

## **PART 4**

### **CODES AND PROTOCOLS**

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**PART 4A: CODE OF CONDUCT FOR ELECTED AND CO-OPTED MEMBERS COVENTRY CITY COUNCIL**

**INTRODUCTION AND GENERAL PRINCIPLES**

**1. Introduction**

- 1.1 The role of Councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that Councillors can be held accountable, and all adopt the behaviours and responsibilities associated with the role. Your conduct as an individual Councillor affects the reputation of all Councillors. The role of Councillor should be one that people aspire to and individuals from a range of backgrounds and circumstances should be putting themselves forward to become Councillors.
- 1.2 As Councillors, you represent local residents, work to develop better services and deliver local change. The public have high expectations of you and entrust you to represent your local area, taking decisions fairly, openly, and transparently. You have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.
- 1.3 Importantly, you should be able to undertake your role as a Councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.
- 1.4 This Code has been designed to protect your democratic role, encourage good conduct and safeguard the public's trust in local government.

**2. Definitions**

- 2.1 For the purposes of this Code of Conduct, a "Councillor" means a member or co-opted member of a local authority or a directly elected mayor. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who:-
- (a) is a member of any committee or sub-committee of the authority, or;
  - (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

- 2.2 For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

### **3. Purpose of the Code of Conduct**

- 3.1 The Code of Conduct sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, local authority officers and the reputation of local government. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and local government.

### **4. Application of the Code of Conduct**

- 4.1 This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.
- 4.2 This Code of Conduct applies to you when:
- you are acting in your capacity as a Councillor and/or as a representative of your council
  - you are claiming to act as a Councillor and/or as a representative of your council
  - you are giving the impression that you are acting as a Councillor and/or as a representative of your council
  - you refer publicly to your role as a Councillor or use knowledge you could only obtain in your role as a Councillor.
- 4.3 The Code applies to all forms of communication and interaction, including:
- at face-to-face meetings
  - at online or telephone meetings
  - in written communication

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- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

4.4 You are also expected to uphold high standards of conduct and show leadership at all times.

4.5 Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and Parish Councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

### 5. The Nolan Principles

5.1 Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, Councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles. These are:

#### i. Selflessness

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

#### ii. 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.

#### iii. Objectivity

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

#### iv. 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.

**v. 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.

**vi. Honesty**

Holders of public office should be truthful.

**vii. 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.

**6. General principles of Councillor conduct**

6.1 Building on the Nolan Principles, the following general principles have been developed specifically for the role of Councillor.

6.2 In accordance with the public trust placed in you agree that you will, on all occasions:

- act with integrity and honesty
- act lawfully
- treat all persons fairly and with respect; and
- lead by example and act in a way that secures public confidence in the role of Councillor.

6.3 In undertaking your role, you agree to:

- impartially exercise your responsibilities in the interests of the local community
- not improperly seek to confer an advantage, or disadvantage, on any person
- avoid conflicts of interest
- exercise reasonable care and diligence; and
- ensure that public resources are used prudently in accordance with your local authority's requirements and in the public interest.

**7. Standards Of Councillor Conduct**

- 7.1 This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken. Guidance is included to help explain the reasons for the obligations and how they should be followed. Guidance is shown in *italics*.

**8. Respect**

- 8.1 As a Councillor you must:

- treat other Councillors and members of the public with respect.
- treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

- 8.2 Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

- 8.3 In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

- 8.4 In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Councillor-officer protocol.

**9. Bullying, Harassment and Discrimination**

- 9.1 As a Councillor you must:

- not bully any person.

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- not harass any person.
- promote equalities and not discriminate unlawfully against any person.

9.2 The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as “offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient”. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face on social media, in emails or during phone calls, in the workplace or at work-related social events. Such behaviour may not always be obvious or noticed by others.

9.3 The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

9.4 Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

9.5 The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **10. Impartiality of Officers of the Council**

10.1 As a Councillor, you must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

10.2 Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

**11. Confidentiality and Access to Information**

As a Councillor, you must not:

**11.1 Disclose information:**

- (a) given to you in confidence by anyone
- (b) acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, unless
  - i. you have received 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; and
    - (b) made in good faith and in compliance with the reasonable requirements of the local authority; and
    - (c) you have consulted the Monitoring Officer prior to its release.

**11.2** Improperly use knowledge gained solely as a result of your role as a Councillor for the advancement of yourself, your friends, your family members, your employer or your business interests.

**11.3** Prevent anyone from getting information that they are entitled to by law.

**11.4** Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

**12. Disrepute**

**12.1** As a Councillor, you must not bring your role or local authority into disrepute.

**12.2** As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny

than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your or its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

- 12.3 You are able to hold the local authority and fellow Councillors to account and are able to challenge constructively and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

### **13. Use of Position**

- 13.1 As a Councillor, you must not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else.
- 13.2 Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

### **14. Use of Local Authority Resources and Facilities**

- 14.1 As a Councillor, you must when using the resources of the local authority or authorising their use by others:
- (a) act in accordance with the local authority's requirements; and
  - (b) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which you have been elected or appointed.
- 14.2 You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Councillor. Examples include:
- office support
  - stationery
  - equipment such as phones, and computers
  - transport
  - access and use of local authority buildings and rooms.

- 14.3 These are given to you to help you carry out your role as a Councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

### **15. Complying with the Code of Conduct**

15.1 As a Councillor, you must:

- undertake Code of Conduct training provided by the local authority.
- cooperate with any Code of Conduct investigation and/or determination.
- not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
- comply with any sanction imposed on you following a finding that you have breached the Code of Conduct.

15.2 It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

### **16. Protecting Your Reputation and the Reputation of the Local Authority**

#### **16.1 Interests**

16.1.1 As a Councillor, you must register and declare your interests.

16.1.2 You need to register your interests so that the public, local authority employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be declared by you or other Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

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16.1.3 You should note that failure to register or declare a disclosable pecuniary (i.e. financial) interest is a criminal offence under the Localism Act 2011.

16.1.4 The Appendix to the Code (paragraph 17 below) sets out the detailed provisions on registering and declaring interests. If in doubt, you should always seek advice from your Monitoring Officer.

### **16.2 Gifts and Hospitality**

16.2.1 As a Councillor, you must:

- not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.
- register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.
- register with the Monitoring Officer any significant gift or hospitality that you have been offered but have refused to accept.

16.2.2 In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case, you could accept it but must ensure it is publicly registered.

16.2.3 You do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **17. Appendix To Code**

### **17.1 Registering Interests**

17.1.1 Within 28 days of this Code of Conduct being adopted by the local authority or your election or appointment to office (where that is later) you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) and Table 2 (Other Registerable Interests). Disclosable Pecuniary Interests means interests relating to money and finances.

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- 17.1.2 You must ensure that your register of interests is kept up-to-date and, within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
- 17.1.3 A 'sensitive interest' is an interest which, if disclosed, could lead to the Councillor or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.
- 17.1.4 Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

#### 17.2 Declaring Interests

- 17.2.1 Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests, you must declare the interest. You must not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest, just that you have an interest.
- 17.2.2 Where a matter arises at a meeting which directly relates to one of your Other Registerable Interests, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', again you do not have to declare the nature of the interest.
- 17.2.3 Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest) or a financial interest or well-being of a relative or close associate, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.
- 17.2.4 Where a matter arises at a meeting which affects:-
- (a) your own financial interest or well-being;
  - (b) a financial interest or well-being of a friend, relative, close associate; or
  - (c) a body included in those you need to declare under Disclosable Pecuniary Interests

**you must declare the interest.**

17.2.5 Where the matter affects the financial interest or well-being:

- (a) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

**you must declare the interest.**

You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.

### 17.3 **Table 1: Disclosable Pecuniary Interests**

17.3.1 This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

| Subject                                                  | Description                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Employment, office, trade, profession or vocation</b> | Any employment, office, trade, profession or vocation carried on for profit or gain.                                                                                                                                                                                                                                                                                                                                       |
| <b>Sponsorship</b>                                       | Any payment or provision of any other financial benefit (other than from the council) made to the Councillor during the previous 12-month period for expenses incurred by them in carrying out their duties as a Councillor, or towards their election expenses.<br>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. |
| <b>Contracts</b>                                         | Any contract made between the Councillor or their spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is                                                                                                                                                            |

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|                            |                                                                                                                                                                                                                                                                                                                                                                                                      |
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|                            | <p>a director* or a body that such person has a beneficial interest in the securities of*) and the council:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>                                                                                                                                         |
| <b>Land and Property</b>   | <p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the Councillor or their spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p> |
| <b>Licences</b>            | <p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.</p>                                                                                                                                                                                                                                                                                   |
| <b>Corporate tenancies</b> | <p>Any tenancy where (to the Councillor's knowledge):</p> <p>(a) the landlord is the council; and</p> <p>the tenant is a body that the Councillor, or their spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>                                |
| <b>Securities</b>          | <p>Any beneficial interest in securities* of a body where:</p> <p>(a) that body (to the Councillor's knowledge) has a place of business or land in the area of the council; 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>                                                     |

|  |                                                                                                                                                                                                                                                                                                                                                                             |
|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | (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 Councillor, or their spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class. |
|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

17.4

**Table 2: Other Registerable Interests**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Any unpaid directorship                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council; and                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Any body: <ul style="list-style-type: none"> <li>(a) Exercising functions of a public nature; or</li> <li>(b) Directed to charitable purposes; or</li> <li>(c) One of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union); or</li> <li>(d) Whose rules or requirements of membership could be regarded as suggesting a degree of loyalty to that body. This could arise by reason of a body having an obligation of secrecy about its rules, its membership or conduct and/or a commitment of allegiance to or support for that organisation or body</li> </ul> of which you are a member or in a position of general control or management. |

**PART 4B CODE OF CONDUCT FOR EMPLOYEES (PRINCIPLES)**

**1. Introduction and Scope**

- 1.1. This Code of Conduct (Principles) is based on the following key principles arising from the work of the Nolan Committee on the Standards in Public Life:-

**2. The Seven Principles of Public Life**

- 2.1. The Seven Principles of Public Life (also known as the Nolan Principles) apply to anyone who works as a public office holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public officeholders are both servants of the public and stewards of public resources. The principles also apply to all those in other sectors delivering public services.

**i. Selflessness**

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

**ii. 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.

**iii. Objectivity**

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

**iv. 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.

**v. 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.

**vi. Honesty**

Holders of public office should be truthful.

**vii. 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.

- 2.2. The Code outlines the minimum standards that Council employees must adhere to. The Code does not apply to school-based teaching staff or centrally employed teachers who have their own Code.
- 2.3. Employees must comply with the Code as it forms part of their terms and conditions of employment.
- 2.4. All employees are expected to perform their duties with honesty, integrity, impartiality and objectivity and in particular: -
- (a) To give the highest possible standards of service
  - (b) To do nothing inside or outside working hours which could damage the City Council's reputation
  - (c) To behave honestly
  - (d) Must comply with all the City Council's policies and procedures.

**PART 4C: CODE OF GOOD PLANNING PRACTICE FOR MEMBERS AND  
EMPLOYEES DEALING WITH PLANNING MATTERS**

**1. Introduction**

- 1.1 The aim of this Code is to promote good practice: to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way, and to set out the standards of conduct required of all Members and Employees in dealing with planning matters including but not limited to applications, policy development and enforcement.
- 1.2 Members and Employees of the Local Planning Authority should undertake their duties with an open mind and make planning decisions openly, impartially, with a sound judgement and for justifiable reasons. Members are also democratically accountable decision takers who have been elected to provide and pursue policies. Members are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that they have considered all material considerations and have given fair consideration to relevant points raised.
- 1.3 This Code applies to Members and Employees at all times when involving themselves in the planning process (this includes, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site-specific policy issues as it does to planning applications.
- 1.4 **If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of their staff, and preferably well before any meeting.**
- 1.5 The Code will be appended to the Council's Constitution and is available to all Members, Employees and members of the public.

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**2. Relationship to the Member and Employee Codes of Conduct**

- 2.1 The rules in the Member and Employee Codes of Conduct must always be complied with and should be applied first.
- 2.2 The rules in this Planning Code of Good Practice should be applied thereafter. These rules seek to explain and supplement the Member and Employee Codes of Conduct for the purposes of planning.
- 2.3 Failure to abide by this Code of Good Practice may put:
  - 2.3.1 The Council at risk of legal challenge; and
  - 2.3.2 Members at risk of either being named in a Code of Conduct Complaint and report made to the Standards Committee or Council, or if the failure is also likely be a breach of the interest provisions of Localism Act 2011, a complaint being made to the police to consider criminal proceedings.

**3. Training**

- 3.1 The Council provides training for new Members of the Committee. The Council also provides regular training for all Members of the Planning Committee on matters relevant to developments in planning law and procedure.
- 3.2 Members must not participate in decision making at Planning Committee Meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.
- 3.3 Members and Employees must endeavour to attend any other specialised training sessions provided, since these will be designed to extend knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist them in carrying out their roles properly and effectively.

**4. The Relationship of Councillors and Employees**

- 4.1 In the planning process, Members and Employees perform different functions. Members represent the whole community and not just people in a particular area, ward or parish.
- 4.2 A successful relationship between Members and Employees can only be based on mutual trust and respect and understanding of each other's position. Respect is a value embedded within both the Member and Employee Codes of Conduct.

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**5. Declaration of Interests**

5.1 Provisions in the Member and Employee Codes of Conduct as regards declarations of interests, will apply equally to proceedings before the Planning Committee.

5.2 It is the responsibility of individual Members and employees to make the necessary declarations. Where advice is needed, this may be obtained from the Monitoring Officer or one of his or her staff. Advice should be obtained early and preferably **well before** any meeting takes place.

5.3 Members should take into account when approaching a decision as to whether to make a declaration, that the Principle of integrity is defined in terms that “*Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships***”. It is therefore advisable that Members and Employees:

5.3.1 Should not seek or accept any preferential treatment, or place themselves in a position that could lead the public to think they are receiving preferential treatment, because of the Member or Employee’s position. This would include where the Member or Employee has a disclosable or other personal conflict of interest in a proposal and using their position to discuss that proposal with Members or Employees when other members of the public would not have the same opportunity to do so.

5.3.2 Should note that they are not prevented from seeking to explain and justify a proposal in which they may have a conflict of interest to an appropriate officer, in person or in writing, but that the Member and Employee Codes of Conduct may place additional limitations on them in representing that proposal.

**6. Declaration of Contacts**

‘Contacts’

The City Council’s Planning Committee operates a system for declaring ‘contacts’ received by Committee Members and certain employees in respect of planning applications appearing before the Committee for a decision.

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6.1 What is a 'Contact'?

6.1.1 "A contact is any form of communication received from any person or group of persons in respect of a planning application".

6.1.2 The following information should be declared about the 'contact':

- (a) the application it relates to,
- (b) the contents of the communication (e.g. lobbying for or against the application or a request for information).

6.2 Members Declaration of 'Contacts'

6.2.1 Members of the Committee must declare all contacts they have received on all planning applications appearing on that meeting's agenda at the start of the meeting under the item headed 'Contacts' or when that application is called for consideration at the meeting. Contacts received from other Council Members must also be disclosed.

6.2.2 Where numerous persons belonging to the same group or residents' association etc contact a Member of the Committee, then this may be declared as a single contact from that group or residents association or as the case may be.

6.2.3 'Contacts' received may also take the form of lobbying of Committee Members. In those cases, the advice given below in respect of lobbying may be followed.

6.2.4 In all cases of contacts, Members of the Committee should not indicate whether they are favourably or unfavourably disposed towards an application and that they, as a Member of the Committee, will await the Committee meeting before expressing a view on the application. They should consider advising the contact to communicate with planning employees.

6.2.5 Members should always advise contacts that they will need to disclose their communication under the 'contacts' rule at the Committee meeting. Where contacts refuse to reveal their identity, Members must judge whether they should terminate the communication as soon as can be.

6.2.6 'Contacts' are **not** interests and declaring a contact is **not** a substitute for declaring an interest where one exists. The rules for declaring interests operate independently from the 'contacts' scheme.

6.2.7 For the avoidance of doubt, where any Member of the Planning Committee is approached by an applicant or objector seeking to have

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a particular application dealt with by the Committee, rather than under delegated powers, then this must be disclosed as a "contact".

**6.3      Employees' Declarations of 'Contacts'**

6.3.1      Planning employees will make their disclosures of contacts in the written Committee report or orally where they have occurred after the written report has been published.

6.3.2      Certain matters (which would otherwise be contacts) will be excluded from what amounts to declarable contacts by employees (this is because they are a necessary part and parcel of the exercise of assessing the application). These will be communications from:

- (a)    the applicant and/or their representative
- (b)    third parties as required by law or national guidance, such as statutory undertakers or statutory consultees
- (c)    Council employees consulted for their technical assessment of matters arising from their application such as environmental, health and highways matters
- (d)    other planning employees acting in that capacity.

**7.      Fettering Discretion in the Planning Process (natural justice, predisposition and predetermination)**

7.1      Members must not fetter their discretion and therefore their ability to participate in planning decision making by approaching the decision with a closed mind. Fettering discretion in this way and taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias, pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

7.2      Members should be aware that they are entitled, and are often expected, to have expressed views on planning issues and these comments have an added measure of protection under the Localism Act 2011.

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- 7.3 Members should keep at the front of their mind that, when they come to make the decision, they:
  - 7.3.1 must keep an open mind and hear all of the evidence presented, both the officers' presentation of the facts and their advice and the arguments from all sides,
  - 7.3.2 are not required to cast aside views on planning policy held when seeking election or when otherwise acting as a Member, in giving fair consideration to points raised,
  - 7.3.3 should be aware of the importance of material considerations and must disregard considerations that are non-material. Members should be aware that when making decisions on planning applications they must do so in accordance with the Council's Development Plan document unless material conditions indicate otherwise.
  - 7.3.4 are to come to a decision after giving what they feel is the right weight to those material considerations.
- 7.4 Members should consider themselves able to take part in the debate on a proposal when acting as part of a consultee body (where the Member is also a member of the parish council, for example, or both a district/borough and county councillor), provided:
  - 7.4.1 the proposal does not substantially affect the well being or financial standing of the consultee body
  - 7.4.2 the Member makes it clear to the consultee body that
    - (a) their views are expressed on the limited information before them only,
    - (b) they reserve judgement and the independence to make up their own mind on each separate proposal, based on their overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and they hear all of the relevant information and
    - (c) they will not in any way commit themselves as to how they or others may vote when the proposal comes before the Committee.
- 7.5 Where a Member has a disclosable interest, that prevents them from participating, they should explain that they do not intend to speak and vote as a member of the Committee because they will be perceived as having judged (or they reserve the right to judge) the matter elsewhere, so that this may be

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recorded in the minutes (Use the disclosure form provided for disclosing interests.)

- 7.6 Members may take the opportunity to exercise their separate speaking rights as a Ward/Local Member (where this is granted by the authority's standing orders or by the consent from the Chair) where they have represented their views or those of local electors and fettered their discretion, but do not have a disclosable or other personal conflict of interest. Where Members do:

- 7.6.1 advise the Chair that they wish to speak in this capacity before commencement of the item
- 7.6.2 remove themselves from the seating area for members of the Committee for the duration of that item and
- 7.6.3 ensure that their actions are recorded.

**8. Development Proposals Submitted by Councillors and Employees**

- 8.1 The Council has a 'safeguard' requiring any application where a Council Member or officer in Planning have a material interest in the application to be decided by the Planning Committee itself.
- 8.2 Where the Member who has such an interest is also a Member of the Committee, then they should declare an interest and leave the meeting whilst that application is considered.
- 8.3 No planning officer will be the case officer, will advise Committee or be the decision-maker under delegated authority where they:
  - 8.3.1 are related to the applicant or their agent,
  - 8.3.2 know the applicant or their agent in a personal capacity,
  - 8.3.3 know any of those persons making representations on the application,
  - 8.3.4 have any other material interest in relation to that matter.

**9. Development by the Council**

Proposals for development by the Council should be treated in the same way as those of private developers and in accordance with current Government guidance.

**10. Lobbying of and by Councillors**

- 10.1 Lobbying is a normal and perfectly proper part of the political process. Those who are affected by a planning decision will seek to influence it.

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However, care is needed to ensure that the impartiality and integrity of a Councillor is not called into question.

- 10.2 When being lobbied, Members of the Committee should not express an opinion on the application. If Committee Members do express an opinion, they must take care to indicate that they have not made up their mind on the application until they have heard all the arguments at Committee.
- 10.3 If lobbied, Members of the Committee should encourage the lobbyist to contact the relevant planning officer to express their views to them.
- 10.4 Members must take into account the views of their constituents but Members of the Committee must act also openly and fairly and listen to all evidence presented at the Committee. Committee Members must not make a commitment beforehand either for or against a proposal. To do so may prejudice that Member's impartiality.
- 10.5 The planning process is one of formal rules and procedure involving a right of appeal and possible legal action. Where any expectation as to fairness has not been met, then an aggrieved party may seek remedy through the Courts or by complaint to the Ombudsman on grounds of maladministration.
- 10.6 If the application is such that a Member of the Committee feels they must adopt a public stance in respect of an application, then that Member may have difficulty in arguing at Committee that they have been impartial and even-handed in considering that application. In those circumstances, it may be better for that Member to make an open declaration and not to vote on the application.
- 10.7 In all cases it is a matter for the individual Member as to whether they can maintain a position of impartiality up to and including the Committee meeting which decides the application.
- 10.8 In respect of lobbying, the City Council's Planning Committee operates a system of declaring 'contacts' in respect of planning applications to be dealt with by the Committee. Again it is the responsibility of each Member of the Committee to declare the 'contacts' they receive. Lobbying of Members of the Committee will amount to a 'contact' under the scheme and will need to be declared by Members of the Committee at the appropriate Committee meeting.
- 10.9 Members of the Committee should not organise support for or opposition to a planning application and should not lobby other Committee Members. Such actions can easily be misunderstood by parties to the application and by the general public. Members should not put pressure on employees for a particular recommendation in respect of an application.

**11. Pre-Application Discussions**

- 11.1 Such discussion between developers and Employees and Members can be of great benefit. But such discussions, especially if they occur just before or after the making of an application, must occur within clear guidelines.
- 11.2 It should be made clear that such discussion will not bind the Council to making a particular decision.
- 11.3 Advice should be consistent and based upon the development plan and material considerations. There should be no significant difference of interpretation of planning policies between employees. Planning judgements involve balancing a number of policies and material considerations and officers and members may place different weight to each of the issues considered.
- 11.4 Care must be taken to ensure that advice is not partial (nor seen to be).
- 11.5 Development Forums may be established to enable the engagement of Councillors and members of the public. These are detailed in the Planning Committee Procedure Rules which are publicly available.
- 11.6 In addition, in respect of presentations by applicants/developers Members of the Planning Committee should:
  - 11.6.1 Not attend a planning presentation without requesting an officer to be present.
  - 11.6.2 Ask relevant questions for the purposes of clarifying your understanding of the proposals.
  - 11.6.3 Remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.
  - 11.6.4 Be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a committee.

**12. Employee Reports to Committee**

- 12.1 The basis of the Committee's consideration of a planning application should be the employee's written report. This helps to clarify the nature of applications and the context in which a decision needs to be made. Written reports help to ensure consistency of decision-making and clear reasoning behind recommendations. This is not only a matter

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of good practice but because failure to do so may constitute maladministration or give rise to judicial review on the grounds that the decision was not taken in accordance with the provisions of the development plan and the Council's statutory duty under section 54A of the Town and Country Planning Act 1990 (as amended).

- 12.2 All reports should comply with the following points of good practice:
  - 12.2.1 Reports should be accurate and cover, amongst other things, the substance of any objections and the views of those consulted.
  - 12.2.2 Reports should include a clear exposition of the relevant development plan policies, site or related history and any other material considerations.
  - 12.2.3 Reports should have a written recommendation of action. Oral reporting (except to update a report) should be avoided and carefully minuted when it does occur.
  - 12.2.4 Reports should contain technical appraisals which clearly justify the recommendation.
  - 12.2.5 If the report's recommendation is contrary to the provisions of the development plan, the reasons justifying the departure must be clearly stated.
- 13. **Public Speaking at Planning Committee**
  - 13.1 Members of the public are not permitted to communicate during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
  - 13.2 The public speaking scheme does not apply to applications decided under officer's delegated authority. In those cases members of the public are still entitled to submit their comments and views on the application for employees to consider.
  - 13.3 The rules of the Public Speaking Scheme are set out in the Planning Committee Procedure Rules which are available from the Council. The aim of the scheme is to elicit a broad range of opinions on the application in order to increase public participation and to help the Committee in its decision making.
  - 13.4 A Guide to Public Speaking at Planning Committee has been produced and is also available from the Council.

**14. Decisions Contrary to Officer Recommendations and/or the Development Plan**

- 14.1 The law says that decisions must be made in accordance with the development plan where relevant unless material considerations indicate otherwise (section 38 of the Planning and Compulsory Purchase Act 2004).
- 14.2 Applications not in accordance with the development plan must be identified as soon as possible and, if required, advertised as such.
- 14.3 If it is intended to approve such applications then the material considerations leading to this conclusion must be clearly identified and how these considerations justify overriding the development plan be clearly demonstrated. The application may then have to be referred to the First Minister, depending upon the type and scale of the development. If the officer's report recommends that permission be granted for a proposal involving such a departure, the justification for this should be included in full in that report.
- 14.4 If the Planning Committee makes a decision contrary to the officer's recommendations (whether for grant or refusal of permission), a detailed minute of the Committee's reasons should be made and a copy placed on the application file.
- 14.5 The officer should also be given the opportunity to explain the implications of the contrary decision and, if appropriate, legal advice should be sought. Such reasons should be clear and convincing. The personal circumstances of the applicant will rarely provide such grounds.
- 14.6 Where a decision is made contrary to the recommendation (whether to approve or refuse), the Committee will be required to provide conditions on the grant of a permission or reasons for refusal, as the case may be. In such cases and where necessary the Committee may consider delegating to employees the task of drafting conditions or reasons.

**15. Regular Review of Decisions**

When undertaking sites visits (see the Planning Committee Procedure Rules, available separately) in connection with planning applications, Members will take the opportunity, where appropriate, to visit sites within the locality in order to review completed developments. This will enable Members to assess the quality of developments in accordance with the Committee's decision and in line with the Council's policies and guidelines. Such visits are intended to improve the quality and

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consistency of decision-making and thereby strengthen public confidence in the planning system.

**16. Complaints Procedure**

16.1 Any complaints received will be dealt with under the Council's complaints procedures.

16.2 Record keeping should be complete and accurate to allow complaints to be fully investigated. This is especially so where decisions are taken under delegated powers and there is no report to Committee. In all cases the planning file should be an accurate record of event during that application's life.

## **PART 4D: MEMBER OFFICER PROTOCOL**

### **1. Status of this Code**

- 1.1 This Protocol seeks to offer guidance on some of the issues which most commonly arise in relation to the relationships between Members and officers.
- 1.2 The Protocol is partly a statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty. In particular, it covers the behaviour that is expected between Members and officers.
- 1.3 The Protocol gives guidance only, but it will be considered if there is a complaint about a Member or an officer. Members must observe the Members' Code of Conduct. Any complaints received in relation to alleged breaches of the Code of Conduct will be considered initially by the Monitoring Officer. Officers are also obliged to comply with the Code of Conduct for Employees. Any complaints received about officers behaviour or conduct will be considered by the relevant managers.

### **2. Roles of Members and Officers**

- 2.1 Officers and Members both serve the public, but they have different roles. Officers are employees of the Council and are politically neutral. Their role is to advise Members and implement the policies of the Council to the best of their abilities. Members are office holders and will often belong to a political party. They are obliged to exercise their own judgement in respect of matters before them but may also legitimately pursue party political objectives. Officers are answerable to the Chief Executive, not to individual Members (whatever office they hold), but there should be good communication between senior officers and Members with special responsibility for their area of work.

### **3. Expectations**

#### **3.1 What Members can expect from Officers:**

- (a) A commitment to the authority as a whole, not to any Political Group .
- (b) A working partnership.
- (c) An understanding of and support for respective roles, workloads and pressures.

- (d) Timely responses to enquiries and complaints in accordance with agreed standards: (see paragraph 7)
- (e) Professional advice, not influenced by political views or preference.
- (f) Regular up-to-date information on matters that can be reasonably considered appropriate and relevant to the Member's needs, having regard to any individual responsibilities that they have and positions that they hold.
- (g) Awareness and sensitivity to the political environment.
- (h) Respect and courtesy.
- (i) Training and development in order to carry out their roles effectively.
- (j) Not to have personal issues raised with them by officers outside the agreed procedures.
- (k) Officers should not try to persuade individual Members to make a decision in their personal favour or raise things to do with their employment with individual Members. Nor should they approach individual Members with allegations about other officers. They should use the Council's grievance, whistle blowing and disciplinary procedures instead.
- (l) Compliance with the Employee Code of Conduct.

**3.2 What Officers can expect from Members:**

- (a) A working partnership.
- (b) An understanding of and support for respective roles, workloads and pressures.
- (c) Political policy direction and leadership.
- (d) Respect and courtesy.
- (e) Members should generally restrict their discussion on strategic or significant issues to more senior officers (that is the Chief Executive, Directors or Heads of Service); Members should raise all queries on operational matters initially with Directors or Heads of Service who will ensure that Members receive a prompt response.

- (f) Members are encouraged to use regular briefings and/or normally make appointments before visiting officers in order to try to avoid frequent unscheduled interruptions. Members wishing to arrange visits to Council services in relation to their role should arrange this with the relevant senior officer and not visit unannounced.
- (g) Members should not pressure officers to work outside their normal hours or to do anything they are not allowed to do or that is not part of their normal work.
- (h) Not to be subject to bullying, harassment or intimidation. Members should have regard to the seniority and experience of officers in determining what constitutes a reasonable request. Members with special responsibilities should be particularly aware of this.
- (i) Members should not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly.
- (j) Members may occasionally find that they have a personal interest in a matter that needs to be raised with officers. Members should be clear about their personal interest and use appropriate and formal language when contacting officers in this instance. Close personal familiarity between individual Members and officers can damage the relationship of mutual respect and prove embarrassing to Members and officers. Members and officers are encouraged to contact the Monitoring Officer for advice if they are concerned about this.
- (k) Members should not make detrimental remarks about individual officers during meetings, in public or to the media.
- (l) Members should at all times comply with the Member Code of Conduct.

#### **4. Limitations on behaviour**

4.1 The distinct roles of Members and officers necessarily impose limitations upon behaviour. By way of illustration and not as an exclusive list:

- (a) Personal relationships between individual Members and officers can confuse the separate roles and get in the way of the proper discharge of the authority's functions. In this situation, others may feel that a particular Member or officer may be treated more favourably.

- (b) Personal relationships should be avoided. Where they do exist, the officer concerned must notify their manager.
- (c) The need to maintain the separate roles means that there are limits to the matters on which Members may seek the advice of officer, both in relation to personal matters and party-political issues.
- (d) Relationships with particular individuals or party groups should not be such as to create public suspicion that an employee favours that Member or group above others.

**5. Politeness and respect**

- 5.1 Members and officers should show each other politeness and respect. Members have the right to challenge officers' reports or actions, but they should avoid personal and/or public attacks; and ensure their criticism is fair and constructive.
- 5.2 Officers should not publicly criticise Council decisions even if they do not personally agree with those decisions.

**6. Complaints about Members or Officers**

- 6.1 If an officer feels a Member is not treating them with politeness and respect, they should consider talking to the Member directly. If they do not feel they can talk to the Member or talking to the Member does not help, they should talk to their Head of Service or Director immediately. The manager approached will talk to the Member or the Leader of their Political Group and may also tell other senior officers. The officer will be told the outcome. Officers may also make a complaint alleging a breach of the Members' Code of Conduct
- 6.2 If a Member feels an officer is not treating them with politeness and respect, they should consider talking to the officer directly. If they do not feel they can talk to the officer or talking to the officer does not help, they should talk to the officer's Head of Service or Director immediately. If the problem continues the Head of Service or Director approached will consider whether to use the Council's disciplinary procedures.

**7. Members' enquiries**

- 7.1 Officers should answer Members' enquiries, in whatever form, within five working days. If that is not possible, they should send a holding reply. Members should contact a more senior officer in the event that a response is not received within this time. Where a Head of Service considers that the enquiry received

is inappropriate, the Member should be advised of this and the reason or reasons why the enquiry is considered to be inappropriate.

- 7.2 Members have a right to information that is reasonably necessary to enable them to perform their duties. This is often described as the 'need to know'. This principle balances **transparency** and **data protection (GDPR)**.

So, councillors:

- **May** access information relating to committees they sit on, or decisions they must make.
- **May not** access confidential or personal data unrelated to their role or ward casework.

Requests should be **specific** and **relevant** to the member's role.

Officers should respond **promptly** and **respectfully** but can ask for clarification.

- 7.3 When disclosing information, officers should make it clear whether the information should be treated as confidential or can be shared with members of the public and the Member should treat the information accordingly.

- 7.4 The Chief Executive may be asked to resolve any issues relating to Members' enquiries arising from unreasonable delays or dispute about the reasonableness of requests or the need to know principle.

## **8. Casework**

- 8.1 Where a Member is making an enquiry of officers as part of their ward casework, officers will normally assume that they have the implicit consent of an individual to disclose personal information about them to the Member but only where:-

- (a) the Member represents the ward in which the individual lives;
- (b) the Member makes it clear that they are representing the individual in any request for their personal information to the local authority; and
- (c) the information is necessary to respond to the individual's complaint.

- 8.2 In all other cases officers may need to seek the explicit consent of the individual to share their personal data with the Member in order to comply with Data Protection Legislation.
- 8.3 Personal information about third parties (i.e. individuals who have not sought the Member's assistance) may only be shared with a Member where the law permits this. See also paragraphs 9.1.3 and 9.1.4 below.
- 8.4 In particular, Members should forward only the minimum information required to only the people that need to see it and be very careful not to forward email chains or attachments which may contain personal data to a wide group of people who should not have access to it.
- 8.5 Members should always follow data protection requirements as set out the guidance for Members.

## **9. Information and advice**

### **9.1 Requests for written information**

- 9.1.1 Members should be provided with adequate information about services or functions on which they may be called upon to make decisions or to scrutinise the decisions of others, or which affect their constituents. This information will normally be made routinely available by officers in the form of reports, departmental plans etc. Members are encouraged to make use of existing sources of information wherever possible.
- 9.1.2 Written information supplied to a Member regarding the implications of current Council policies or containing statistical information about Council services may be copied to the relevant Cabinet Member.
- 9.1.3 The Leader of the Council or Leader of any other Political Group may request the Chief Executive or other designated officer to prepare reports on matters relating to the authority for consideration by the group. Such requests must be reasonable and should not seek confidential information in relation for instance to casework or personal details of applicants for services.
- 9.1.4 Wherever possible, such requests will be met. However, if the officer considers that the cost of providing the information, or the nature of the request is unreasonable or inappropriate, the request will be referred to the Chief Executive for determination, where necessary in consultation with the Leaders of the Political Groups. Requests will also only be met where they comply with Data Protection or other legal requirements.

- 9.1.5 Officer reports to Political Groups should be limited to a statement of relevant facts, identification of options and the merits and demerits of such options for the authority. Reports should not deal with any political implications of the matter.

**9.2 Briefings**

- 9.2.1 In order for them to discharge their responsibilities Cabinet Members and Deputy Cabinet Members will be briefed by senior officers (Chief Executive, Directors or Heads of Service) on service issues, proposals and policy development on a regular basis or when urgent issues require it. Regular briefings should normally be monthly but may be agreed in accordance with the requirements of the Member involved but should be proportionate and reasonable.

Chairs of Scrutiny Boards and other bodies should also receive briefings as appropriate.

- 9.2.2 Relevant senior officers will make themselves available to meet with Shadow Cabinet Members to brief them on service issues on a regular basis (no more than monthly) or as requested. Shadow Cabinet members should be aware that at times the amount of information that officers can share with them may be limited due to issues of confidentiality.
- 9.2.3 The content of these informal briefing sessions shall remain confidential between officers and the Political Group concerned.

**9.3 News Items**

- 9.3.1 When an event or development occurs in the city which has or will have a significant impact on the Council or city residents, the Chief Executive will ensure that the Leaders of all Political Groups are informed as soon as possible.

**9.4 Ward Members**

- 9.4.1 Senior officers should ensure that Ward Members are given information relevant to their ward where appropriate. As well as letting Ward Members know when there has been a significant incident in their ward, Ward Members should be notified about the following types of issue:-

- (a) Public consultation events affecting their wards;
- (b) Proposed changes to services sited within their wards;

(c) Applications and proposals in their wards

- 9.4.2 Ward Members should be invited by officers to public events, such as openings, festivals etc, in their Wards regardless of political affiliation.
- 9.4.3 The Communications Team will advise Cabinet Members of photo shoots taking place. The Team will aim to give 48 hours' notice of any photo shoot to the Cabinet Member.
- 9.4.4 If officers organise a public meeting about a specific Ward issue, all the Ward Members should be invited and given as much notice as possible.
- 9.4.5 If officers undertake consultation about specific ward issues they should consult the Members for that ward at the start of the consultation.
- 9.4.6 Ward Members should be told in advance about anything which particularly affects their ward and which is potentially controversial.

**9.5 Officer Attendance at Group Meetings**

- 9.5.1 The Leader of the Council or Leader of any other Political Group may ask the Chief Executive or relevant Director to give or arrange a private briefing for the party group on a matter of relevance to the Council.
- 9.5.2 Any briefings offered to a party group will be offered to the other party groups.
- 9.5.3 While officers may attend Political Group meetings at which individuals who are not Elected Members may be present, Members need to understand that those officers' ability to share confidential information with the Group may be limited. In particular officers will not be able to share personal information with third parties present if to do so would cause the Council to breach Data Protection Legislation.
- 9.5.4 Decisions at group meetings are not Council or Cabinet decisions and party groups do not have any delegated authority to make formally binding decisions.

**9.6 Advice for Members with Special Responsibilities**

- 9.6.1 The Lord Mayor, Cabinet Members and Committee Chairs can ask the Chief Executive, Directors and Heads of Service for extra background information and advice on different courses of action.

9.6.2 Although these Members have additional responsibilities and different relationships because of their more frequent contact with officers, these Members must still respect the impartiality of officers. This includes not asking them to undertake work of a party-political nature, or to do anything which would prejudice that impartiality.

9.6.3 The Leaders of any opposition group can ask the Chief Executive, Directors or Heads of Service for background information or more details about items coming to the next meeting of a Committee or Cabinet. The appropriate Chair or Cabinet Member will be entitled to receive the same information.

9.6.4 Party Group Leaders can ask for advice on presenting their budget in a correct and accurate form. This will be given in confidence.

## **10. Members' Briefings on Meetings and Reports**

### **10.1 Briefings on Meetings**

10.2 The Directors and Heads of Service will give briefings on full Council, Cabinet and Committee meetings to the Leader and Deputy Leader and Committee Chairs as appropriate.

### **10.3 Requests for reports**

10.3.1 Instructions for reports to come to Cabinet or Committees can only come from the Leader, Cabinet, a Cabinet Member in respect of the Cabinet and a Committee or a Committee Chair in respect of Committees. Cabinet Members may ask for reports to come to their Cabinet Member meetings.

10.3.2 Whilst Cabinet Members have political responsibility for drawing up proposals for consideration or for the agenda for a forthcoming meeting, it must be recognised that in some situations an officer will be under a professional duty to submit a report. Similarly, Senior Officers will always be fully responsible for the contents of any report submitted in their name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. Any issues arising between a Cabinet Member and a Senior Officer in this respect should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

## **11. Support services to Members and Political Groups**

11.1 Support services should only be used for Council business. They should never be used for private purposes, for party political or campaigning activity.

**12. Correspondence**

**12.1 Between Members and Officers**

12.2 If emails or letters between officers and Members are copied to someone else, they should say so. Blind copies should not be sent. Members should not forward information received from an officer to a constituent or member of the public if that information is expressed to be private or confidential.

**12.3 Letters on behalf of the Council**

12.4 Letters on behalf of the Council will normally be sent by officers rather than Members. The Leader or Committee Chairs may write some letters on behalf of the Council, for example representations to government ministers. Members must never send letters that create obligations or give instructions on behalf of the Council.

**13. The Council as an Employer**

13.1 The Council as a whole employs its officers. The appointment and dismissal of officers and any disciplinary or grievance proceedings will be carried out in accordance with the Employment Procedure Rules and any other agreed policies and procedures.

**14. Responsibility for this Code**

14.1 The Monitoring Officer has overall responsibility for this Protocol and will periodically review how it is working.

**PART 4E: MONITORING OFFICER PROTOCOL**

**1. Statutory Responsibilities**

- 1.1 The Monitoring Officer is a statutory appointment under the provisions of Section 5 of the Local Government and Housing Act 1989. This Protocol provides guidance on how the duties of the Monitoring Officer will be carried out at Coventry City Council.
- 1.2 The role of the Monitoring Officer is assigned to the Director of Law, Governance, and Safer Communities under the provisions of the Constitution. The Monitoring Officer may appoint a Deputy Monitoring Officer.
- 1.3 A summary of the Monitoring Officer's responsibilities is set out more fully in the Table set out at the end of this Protocol.
- 1.4 These duties will be carried out in accordance with the Council's Constitution, legislative requirements and relevant Government guidance. The Monitoring Officer's ability to carry out these duties and responsibilities effectively will depend upon the proactive assistance and co-operation of Members and Officers:-
- (a) complying with the law and relevant Codes of Conduct;
  - (b) complying with any general guidance, codes or protocols issued by the Ethics Committee and the Monitoring Officer;
  - (c) making lawful and proportionate decisions;
  - (d) not taking action that would bring the Council, their offices or professions into disrepute.

**2. Working Arrangements**

- 2.1 The Monitoring Officer will promote effective working relations with Members and officers to advance good governance, the highest standards of ethical behaviour, as set out in the Seven Principles of Public Life (the "Nolan Principles", first formulated by the Committee on Standards on Public Life in 1995) and the effective discharge of the Monitoring Officer's statutory duties. A speedy flow of relevant information and access to debate, particularly at the early stages of any decision-making by the Council, is central to fulfilling those responsibilities. Members and officers are required to work with the Monitoring Officer (and relevant staff) to this end.

- 2.2 The following arrangements and understandings between the Monitoring Officer, Members, the Head of Paid Service, the Section 151 Officer and officers are designed to ensure the effective discharge of the Council's business and functions.

**3. Resources**

3.1 The Monitoring Officer will:

- (a) report to the Council, as necessary, on the staff, accommodation and resources they require to discharge their statutory functions;
- (b) have sufficient resources to enable them to address any matters concerning their functions as Monitoring Officer;
- (c) have control of a budget sufficient to enable them to seek Counsel's opinion on any matter concerning their functions;
- (d) appoint a deputy and keep the deputy briefed on any relevant issues that may be required to be dealt with in the absence of the Monitoring Officer.

**4. Access to Information**

4.1 The Monitoring Officer will:

- (a) be informed by Members and Officers of any issue(s) that may become of concern to the Authority, including: issues relating to legal powers, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to arise or have arisen;
- (b) have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Authority (including any meetings at which officer delegated decisions are taken) at which a binding decision may be made (including a failure to take a decision where one should have been taken);
- (c) have the right to attend (including the right to be heard at) any meeting of the Authority (including any meetings at which officer delegated decisions are taken) before any binding decision is taken (including a failure to take a decision where one should have been taken);
- (d) have access to the Leadership Board and receive advance notice of meetings, agenda and reports to those meetings, including the right to attend;

- (e) in carrying out investigation(s), have unqualified and unrestricted access to any information held by the Council and to any officer who can assist in the discharge of their functions.

## **5. Relationships**

5.1 The Monitoring Officer will:

- (a) ensure the other two Statutory Officers (Head of Paid Service and the Section 151 Officer) are kept up to date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to arise or have arisen;
- (b) meet as frequently as necessary with the Chief Executive (Head of Paid Service) and the Director of Finance and Resources (Section 151 Officer) to consider and recommend action in connection with Corporate Governance issues and any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are of concern, that are likely to arise or have arisen;
- (c) develop a close working relationship of respect and trust with:
  - the Leader, Cabinet Members and Ethics Committee with a view to ensuring the effective and efficient conduct of Council business;
  - Independent Persons, its external auditors and the Local Government Ombudsman (including having the authority, on behalf of the Council, to refer any breaches or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary);
- (d) in consultation, as necessary, with the Leader, Cabinet, Ethics Committee and the Council's Independent Persons, defer the making of a formal report under Section 5 of the Local Government and Housing Act 1989 where another investigative body is involved.

## **6. Standards Matters**

6.1 The Monitoring Officer will:

- (a) give informal advice and undertake relevant enquiries into allegations of misconduct and, if appropriate, make a written report to the Ethics Committee where, in the opinion of the Monitoring Officer, there is a

serious breach of the Members' Code of Conduct, in accordance with the Council's Complaints Protocol;

- (b) be responsible, on behalf of the Ethics Committee, for preparing any training programme for Members on ethical standards and Code of Conduct;
- (c) carry out investigations into matters referred to him/her under the Council's Whistle Blowing Policy in respect of Members and arrange the conduct of hearings into allegations of breaches of the Code of Conduct.
- (d) Maintain and keep up to date the Member's Registers of Interest and publish those registers along with those for parish councils within the city.

## **7. The Constitution**

- 7.1 The Monitoring Officer will regularly review and monitor operation of the Constitution, reporting changes as necessary through the agreed procedure for amending the Constitution.

## **8. Member and Officer Responsibilities**

- 8.1 To ensure the effective and efficient discharge of the arrangements set out in paragraph 2 above, Members and Officers will report any breaches of statutory duty, Council policies or procedures and other constitutional concerns to the Monitoring Officer, as soon as practicable, who will keep the reporting Members/officers informed as appropriate.

## **9. Advice**

- 9.1 The Monitoring Officer is available for Members and officers to consult on any issues relating to the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g. Council Procedure Rules, Policy Framework, Terms of Reference and Scheme of Delegation etc.).

## **10. Monitoring the Protocol**

- 10.1 The Monitoring Officer will monitor the arrangements set out in the Protocol to ensure that they have been complied with. They will report to the Ethics Committee if they think that amendments are necessary in the light of any issues that have arisen during the year.

## 11. Conflicts and Interpretation

- 11.1 Where the Monitoring Officer has received a complaint or is aware of an event which may lead to them issuing a statutory report, relating to a matter upon which they have previously advised the Council, they shall consult the Chief Executive who may then either refer the matter to the Deputy Monitoring Officer for investigation and report to the Chief Executive, or ask a neighbouring authority to make their Monitoring Officer available to investigate the matter and report to the Chief Executive and/or the authority as appropriate.
- 11.2 Questions of interpretation of this guidance will be determined by the Monitoring Officer.

## 12. Summary of Functions

|   | Description                                                                                                                                                                           | Source                                                                             |
|---|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| 1 | Report on contraventions or likely contraventions of any enactment or rule of law.                                                                                                    | Sections 5 and 5A, Local Government and Housing Act 1989                           |
| 2 | Report on any maladministration or injustice where the Ombudsman has carried out an investigation.                                                                                    | Sections 5 and 5A, Local Government and Housing Act 1989                           |
| 3 | Appointment of a Deputy.                                                                                                                                                              | Section 5, Local Government and Housing Act 1989                                   |
| 4 | Report on the sufficiency of resources.                                                                                                                                               | Section 5, Local Government and Housing Act 1989                                   |
| 5 | Establish and maintain the Register of Members' Interests, and declarations of gifts and hospitality received.                                                                        | Section 28, Localism Act 2011 and Code of Conduct for Elected and Co-opted Members |
| 6 | Receive copies of certificates under the Local Authorities (Contracts) Regulations 1997.                                                                                              | Local Authorities (Contracts) Regulations 1997                                     |
| 7 | Maintain, monitor and review the Constitution.                                                                                                                                        | Section 9P Local Government Act 2000 and the Constitution                          |
| 8 | Support the Ethics Committee and promote and maintain high standards of conduct with particular reference to the Council's approved Code of Conduct for Elected and Co-opted Members. | Section 27 Localism Act 2011 and Code of Conduct for Elected and Co-opted Members  |

## Part 4E - Monitoring Officer Protocol

|           |                                                                                                                                                                      |                                                          |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|
| <b>9</b>  | Conduct investigations into alleged misconduct.                                                                                                                      | Section 28 Localism Act 2011 and the Complaints Protocol |
| <b>10</b> | Consult with the Head of Paid Service and the Director of Finance and Resources on issues of lawfulness and decision making.                                         | Constitution                                             |
| <b>11</b> | Advise whether executive decisions are within the budget and policy framework.                                                                                       | Constitution                                             |
| <b>12</b> | Advise on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, budget and policy framework issues to all Members. | Constitution                                             |