appointment, between the hours of 9am to 4.30pm Monday, Tuesday and Thursday, 10am to 4.30pm Wednesday and 9am to 4pm Friday. Appointments and enquiries can be made by contacting the Development Team on (01522 873474/873484) during the above hours.

Anyone unable to attend the Council Offices, for instance due to mobility difficulties, and do not have access to a computer, a copy of the application can be posted or it may be possible for a Planning Officer to visit their home to explain the proposal.

## 2.0 Response Time

2.1 Legislation requires that an application shall not be determined before the end of a period of 21 days beginning with the date when a site notice was first displayed and before the end of a period of 21 days beginning with the date the notification was first sent to an adjacent occupier.

2.2 The City Council will go beyond this minimum requirement in that letters of notification to neighbours from this Authority will give a 'response required by date' which is 23 days from the date of that letter.

2.3 Letters of notification to neighbours from this Authority will indicate the existence of the 'Scheme of Delegation' and emphasise that no positive decision will be taken under 'delegated powers' until the 'response required by' date has passed.

2.4 All applications submitted to the department are delegated to the Planning Manager unless one of the following occurs:

- four planning related objections are received from consultees and there is a recommendation to approve;
- the application is contrary to Plan policy or adopted guidance and there is a recommendation to approve;
- the application site has a significant or controversial planning history or committee consideration history;
- the application has been submitted by/on behalf of an officer or Member of the Council
- a request from any Member is received for it to be determined by Committee; or,

- where the Planning Manager decides not to exercise his delegation.
- 2.5 It is important therefore that objections to an application are received prior to the date specified in the consultation letter, otherwise the Council may progress to a delegated decision.
  - 2.6 Applications for determination by Committee will not normally be presented to Committee for determination before the expiry of the periods given in 2.1 and 2.2 above. However, there may be occasions where that application would not be determined within the prescribed eight week period if it has to await the next scheduled Committee. In these instances it may be presented to an earlier Committee, with any decision being delegated to the Planning Manager to take upon the expiry of the periods given in 2.1 and 2.2 above. If further representations are received which raise new issues which have not previously been considered by Committee, they will be reported to the next available Committee.
  - 2.7 The contents of letters of representation received by the specified date in any publicity will be taken into account when an application is determined and reported to Committee taking the decision where relevant. The relevance of any comments to the application will be explained to Committee Members where appropriate. Representations received after the publication of the written report, will be copied onto the update sheet for Committee, if received before 4 pm on the day before Committee.
  - 2.8 The receipt of letters of petition after the publication of the report (with more than one signature from more than one household) will be copied onto the update sheet for Committee, if received before 4 pm on the day before Committee.
  - 2.9 The public also have the opportunity to speak at Committee and present their views on a particular application. Notification of when the application is to be considered by the Planning Committee and how to register to speak at Committee will be made to those who have commented on the application.
  - 3.0 Notification of Outcome
  - 3.1 All representations received in response to publicity will be acknowledged within a reasonable period of receipt.
  - 3.2 The Authority will continue its present practice of notifying the senders of representation of the outcome of an application, once the decision has been released to the applicant; this will be undertaken as soon as reasonably possible. A copy of the decision notice will be available to view on the website once the decision has been issued.

- 3.3 The receipt of a petition, likewise, be acknowledged. When a decision is taken the originator of the petition will be advised of the outcome and where the identity of the originator is not clear, the acknowledgement and notification will be sent to the first signatory of the petition.
- 4.0 Amendments to applications
- 4.1 Non- material amendments are applications which propose a minor change to an approved scheme. Dependent on the context of the overall scheme - what may be non-material in one context may be material in another.
- 4.2 The Local Planning Authority has discretion in whether and how they choose to inform other interested parties or seek their views on non-material amendments. As by definition the changes sought are non-material, it is not expected that consultation or publicity would be necessary. This would be down to the Case Officers discretion.
- 4.3 Minor Material amendments will be publicised at the level consistent with this Code and an application for planning permission.
- 5.0 Post Decision Making Process
- 5.1 Once an application has been determined the applicant has a certain time period to implement the permission usually 3 years. The Council monitors the process through building regulation records and writing to the applicant. If it is suspected that development is taking place that is not in accordance with the approved plans you should contact the Enforcement Team at [planningenforcement@lincoln.gov.uk](mailto:planningenforcement@lincoln.gov.uk) or on 01522 873296.
- 5.2 Complaints received will be treated in confidence and the complaint thoroughly investigated. Complainants will be kept informed about how the complaint is being investigated and any decisions that are taken. Liaison will take place with other agencies and bodies that may have an interest in the investigation.
- 5.3 As a principle, we will negotiate where possible to find solutions to breaches of planning control and we will ensure that enforcement action is proportionate to the impact of the unauthorised development.
- 6.0 Other application publicity
- 6.1 Applications for the approval of any or all of the 'reserved matters' (siting, design, external appearance, landscaping and means of access), following the grant of an outline planning permission, will be publicised in accordance with this Code.
- 6.2 The commitments to publicity of applications outlined above are not changed by the existing requirements for other applications such as

those relating to listed buildings or in conservation areas. In addition to the statutory requirements applications will also be publicised in accordance with this Code, unless to do so would duplicate the notification process.

- 6.3 We do not neighbour notify for advertisement applications, unless the advertisement proposed is particularly obtrusive, such as a large hoarding directly opposite residential properties.

7.0 Proposals by Lincolnshire County Council and City of Lincoln Council

- 7.1 Applications deemed to have been made by City of Lincoln Council will be publicised by this planning authority in accordance with this Code.

- 7.2 The City of Lincoln Council will request that the proposals of Lincolnshire County Council are publicised by that Authority in accordance with their Statement of Community Involvement.

8.0 Consultations from other Local Planning Authorities

- 8.1 The receipt, by this Local Planning Authority (City of Lincoln Council), of consultations from neighbouring local authorities for proposals adjacent to or straddling the City boundary will be publicised by the City of Lincoln Council in accordance with this Code, unless it is clear that publicity has already been undertaken which fulfils its requirements.

9.0 Data Protection

- 9.1 Planning applications are open to the public and press and any letter/online comments you send us will have to be made available for public inspection and published on our website in order to comply with the Local Government (Access to Information) Act 1985. For this reason, **comments cannot be treated as confidential**. Please ensure that you only provide information, including personal information belonging to you that you would be content to be made available to others in this way. You must also ensure that you have read the guidance notes regarding the 'Confidentiality of your Comments and Compliance with the Data Protection Act 1998 (DPA)' available at [www.lincoln.gov.uk/CommentsPrivacy](http://www.lincoln.gov.uk/CommentsPrivacy) (attached as an addendum to this report) before you return any comments to us.