

PART 4

CODES AND PROTOCOLS

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NEWARK & SHERWOOD DISTRICT COUNCIL

Code of Conduct for Members

INTRODUCTION

The Council has adopted this Code of Conduct pursuant to Section 27 of the Localism Act 2011 to promote and maintain high standards of behaviour by its Members and Co-Opted Members whenever they conduct the business of the Council including the business of the office to which they were elected or appointed or when they claim to act or give the impression of acting as a representative of the Council.

This Code is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership ("The Nolan Principles").

1. Application

This Code of Conduct applies to you whenever you are acting in your capacity as a member of Newark & Sherwood District Council, including:-

- 1.1 at formal meetings of the Council, its Committees and Sub-Committees
- 1.2 when acting as a representative of the authority
- 1.3 in taking any decision as an elected Member or a Ward Councillor
- 1.4 in discharging your functions as a Ward Councillor
- 1.5 at briefing meetings with officers and
- 1.6 at site visits
- 1.7 when corresponding with the authority other than in a private capacity

2. General Conduct

You must:-

- 2.1 provide leadership to the authority and communities within its area, by personal example and
- 2.2 respect others and not bully any person
- 2.3 recognise that officers (other than political assistants) are employed by and serve the whole authority

- 2.4 respect the confidentiality of information which you receive as a member:-
 - 2.4.1 not disclosing confidential information to third parties unless required by law to do so or where there is a clear and overriding public interest in doing so; and
 - 2.4.2 not obstructing third parties' legal rights of access to information
- 2.5 not conduct yourself in a manner which is likely to bring the authority into disrepute
- 2.6 use your position as a member in the public interest and not for personal advantage
- 2.7 accord with the authority's reasonable rules on the use of public resources for private and political purposes
- 2.8 exercise your own independent judgement, taking decisions for good and substantial reasons:-
 - 2.8.1 attaching appropriate weight to all relevant considerations including, where appropriate, public opinion and the views of political groups
 - 2.8.2 paying due regard to the advice of officers, and in particular to the advice of the statutory officers, namely the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer and
 - 2.8.3 stating the reasons for your decisions where those reasons are not otherwise apparent
- 2.9 account for your actions, particularly by supporting the authority's scrutiny function
- 2.10 ensure that the authority acts within the law

3. Disclosable Pecuniary Interests

You must:-

- 3.1 comply with the statutory requirements to register, disclose and withdraw from participating (unless you have obtained a dispensation) in respect of any matter in which you have a Disclosable Pecuniary Interest
- 3.2 ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your Disclosable Pecuniary Interests
- 3.3 make verbal declaration of the existence and nature of any Disclosable Pecuniary Interest at any Meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent (unless the interest is a sensitive interest in which event you need not disclose the nature of the interest)

3.4 "Meeting" means any meeting organised by or on behalf of the authority, including:-

- 3.4.1 any meeting of the Council, or a Committee or Sub-Committee of Council
- 3.4.2 taking a decision as a Ward Councillor
- 3.4.3 any briefing by officers; and
- 3.4.4 any site visit to do with business of the authority

4. Other Interests

4.1 In addition to the requirements of Paragraph 3, if you attend a meeting at which any item of business is to be considered and you are aware that you have a "non-disclosable pecuniary interest" or "personal interest" in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.

4.2 You have a "non-disclosable pecuniary interest" or "personal interest" in an item of business of your authority where:-

- 4.2.1 a decision in relation to that business might reasonably be regarded as affecting the well being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or
- 4.2.2 it relates to or is likely to affect any of the interests listed in the Table in the Schedule to this Code, but in respect of a member of your family (other than your spouse, civil partner or person with whom you are living as spouse or civil partner) or a person with whom you have a close association.

and that interest is not a Disclosable Pecuniary Interest

5. Gifts and Hospitality

5.1 You must within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a member from any person or body other than the authority.

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

5.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved for this purpose as set out in the Council's protocol on gifts and hospitality.

SCHEDULE TO THE CODE OF CONDUCT
Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<i>Interest</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the Council) made or provided within the previous 12 months (up to and including the date of notification of the interest) in respect of any expenses incurred by you carrying out duties as a member, or towards your election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between you, your spouse or civil partner or person with whom you are living as a spouse or civil partner (or a body in which you or they have a beneficial interest) 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>
Land	<p>Any beneficial interest in land which is within the Council's area.</p> <p>For this purpose "land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you, your spouse, civil partner or person with whom you are living as a spouse or civil partner (alone or jointly with another) to occupy the land or to receive income.</p>
Licences	Any licence (alone or jointly with others) to occupy land in the Council's area for a month or longer.

Corporate tenancies

Any tenancy where (to your knowledge) –

- (a) the landlord is the Council; and
- (b) the tenant is a body in which you, your spouse or civil partner or a person you are living with as a spouse or civil partner has a beneficial interest.

Securities

Any beneficial interest in securities of a body where –

- (a) that body (to your knowledge) has a place of business or land in the Council's area and
- (b) either –
 - i. The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - ii. If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, your spouse or civil partner or person with whom you are living as a spouse or civil partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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

NOTE:- The provisions in paragraph 3 of the Code in respect of the registration and disclosure of Disclosable Pecuniary Interests and to withdraw from participating in respect of any matter where you have a Disclosable Pecuniary Interest apply to your interests and those of your spouse or civil partner or person with whom you are living as a spouse or civil partner where you are aware of their interest.

OFFICERS' CODE OF CONDUCT
CODE OF CONDUCT FOR EMPLOYEES

1. Introduction

- 1.1 Local Government employees are expected to give the highest possible standard of service to the public and, where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality.
- 1.2 This Code sets out the standards of behaviour expected from you as an employee of Newark & Sherwood District Council. The Code applies to all employees of the Council.
- 1.3 The Code should be read in conjunction with other policies, procedures and codes of practice adopted by the Council. The Council has also produced further guidance on the detailed interpretation of this Code.
- 1.4 This Code forms part of your Terms and Conditions of Employment. Any breach of the Code may be treated as a disciplinary offence including gross misconduct, which could lead to disciplinary action including dismissal in appropriate cases. For the avoidance of doubt, you should seek advice from your Business Manager or relevant Director on any queries or refer to the detailed guidance produced by the Council on the interpretation of this Code.
- 1.5 If you are aware of any breaches of this Code of Conduct, you should raise these with your Business Manager or Director. You should also refer to the section of this Code on Public Concern and Whistle blowing.

2. Public Funds

- 2.1 You must follow the Council's Contract Procedure Rules and Financial Regulations in any financial transactions and other dealings on behalf of the Council.
- 2.2 You must be aware that it is a serious criminal offence for you to receive or give in a corrupt manner any gift, loan, fee, reward or advantage from or to another person to do, or not to do anything or shall favour or disfavour. If an allegation is made, you should be able to prove that any such rewards have not been corruptly obtained.

3. Customers

- 3.1 You should remember that the Council is a public body and you have a responsibility to the community you serve. You should provide courteous, efficient and impartial service delivery to all groups and individuals within the community as defined by the policies of the Council.

4. Equalities

- 4.1 You should at all times recognise the diverse needs of individuals and groups within the community and you should ensure that the Council policies relating to equalities and equal opportunities are complied with in addition to the law. You should recognise that all members of the local community, customers and other employees have a right to be treated with dignity, fairness and equity.

5. Health and Safety

5.2 You must adhere to the Council's Health and Safety Policies.

6. Standards of Dress and Appearance

6.1 You must ensure that your standard of dress, the type and style of clothes and personal ornamentation worn are appropriate to the nature of the duties and responsibilities you undertake.

7. Alcohol and Drugs

7.1 You are expected to attend work without being under the influence of alcohol or drugs or where your work performance may be adversely impaired by alcohol or drugs.

7.2 Where you are involved with illegal drugs or excessive consumption of alcohol outside normal working hours the Council will consider the impact this may have on your employment, including any impact on the Council's reputation and/or public confidence and may take disciplinary action against you accordingly.

8. Conflicts of Interest

8.1 You should not subordinate your public duty to your private interests and should not put yourself in a position where your public duty and your private interests conflict.

8.2 If you are involved in the determination of regulatory matters (e.g. planning, licensing, council tax and housing benefit) you must take no part, either directly or indirectly, in considering any application made by yourself, a relative, a friend, a close associate or a neighbour.

8.3 You should disclose any personal interest that could conflict with the Authority's interests. Membership of a secret society must be disclosed in confidence to your Director.

9. Declaration of Financial and Other Interests

9.1 You are required by Section 117 of the Local Government Act 1972 to declare any financial interest, whether direct or indirect, in any existing or proposed contract. The declaration should be made, in writing, to your Director who will inform the Council's Section 151 Officer of the contents of the declaration.

10. Secondary Employment

10.1 If you hold the position of Business Manager or of a member of the Corporate Management Team, you shall devote your whole time service to the work of the Council and shall not engage in any other business or take up any other additional appointment without express consent. You will not normally be given permission to undertake private work within the District.

- 10.2 Subject to 10.1 above, the Council recognises that as an employee of the Council, you may undertake secondary employment including voluntary as well as paid employment.
- 10.3 If you undertake secondary employment, you should ensure that your total working time does not exceed an average of 48 hours per week in total. The Council may require you to disclose your total working hours and commitments.
- 10.4 If you do undertake secondary employment, it should not conflict with the Council's interests, nor bring it into disrepute and it must be undertaken outside your normal working hours. You should not undertake any private work in Council premises or using Council property or equipment without the express consent of your Business Manager which will only be given in exceptional circumstances.
- 10.5 You should notify your Business Manager of any secondary employment undertaken. This notification does not remove the right of the Council to take action against you where the secondary employment is deemed to be detrimental to the interests or reputation of the Council or where it may affect your work performance for the Council.

11. Probity of Records and Other Documents

- 11.1 You should not deliberately falsify any records or other documents for financial advantage or otherwise. Such action will be regarded as gross misconduct and may lead to dismissal as well as criminal sanctions.

12. Financial Inducements, Gifts and Hospitality

- 12.1 Section 117 of the Local Government Act 1972 provides that it is an offence for any employee to accept any fee or reward other than his or her proper remuneration in the course of their duties. It is important that you are able to recognise what is and what is not acceptable. You should have regard to the Council's policy on gifts and hospitality and, where necessary, seek advice and guidance from your Business Manager or Director.

13. Contracts

- 13.1 If your role involves the engagement or supervision of contractors and you have previously had or currently have a relationship with an existing or potential contractor in a private or domestic capacity, you should declare that relationship to your Business Manager or Director.
- 13.2 You must ensure that no special favour is shown to current or former partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior capacity.
- 13.3 If you are involved in the tendering process and dealing with contractors, you should be clear on the separation of client and contractor roles within the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness. Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

13.4 If you are privy to confidential information on tenders or costs for either internal or external contractors, you should not disclose that information to any party or organisation without express authority.

13.5 In the event of a possible management buy-out you should, as soon as you have formed a definite intent, inform the appropriate Director and withdraw from the contract awarding process.

14. Sponsorship

14.1 Where the Council sponsors an event or service, you, your partner, spouse, friend or relative should not benefit from that sponsorship.

14.2 Where the Council gives support in the community through sponsorship, financial or other means you should ensure that impartial advice is given and there is no conflict of interest.

15. Political Neutrality

15.1 You must serve the Council as a whole, serving all elected members and not just those of the controlling group. You should give advice which does not compromise your political neutrality.

15.2 You must follow the lawfully expressed policies of the Council and not allow your personal or political opinions to interfere with your work.

15.3 Where you are required to advise any political group, you should ensure that you have notified your Business Manager or Director and you should ensure that there are adequate safeguards to ensure your political neutrality. You should have regard to the protocol on Member / Officer relations.

15.4 If you hold a politically restricted post under the Local Government and Housing Act 1989 you must comply with the requirements of the Act.

16. Relationships with Members

16.1 You should not place yourself in a position where close familiarity with a Member prejudices your work. You should have regard to the Council's protocol on Member / Officer relations. Close familiarity should be avoided.

16.2 You should declare any relationship with a Councillor where the relationship could cause, or be perceived to cause, a conflict of interest.

17. The Media

17.1 You should not communicate with the media on matters relating to the activities of the Council without the prior approval of your Business Manager or Director. You should direct any media enquiries to the Business Manager, Customer Services and External Communications, or, in their absence, to your Director.

18. Relationships with Other Employees

- 18.1 You must declare any personal relationship with another employee of the Council where the relationship could cause, or be perceived to cause, a conflict of interest.
- 18.2 You should treat all colleagues with courtesy and respect.

19. Appointments and Other Employment Decisions

- 19.1 Where you are involved in appointments you should ensure that these are made on merit. You should not be involved in an appointment, either on an Appointment Panel or as a referee, where you are related to the applicant or have a close personal relationship with them.
- 19.2 You should not be involved in decisions relating to discipline or other sanction or in decisions relating to pay where you are related to or have a close personal relationship with the employee who is subject to that decision.
- 19.3 You shall not directly or indirectly seek the support of any Councillor for any appointment with the Council for yourself or for others.
- 19.4 You will be disqualified from that appointment if you lobby Councillors indirectly or directly for appointment to a new post within the Council and such action may also constitute a disciplinary offence.

20. Use of Council Property, Facilities and Equipment

- 20.1 You should use Council property, facilities and equipment for Council purposes only. Limited personal use of telephones, etc, may be allowed with the express consent of your Business Manager or Director in exceptional circumstances only.
- 20.2 When using the Council's communication systems you should have regard to the Council's ICT policies, procedures and protocols.

21. Social Networking Sites

- 21.1 If you use social networking sites either in your work or private life, you should have regard to the Council's social media guidelines.
- 21.2 Unless you have received written approval from your Business Manager or Director to do so in work, you should set up any personal web forums or blogs outside of work and should not use Council equipment to do so.

22. Disclosure of Information

22.1 The Council is committed to open Government. The law requires that certain types of information must be available to Members, auditors, Government Departments, service users and the public. The Council itself may decide to be open about other types of information. You should not communicate to the public the proceedings of any Committee meeting or the contents of any document relating to the Council or information relating to any individual where that information is confidential or exempt unless expressly authorised to do so.

22.2 You have a duty of confidentiality to your employer. You should not use any information obtained in the course of your employment for personal gain or benefit, nor should you pass it on to others who might use it in such a way.

22.3 Intellectual property (the generic term that includes inventions, creative writings, software and drawings) arising in the course of your employment are the property of the Council and you should not use that intellectual property for personal benefit.

23. Public Concern and Whistle Blowing

23.1 The Council does not tolerate any form of malpractice. As an employee of the Council you have an important part to play in reporting any concerns and you will be expected to co-operate with investigations. The Council recognises that it may be difficult for you to report legitimate concerns through fear of victimisation or reprisal. In such circumstances you should follow the Council's Whistle Blowing procedure.

PROTOCOL ON MEMBER/OFFICER RELATIONS

1.0 Introduction

- 1.1 The purpose of this protocol is to guide Councillors and officers of the Council in their relationships with one another. The third report on the Committee on “Standards in Public Life”, chaired by Lord Nolan, recommended that *“Every local authority should have its own written statement or protocol governing relations between members and officers”* (Rec 20).
- 1.2 Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which can arise. In some instances the protocol may not refer to particular situations or be sufficient to resolve a particular situation and this should be dealt with under Section 7.0 “Unresolved Issues”. However, it is hoped that the general approach detailed in the protocol will serve as a guide to dealing with those issues. **It is hoped however that the approach which it adopts to these issues will serve as a guide dealing with any issues not specifically referred to.**
- 1.3 This protocol is to a large extent no more than a written down statement of current practice and convention. In some respects however, it seeks to promote greater clarity and certainty. If the advice is followed it should also ensure that Councillors receive objective and impartial advice and that Councillors and Officers are protected from accusations of bias and any undue influence.
- 1.4 This protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Councillors and Officers. The shared object of these Codes is to enhance and maintain the integrity (real and perceived) of local government and they therefore demand very high standards of personal conduct.
- 1.5 Councillors and Officers have distinct roles with the Council. Councillors are responsible to the electorate and serve only so long as their term of office lasts, Officers are responsible to the Council. Their job is to give advice to Councillors and the Council and to carry out the Council’s work under the direction and control of the Council and its Committees. Mutual respect between Councillors and Officers, both personally and for the roles which each perform is essential to good local government. It is important that in all dealings between Councillors and Officers that both should observe reasonable and consistent standards of courtesy and that neither party should seek to take advantage of their position.
- 1.6 In the Code of Conduct for Members adopted by the Council it is provided that Members have a general obligation “to treat others with respect and not to do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf, the authority”.
- 1.7 A breach of this protocol by a Councillor may constitute a code of conduct breach.

1.8 A breach of this protocol by an Officer may constitute a disciplinary offence and could result in dismissal.

2.0 Officer Advice to Party Groups

2.1 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Senior Officers may properly be called upon to support and contribute to such deliberations by party groups.

2.2 The support provided by such Officers can take many forms, ranging from a briefing meeting with a chairman or spokesman prior to a committee meeting, to a presentation to a full party group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever party group (if any) is for the time being in control of the Council, such support is available to all party groups.

2.3 Certain points must however be clearly understood by all those participating in this type of process, Councillors and Officers alike. In particular:-

- (a) Officer support in these circumstances must not extend beyond providing information and objective advice in relation to matters of *Council* business. Officers must not be involved in advising on matters of party business. Officers are not expected to be present at meetings, or parts of meetings, when matters of party business are to be discussed.
- (b) party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
- (c) similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council decision making body when the matter in questions is considered.

2.4 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Councillors of the Council. Such persons will not be bound by the Code of Conduct for Members adopted by the Council (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Councillors only meeting. The Senior Council Member at the Group meeting should inform the Officer(s) if any non-members of the Council are present.

2.5 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group without consent.

2.6 Officers providing advice to party groups shall notify the Chief Executive who shall maintain a register of such occurrences including the date the advice was provided, to which Group, the Officer involved and its general subject matter.

2.7 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

3.0 Officer/Councillor Relationships

3.1 It is important that there should be close working relationships between Councillors and Officers in certain instances, for example between the chairman of a committee or sub-committee and the relevant Director, Business Managers or statutory officer. It is clearly undesirable, however, that such relationships should be allowed to become so close or appear to be so close as to bring into question the Officer's ability to deal impartially with other Councillors and other parties.

3.2 Close personal familiarity between Officers and individual Councillors can damage the relationship and prove embarrassing to other Councillors and Officers. It is not enough to avoid actual impropriety. Councillors and Officers should at all times avoid occasion for suspicion and any appearance of improper conduct.

3.3 Whilst paragraphs 3.1 and 3.2 state or infer that close personal familiarity between individual Councillors and Officers should be avoided this is not an absolute bar on Officers having a close personal relationship with Councillors. "Relationship" for these purposes include any family business or close personal relationships. The Council recognises that there may be social or personal relationships between Councillors and Officers which commenced before or after a Councillor is elected to the Council or before or after an Officer became appointed by the Council. Irrespective of when the relationship commenced the effect on the operation of the Council of such relationships will of course depend upon the roles and responsibilities of the Member and Officer involved.

3.4 Where however a close personal relationship exists the Councillor concerned should disclose this to his/her group leader and the Chief Executive and the Officer to the Chief Executive. Where it is considered that such relationships are capable of causing a conflict of interest the Chief Executive will arrange for such relationships to be entered as declarations in the Register of Member and Officer Interests respectively. In order to maintain the integrity of the individuals concerned and the Council such relationships should never be hidden. To do so can lead to suspicion and mistrust.

3.5 Where a close personal relationship is disclosed and registered then:-

- (a) group leaders and Chief Officers will endeavour so far as possible to ensure that neither the Councillor nor the Officer are placed in a position where such relationships between Councillor and Officer could be seen to conflict with other provisions of this protocol;

- (b) the Councillor and the Officer will also endeavour so far as possible to ensure that they do not place themselves in a position where their relationship could be seen to conflict with other provisions of this protocol; and
- (c) specifically Councillors must not sit on or participate in decisions by any Council committee or other body which directly affects an Officer with whom they have such a relationship.

4.0 Undue Pressure

- 4.1 In their dealings with Chief Officers and Officers (especially junior officers) Councillors need to be aware that it is easy for Officers to be overawed and feel at a disadvantage. Such feelings can be intensified where Councillors hold official and/or political office.
- 4.2 A Councillor should not apply undue pressure on an Officer either to do anything that he/she is not empowered to do or to undertake work outside normal duties or normal hours or to allow or aid the Councillor to do something which the Councillor is not authorised to do. Particular care needs to be taken in connection with the use of Council property and services.
- 4.3 Similarly, an Officer must neither seek to use undue influence on an individual Councillor to make a decision in their favour nor raise personal matters to do with their job nor make claims or allegations about other staff. Newark & Sherwood District Council has formal procedures for consultation whistleblowing grievance and discipline. As an exception to this provision an employee may raise issues (other than those relating to the employee's employment with the Council) relating to Council business where the Councillor is the local ward Councillor of the employee concerned.
- 4.4 Whilst the chairman of a committee or sub committee will routinely be consulted as part of the process for drawing up the agenda for a forthcoming meeting it must be recognised that in many situations an Officer will be under a duty to submit a report on a particular matter. Similarly, an Officer will always be fully responsible for the contents of any reports submitted in his or her name. Any issues which cannot be resolved as the result of discussion/negotiation between the Chairman and an Officer in this area should be referred to the Chief Executive for resolution. Where individual Councillors wish to place an item on an agenda they should notify the appropriate meeting Chairman or Chief Executive and comply with the timetable set out in the Council's Rules.

5.0 Correspondence

- 5.1 Correspondence between an individual Councillor and an Officer should not normally be copied by the Officer to any other Councillor. Where it is necessary to copy the correspondence to another Councillor this should be made clear to the original Councillor.

5.2 Official letters or electronic communications on behalf of the Council should normally be sent out in the name of the appropriate Officer rather than in the name of a Councillor. It may be appropriate in certain circumstances (for example representations to a Government Minister) for a letter or electronic communication to appear in the name of a Councillor but this should be the exception rather than the norm. Letters which for example create obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor.

6.0 Venue of Meetings

6.1 Normally, meetings between Officers and Elected Members whilst acting in their official capacity should not take place in the home or business premises of the Elected Member or in a venue that the Officer otherwise considers to be inappropriate.

6.2 Where such a meeting does take place in the home or business premises of the Elected Member, the Officer shall notify the Chief Executive or the relevant Chief Officer of the date and time of the meeting and shall provide a summary of the issues discussed.

7.0 Unresolved Issues

7.1 Any breaches of this protocol or any issues remaining unresolved after consideration of the application of the protocol or any issues arising in respect of its interpretation shall be referred to the Leader of the Council and Chief Executive for resolution who, if they consider further action is required, shall refer the matter to the Council's Standards Committee for determination. In the case of an Officer, the Chief Executive or a Chief Officer, may institute disciplinary proceedings for breach of the protocol where he/she considers it appropriate to do so.

PROTOCOL FOR DEALING WITH OMBUDSMAN MATTERS

1. On receipt of an initial letter from the Ombudsman advising that a complaint has been received, the Chairman and the Vice-Chairman of the Planning Committee in the case of complaints relating to planning matters and the Chairman and the Vice-Chairman of the Policy & Finance Committee in respect of all other matters, excluding complaints relating to Standards issues will be informed, together (where appropriate) with the Leader of the Council and the local Members.
2. In respect of complaints relating to Standards issues, the Chairman and Vice-Chairman of the Standards Committee will be informed together with the Leader of the Council where appropriate. The Monitoring Officer will also be advised of the complaint and will inform the Independent Persons appointed by the Council and the member the subject of the complaint.
3. If after an initial investigation, the Ombudsman resolves not to pursue the matter, the Members specified above will be informed.
4. If the Ombudsman resolves to carry out further investigations, the Members specified above will be kept informed. Other Members who appear to have a particular interest in the matter may also be informed.
5. On receipt of the final draft report from the Ombudsman, the Members specified above will be informed, together with any other Member who had a personal involvement in the investigation.
6. Any formal reports issued by the Ombudsman will initially be considered by the Planning Committee in the case of Planning matters, the Standards Committee in respect of standards issues or the Policy & Finance Committee in respect of all other matters, with a recommendation to the Council as to whether or not to accept the Ombudsman's recommendation where maladministration is found causing injustice.
7. Local settlements will be considered by the Planning Committee, Standards Committee or Policy & Finance Committee, as appropriate. However, there are cases which relate to relatively minor matters or where it is in the interests of the Council to resolve the matter quickly. In such cases the appropriate Chief Officer has delegated authority to agree local settlements, in consultation with the Members specified at 1 or 2 above as appropriate, where he or she deems it in the interests of the Council to do so.
8. Complaints to the Ombudsman may be reviewed annually by the Policy & Finance Committee.

PROTOCOL FOR MEMBERS ON HOSPITALITY AND GIFTS

1.0 Introduction

1.1 This guidance is supplementary to the requirements of the Code of Conduct. The Code governs the ethical standards required of members. Specifically, it seeks to ensure that the public role of members is not prejudiced by inappropriate behaviour or association. Members may be offered gifts or hospitality and it is important that such offers are considered critically. This guidance is intended to assist in determining how to respond to such offers.

2.0 Principles

2.1 People or bodies may have ongoing contractual relationships with the Council. Equally, people or bodies may need planning permission or other consent from the Council to conduct their affairs. They could seek to secure a sympathetic response from Council Members by the making of gifts. Equally whether or not the intention to secure an advantage is present, an outsider might suspect that an improper advantage is being sought from a member. It is essential that members should give critical consideration to the offer of gifts or hospitality in that light.

2.2 There are few hard and fast rules governing the acceptance of gifts and hospitality. Clearly if the offer is corrupt, there are criminal implications. Moreover, the Code of Conduct requires any member receiving any gift or hospitality over the value of £100 in his or her capacity as a Member to notify the Monitoring Officer of the existence and nature of that gift or hospitality within twenty-eight days of receiving it. Details are entered in a register maintained by the Monitoring Officer, which is open to public inspection.

2.3 Members are personally responsible for all decisions connected with the acceptance of gifts or hospitality and for avoiding the risk of damage to public confidence in the authority.

2.4 Members should therefore treat all offers of gifts or hospitality with caution, with a view to not only avoiding impropriety but also any suggestion of impropriety. Members should give the same consideration to offers made to members of their family or friends, which could be viewed as securing an indirect benefit to themselves.

2.5 Although all offers should be treated with caution, there will be occasions where not to accept reasonable gifts or hospitality would prejudice the regular conduct of the Council's business or give offence to persons or bodies of significance to the Council. This is most obviously seen in the context of overseas civic twinning arrangements and similar events where courtesies demand the exchange of reasonable gifts and hospitality and where special arrangements (detailed later) are in place. Equally, it is reasonable to expect business meetings to be accompanied by modest refreshment should the nature and duration of the meeting demand it. An example would be the provision of a working lunch.

2.6 It is important that the offer and receipt of gifts and hospitality takes place in an open manner. Such openness will serve to remove suspicion and provide accountability. It will also deter the making of inappropriate offers.

3.0 General Guidance

3.1 Whether to accept the offer of a gift or hospitality should be considered in the light of the above principles and the guidance issued pursuant to the Bribery Act 2010.

3.2 Members should never accept a gift or hospitality as an inducement or reward for taking any particular action or for refraining from taking any particular course of action.

3.3 Members should never accept a gift or hospitality if acceptance may be open to misinterpretation.

3.4 Members should never solicit a gift or hospitality in an individual capacity (however this shall not prevent them from seeking grants, sponsorship or other benefits on behalf of the district or the community of their ward area).

3.5 Receiving civic hospitality provided by another public authority is acceptable.

3.6 Receiving tickets for sporting, cultural and entertainment events sponsored by the authority would normally be acceptable but will be dependent on the precise nature of the event and the value of the ticket.

3.7 Members should declare the receipt of all significant offers of gifts and hospitality to the Monitoring Officer whether or not the offer has been accepted (for the avoidance of doubt, this does not require the declaration of modest gifts of no significant value such as a diary or calendar or modest refreshments such as tea, coffee and biscuits or a working lunch) but will include offers of gifts and hospitality such as bottles of wine, even where the value is substantially below the £100 limit set out in the Code. The Monitoring Officer will keep a separate register of the receipt of gifts and hospitality as required by the formal Code i.e. over £100.

3.8 Members should be particularly alert to any relationship that the person making the offer has to the Council, i.e. whether they have a contractual relationship with the Council or whether they are likely to require a favourable decision from the Council, e.g. a planning permission, a contract or a licence.

3.9 It is acceptable to receive modest gifts on significant occasions, e.g. at Christmas where not to do so would show a lack of courtesy. An example of such a gift might be a diary or a calendar. Receipt of gifts such as a bottle of wine etc would not normally be acceptable but may, in exceptional circumstances, be dealt with under paragraph 5 "Special Arrangements". Acceptance of a gift or hospitality is more likely to be acceptable where that offer either has been or is likely to be reciprocated by the Council.

- 3.10 Accepting modest refreshment such as a working lunch, or hospitality provided as part of an official opening ceremony or similar event would be acceptable.
- 3.11 It is the responsibility of each individual member to decide whether to accept offers of gifts and hospitality. If in doubt, advice should be sought from the Monitoring Officer or Head of Paid Service. In exercising their judgement Members should have regard both to the particular circumstances and as to whether a member of the public, with knowledge of the relevant facts, would reasonably consider its acceptance to be appropriate.
- 3.12 An important criterion in exercising judgement as to what is acceptable is what interpretation those in the community or the press might reasonably put upon acceptance having full knowledge of the relevant facts.
- 3.13 Repeated offers of gifts or hospitality from one person, firm or organisation may render unacceptable what would otherwise have been acceptable.
- 3.14 Particular care should be taken where a member has any involvement in making a decision for placement of a contract or for any decision carrying value for the person or organisation offering the gift or hospitality (for example, the granting of planning permission).

4.0 Civic Gifts and Hospitality

- 4.1 It is the responsibility of the Chief Executive to ensure that hospitality for civic events is proportionate to the occasion. A guiding principle in accepting or offering hospitality is whether it is reasonable to expect the hospitality to be reciprocated at a similar level.
- 4.2 The presumption is that any gifts given to the Chairman or Vice-Chairman are gifts to the office of the Chairman and so belong to the Council. The Chief Executive is the final arbiter of whether such gifts belong to the Council or to the individual occupying the office of Chairman. In exercising such judgement, the Chief Executive shall have particular regard as to whether the gifts were given to the office holder in a personal or in an official capacity and the value of such gifts.
- 4.3 The Chief Executive will maintain a record of all gifts to the office of Chairman. All gifts in excess of a value of £100 will be declared to the Monitoring Officer for entry in the register.
- 4.4 For the avoidance of doubt, the above provisions shall not apply to any gifts donated for the purpose of any raffle or similar fund-raising events organised by the Chairman for the purposes of the Chairman's charity.

5.0 **Special Arrangements**

- 5.1 If a Member receives a gift where the donor is unknown, where it is impracticable to return the gift to the person or organisation making the gift, or where the Member reasonably considers that to return it would cause undue offence, in circumstances where it would otherwise be inappropriate to accept the gift, the Member should deal with the gift in accordance with the procedure set out below.
- 5.2 The Member must, as soon as practicable after receipt of the gift pass it to the Chief Executive or Monitoring Officer to be donated to the Chairman's Charity. The Chief Executive or Monitoring Officer shall write to the person or organisation making the gift, if known, thanking them on behalf of the Member for the gift and informing them that it has been donated to the Chairman's Charity Fund.

PROTOCOL FOR MEMBERS ON DEALING WITH PLANNING MATTERS

1.0 Introduction

- 1.1 One of the key purposes of the planning system is to regulate the development and use of land in the public interest.
- 1.2 Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework. Planning necessarily affects land and property interests and as a consequence decisions can often be highly contentious.
- 1.3 The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and decision notices. Nevertheless it is important that the decision making process is open and transparent.
- 1.4 The aim of this protocol is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 1.5 This protocol applies at all times when Members are involved in the planning process. This includes meetings of the Planning Committee, meetings of the Council when exercising the functions of the Planning Authority and less formal occasions, such as meetings with officers or the public and consultative meetings. It applies to planning enforcement matters, to site specific policy issues and to the making of compulsory purchase orders on planning grounds.

IF YOU HAVE ANY QUERIES OR CONCERNS ABOUT THE APPLICATION OF THIS PROTOCOL TO YOUR OWN CIRCUMSTANCES YOU SHOULD SEEK ADVICE EARLY FROM THE MONITORING OFFICER OR DEPUTY MONITORING OFFICER AND PREFERABLY WELL BEFORE ANY MEETING TAKES PLACE

2.0 Relationship to the Members Code of Conduct

- 2.1 The Council has adopted a local code of conduct which reflects the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 2.2 This protocol is intended to supplement the Members Code of Conduct where members are involved in the planning process.
- 2.3 The rules set out in the Members Code of Conduct must be applied first and must always be complied with.
- 2.4 Where a member does not abide by the Members Code of Conduct and/or this protocol when involved in the planning process it may put the Council at risk of challenge on the legality of any decision made or at risk of a finding of maladministration.

- 2.5 The failure is also likely to be a breach of the Members Code of Conduct and may be the subject of a complaint to the Standards Committee.

MEMBERS SHOULD APPLY COMMON SENSE IN THE INTERPRETATION OF THIS PROTOCOL.

3.0 The General Role and Conduct of Councillors and Officers

- 3.1 Councillors and officers have different but complementary roles. Both serve the public but councillors are responsible to the electorate whilst officers are responsible to the Council as a whole. Officers advise councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual councillors. A successful relationship between councillors and officers will be based upon mutual trust, understanding and respect of each other's position. The Council has adopted a protocol giving guidance on relationships between officers and members.
- 3.2 Both councillors and officers are guided by codes of conduct. The Members Code of Conduct and its relationship to this protocol are set out in section 2 above.
- 3.3 Planning Officers who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct breaches of which may be subject to disciplinary action by the Institute. In addition the Council has adopted a Code of Conduct for employees.
- 3.4 In addition to these codes, the Council's Procedure Rules set down rules which govern the conduct of Council business.
- 3.5 Councillors and officers should view with extreme caution any offer of gifts or hospitality. The Council has adopted separate protocols for officers and for members giving guidance on gifts and hospitality.
- 3.6 Serving councillors who act as agents for people pursuing planning matters within their authority should not be members of the Planning Committee.
- 3.7 Councillors and particularly those serving on the Planning Committee should receive training on planning when first appointed to the Planning Committee and regularly thereafter.

4.0 Registration and Disclosure of Interests

- 4.1 The Member Code of Conduct sets out detailed requirements for the registration and disclosure of disclosable pecuniary interests. Members should not participate in any decision and should leave the meeting where they have a disclosable pecuniary interest unless they have first obtained a dispensation.

In addition, unless they have obtained a dispensation they should:-

- **NOT** participate or give the appearance of trying to participate in the making of any decision on the matter by the Council
- **NOT** get involved in the processing of the application
- **NOT** use their position to discuss the proposal with officers or members when other members of the public would not have the opportunity to do so or in any other way seek or accept any preferential treatment or give the appearance of so doing.

4.2 In addition, the Code requires members to consider whether they have a non disclosable interest or personal interest in any item. Such an interest will arise where the matter may reasonably be regarded as affecting the wellbeing or financial standing of the member concerned, a member of their family or a person with whom they have a close association to a greater extent than the majority of people in their ward. Such an interest will also arise where it would be a disclosable pecuniary interest but relates to a member of the councillor's family or to a close associate rather than to the member themselves or to their spouse or partner.

4.3 In the event that a member considers that they have a non disclosable pecuniary interest or personal interest in any matter they should disclose the existence and nature of the interest at or before the consideration of that item of business or as soon as the interest becomes apparent.

4.4 The member then needs to consider very carefully whether it would be appropriate to participate in discussion and voting on the matter. They should think about how a reasonable member of the public, with full knowledge of all the relevant facts would view the matter when considering whether their participation would be appropriate.

5.0 Predisposition, Predetermination or Bias

5.1 To protect the rights of planning applicants and to preserve the integrity of committee decisions, it is vital that members do not make up their minds before they have all relevant materials and arguments before them at the Planning Committee meeting. Members must retain an open mind at the time the decision is made and not make up their minds or appear to have made up their minds until they have heard the officer's presentation and evidence at the Planning Committee when the matter is considered. This is particularly important if a member is contacted by an external interest or lobby group. If a member has made up their mind prior to the meeting and is not able to reconsider their previously held view, they will not be able to participate in the determination of the matter by the Authority because if they did take part in the discussion or vote it would put the Authority at risk in a number of ways. Firstly, it would probably, in the view of the Local Government Ombudsman, constitute maladministration. Secondly, the Authority could be at risk of legal proceedings on a number of possible grounds:-

- That there was a danger of bias on the part of the member; and/or
- Predetermination; and/or
- A failure to take into account all of the factors which would enable the proposal to be considered on its merits

5.2 Members are entitled to feel predisposed towards a particular decision but must still be able to consider and weigh relevant factors before reaching their final decision. Predetermination arises when members' minds are closed, or reasonably perceived to be closed, to the consideration and evaluation of the relevant factors. This risks making the whole decision vulnerable to legal challenge. Section 25 of the Localism Act 2011 provides that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. For example, a councillor who states "wind farms are blots on the landscape and I will oppose each and every wind farm application that comes before committee" has a closed mind. A councillor who states "many people find wind farms ugly and noisy and I will need a lot of persuading that any more wind farms should be allowed in our area" does not have a closed mind although they are predisposed towards opposing such applications.

5.3 Members may take part in the debate on a proposal when acting as part of a consultee body (ie where they are also a member of the county or parish council as well as being a member of the Authority) provided that:-

- They make clear during discussion at the consultee body that:-
 - (i) Their views are expressed on the limited information before them only; and
 - (ii) They will reserve judgement and the independence to make up their own mind on each separate proposal when it comes before the District Council's Planning Committee and they have heard all the relevant information and
 - (iii) They will not in any way commit themselves as to how they or others may vote when the proposal comes before the District Council's Planning Committee.

In the interests of transparency, the member should, in such circumstances, disclose the personal interest regarding their membership of the consultee body when the District Council's Planning Committee comes to consider the proposal.

5.4 Where a member has already made up their mind ("fettered their discretion") and therefore declines to speak or vote on a proposal, they do not also have to withdraw (unless they have a disclosable pecuniary interest and have not obtained a dispensation) but they may prefer to do so for the sake of appearances.

5.5 If a member decides to stay in the meeting they should explain that they do not intend to speak and vote because they have (or could reasonable be perceived as having) judged the matter elsewhere, so that this may be recorded in the minutes.

5.6 Members who have participated in the development of planning policies and proposals need not and should not normally exclude themselves from decision making on individual applications for that reason.

6.0 Development Proposals Submitted by Councillors and Officers and Council Development

6.1 Proposals submitted by serving and former councillors, officers and their close associates and relatives can easily give rise to suspicions of impropriety. Proposals could be planning applications or local plan proposals.

6.2 Such proposals must be handled in a way that gives no grounds for accusations of favouritism. In particular:-

- If a member or officer submits their own proposal to the Authority, they should play no part in its consideration
- The Council's Monitoring Officer should be informed of any proposal submitted by any member or any officer employed by the Authority on the grade of Business Manager or above or any officer who would otherwise have been involved in processing or determining the application
- Such proposals should be reported to the Planning Committee and not dealt with by officers under delegated powers

6.3 A member will have a disclosable pecuniary interest in their own application and should not participate in its consideration. They have the same rights as any applicant in seeking to explain their proposal to an officer but the councillor, as applicant, should also not seek to improperly influence the decision.

6.4 Proposals for the Council's own development should be treated with the same transparency and impartiality as those of private developers.

7.0 Lobbying of and by Councillors

7.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward member or to a member of the Planning Committee. The Nolan Committee's 1997 report stated: "it is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves".

7.2 Lobbying can, however, lead to the impartiality and integrity of a councillor being called into question, unless care and common sense is exercised by all the parties involved.

- 7.3 When being lobbied, councillors and members of the Planning Committee in particular, should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments.
- 7.4 In such circumstances, members should consider restricting themselves to giving advice about the process and what can and cannot be taken into account.
- 7.5 Members can raise issues which have been raised by their constituents with officers.
- 7.6 If a member does express an opinion to objectors or supporters, it is good practice to make it clear that they will only be in a position to make a final decision after having heard all the relevant arguments and having taken into account all relevant material and planning considerations at committee.
- 7.7 If any councillor, whether or not a committee member, speaks on behalf of a lobby group at the Planning Committee, they should withdraw from the meeting once the opportunity to make representations has been completed in order to counter any suggestions that members of the Committee may have been influenced by their continuing presence.
- 7.8 In no circumstances should planning decisions be made on a party political basis in response to lobbying. The use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.
- 7.9 Planning Committee members and members of the Local Development Framework Task and Finish Group should in general avoid organising support for or against a planning application and should not lobby other councillors.
- 7.10 Members should not put pressure on officers for a particular recommendation or decision and should not do anything which compromises, or is likely to compromise, the officer's impartiality or professional integrity.
- 7.11 Members should pass any lobbying correspondence received by them to the Business Manager – Development Control at the earliest opportunity.
- 7.12 Any offers made of planning gain or restraint of development, through a proposed S106 Agreement or otherwise should be referred to the Business Manager – Development Control.
- 7.13 Members should not accept gifts or hospitality from any person involved in or affected by a planning proposal.
- 7.14 Members should inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches, including inappropriate offers of gifts or hospitality, who will in turn advise the appropriate officers to follow the matter up.

8.0 Requests to Refer Items to Committee

8.1 If a member requests that a matter be referred to committee for determination, where it would otherwise be dealt with by officers acting under delegated powers, they should give written reasons for that request and those reasons should relate solely to matters of material planning concern. The member should also observe any additional rules and requirements set out in the Council's Constitution.

9.0 Pre-Application Discussions

9.1 Pre-application discussions between a potential applicant and the Council can benefit both parties and are therefore encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.

9.2 Councillors have an important role to play in pre-application discussions, bringing their local knowledge and expertise, along with an understanding of community views. Involving councillors can help identify issues early on, helps councillors to lead on community issues and helps to ensure that issues do not come to light for the first time at committee. Officers should therefore consider involving the local ward Member(s) particularly in relation to major applications. However, in order to avoid perceptions that councillors might have fettered their discretions, such discussions should take place in accordance with the following guidelines:-

- (i) It should be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
- (ii) It should be acknowledged that consistent advice should be given by officers based upon the development plan and material planning considerations.
- (iii) Officers should be present with councillors in pre-application meetings. Councillors should avoid giving separate advice on the development plan or material considerations as they may not be aware of all the issues at an early stage.
- (iv) Members should not become drawn into any negotiations which should be done by officers (keeping interested members up to date) to ensure that the Authority's position is co-ordinated.
- (v) A written note should be made of all meetings. An officer should make the arrangements for such meetings, attend and write notes. A note should also be taken of any phone conversations, and relevant emails recorded for the file. Notes should record issues raised and advice given. The note(s) should be placed on the file as a public record. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised or advice given can still normally be placed on the file to reassure others who are not party to the discussion.
- (vi) Care should be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to Committee could appear to be advocacy.

- 9.3 Although the term “pre-application discussions” has been used, the same consideration should apply to any discussions which occur before a decision is taken.
- 9.4 Common sense should be used by members in determining the scale of the proposals to which the guidelines set out in 8.2 ante will apply. Councillors talk regularly to constituents to gauge their views on matters of local concern. Keeping a register of such conversations would be neither practical nor necessary. If for example a member is approached by an applicant or an objector in respect of what could reasonably be considered to be a minor application it would be more appropriate for the member concerned to give advice on process only and what can and cannot be taken into account (see paragraph 7.4 ante) and to refer the constituent to a planning officer if they need planning or technical advice.

10.0 Officer Reports to Committee

- 10.1 Officer reports to Committee should be comprehensive and should include the substance of any objections and other responses received to the consultation. Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the National Planning Policy Framework (NPPF), any local finance considerations and any other material planning considerations.
- 10.2 Reports should have a written recommendation for a decision to be made.
- 10.3 Reports should contain technical appraisals which clearly justify the recommendation.
- 10.4 If the reports recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated. This is not only good practice, but also failure to do so may constitute maladministration or give rise to a Judicial Review challenge 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 S38A of the Planning and Compensation Act 2004 and S70 of the Town and Country Planning Act 1990.
- 10.5 Any oral updates or changes to the report should be recorded.

11.0 Public Speaking at Planning Committees

- 11.1 Members of the public, including any applicant or objector, are not entitled to speak at meetings of the Planning Committee and should accordingly submit any representations in writing.
- 11.2 All representations received will be reported to committee. Where they are received late, and after publication of the agenda for the Planning Committee they will be reported to the Committee by means of a late paper summarising any late representations received in respect of items on the agenda for the Committee.

- 11.3 References to Parish Councils shall include Town Councils. Parish Councils may appoint a representative to make representations on behalf of the Parish Council in respect of any planning application submitted within the area of the relevant parish, or where it can clearly be demonstrated to the satisfaction of the relevant Director in consultation with the Chairman and Vice Chairman of the Planning Committee that the application will have a material impact on the whole or part of the Parish Council's area.
- 11.4 The Parish Council should notify the Council's Democratic Services Team, in advance of the meeting, that they wish to make representations and the name of their nominated representative.
- 11.5 Such nominated representative should be the clerk or other officer or a member of the Parish Council. Any professional agent or other third party appointed by the Parish Council shall have no right to speak at Committee.
- 11.6 The nominated representative shall put forward views or representations which reflect the views of the Parish Council which they are representing. They shall not be entitled to put forward personal views or opinions or views which differ from those of the Parish Council which they represent.
- 11.7 A Parish Meeting shall have the same rights to appoint a representative to speak on their behalf as a Parish Council provided that they are able to evidence that they are reflecting the views of the Parish Meeting (for example as recorded in the minutes of the Parish Meeting) rather than their personal views.
- 11.8 The local ward member for the area in respect of which the planning application is situated shall have the right to make representations to the Committee. A member shall also have the right to make representations for applications outside their ward area in circumstances where it can clearly be demonstrated to the satisfaction of the relevant director in consultation with the Chairman and Vice-Chairman of the Planning Committee that the application will have a material impact on the whole or part of their ward area. Any member wishing to exercise their right to speak under this provision shall be required to first notify the Council's Democratic Services team in advance of the meeting that they wish to make representations and, if the application is outside their ward area, the reasons why they consider that the application will have a material impact on the whole or part of their ward area.
- 11.9 A member from a neighbouring district/borough council shall have the right to make representations on behalf of that council and reflecting the views of that council to the Planning Committee in circumstances where it can clearly be demonstrated to the satisfaction of the relevant director in consultation with the Chairman and Vice-Chairman of the Planning Committee that the application will have a material impact on the whole or part of their Council area. A member wishing to exercise their rights under this paragraph shall be required to first notify the Council's Democratic Services team in advance of the meeting that they wish to make representations on behalf of their Council and shall also provide evidence that these representations will reflect the views of that Council and evidence that the application will have a material impact on the whole or part of their Council area.

- 11.10 The right to make representations as set out in 11.3, 11.7, 11.8 and 11.9 ante, shall be limited to a maximum 5 minutes duration.
- 11.11 New documents should not be circulated to the Committee. Councillors may not be able to give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material considerations arising. This should be made clear to those who intend to speak. If, in exceptional circumstances and at the Chairman's discretion, new documents are accepted, the meeting may be adjourned for them to be properly considered.
- 11.12 Messages should never be passed to individual committee members, either from other councillors or from the public. This could be seen as seeking to influence that member improperly and will create a perception of bias that will be difficult to overcome.

12.0 Decisions Which Differ From an Officer Recommendation

- 12.1 The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the NPPF) indicate otherwise (S38A Planning and Compensation Act 2004 and S70 of the Town and Country Planning Act 1990).
- 12.2 This applies to all planning decisions. Any reasons for refusal must be justified against the development plan and other material considerations.
- 12.3 The courts have expressed the view that the Committee's reasons should be clear and convincing. The personal circumstances of an applicant or any other material or non-material planning considerations which might cause local controversy will rarely satisfy the relevant tests.
- 12.4 Planning Committees can, and often do, make a decision which is different from the officer recommendation. Sometimes this will relate to conditions or terms of a S106 obligation. Sometimes it will change the outcome from an approval to a refusal or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.
- 12.5 The Planning Committee should take the following steps before taking a decision which differs from an officer recommendation:-
- (i) Record the detailed reasons as part of the mover's motion
 - (ii) If necessary, adjourn for a few minutes for those reasons to be discussed and then agreed by the Committee
 - (iii) Where there is concern about the validity of reasons and/or officer concern about a potential award of costs on appeal, consider deferring to another meeting to have the putative reasons tested and discussed.
 - (iv) Ensure that a recorded vote is taken, recording the individual names of those voting for and voting against the motion and the names of those abstaining.

- 12.6 If the Planning Committee makes a decision contrary to the officer's recommendation (whether for approval or refusal or changes to conditions or S106 obligations), a detailed minute of the Committee's reasons should be made and a copy placed on the application file. Councillors should be prepared to explain in full their planning reasons for not agreeing with the officer's recommendation. Pressure should never be put on officers to "go away and sort out the planning reasons".
- 12.7 The officer(s) should also be given an opportunity to explain the implications of the contrary decision should one be made.
- 12.8 All applications that are clearly contrary to the development plan and constitute notifiable departures must be advertised as such, and are known as "departure" applications. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated.
- 12.9 The application may then have to be referred to the relevant Secretary of State, depending upon the type and scale of the development proposed (S77 of the Town and Country Planning Act 1990). If the officer's report recommends approval of such a departure, the justification for this should be included, in full, in that report.

13.0 Committee Site Visits

- 13.1 Committee site visits do not constitute formal meetings of the Council but rather their purpose is to enable members to observe the site and to gain a better understanding of the issues. Accordingly attendance by members at Committee site visits is not essential and non-attendance will not preclude a member from discussing and voting on the relevant matter at the Planning Committee meeting. Notwithstanding this, members should make every effort to attend where it is considered that a site visit is necessary and appropriate. In addition, any relevant information which members have gained from the site visit will be reported back to the Committee so that all members have the same information.
- 13.2 Site visits should only be conducted where the benefit is clear and substantial. Officers will have visited the site and assessed the scheme against policies and material considerations already. A site visit should not take place unless:
- (i) There are particular site factors which are significant in terms of the weight attached to them relative to other factors if they would be difficult to assess in the absence of a site inspection; or
 - (ii) There are specific site factors and/or significant policy or precedent implications that need to be carefully addressed; or
 - (iii) The impact of the proposed development is difficult to visualise; or
 - (iv) The comments of the applicant and/or objectors cannot be expressed adequately in writing; or
 - (v) The proposal is particularly contentious

- 13.3 A record should be kept of the reasons why a site visit is called. It is important that the Council adopts a clear and consistent approach on when and why to hold a site visit and how to conduct it to avoid accusations that visits are arbitrary, unfair or a covert lobbying device.
- 13.4 Only members of the Planning Committee, the local ward member(s) and officers should participate in site meetings. A member who is not the local ward member but is able to demonstrate to the satisfaction of the Business Manager Development Control in consultation with the Chairman of the Planning Committee prior to the site meeting taking place that the application will have a significant impact on their ward may be permitted to attend the site meeting.
- 13.5 The applicant may be present on site but should be kept a discreet distance away from the Planning Committee members and officers so that they cannot be a party to any comments or questions raised. Upon the refusal of the applicant to respect this requirement, the Committee shall leave the site immediately.
- 13.6 Members should not express opinions or views at the site meeting but may ask officers present questions or seek clarification from them on matters which are relevant to the site investigation.
- 13.7 Under no circumstances should the site visit members hear representations from any party other than the local ward member. Observations of the ward member(s) should be confined to site factors and site issues. If any member present at a site visit is approached by the applicant or a third party, they should advise them that they should make representations in writing to the Authority and should direct them to or inform the officer present.
- 13.8 Once a councillor becomes aware of a proposal they may be tempted to visit the site alone. In such a situation, a councillor is only entitled to view the site from public vantage points and they have no individual rights to enter private property.

14.0 Voting at Committee

- 14.1 Any member who is not present throughout the whole of the presentation and debate on any item shall not be entitled to vote on the matter.

15.0 Deferral

- 15.1 Members should not seek to defer consideration of any item put before the Planning Committee unless there are clear and demonstrable reasons for doing so such as a relevant planning issue arising for the first time not having been previously considered and needing further investigation.

15.2 Where a Member might otherwise be minded to seek deferral of an item by reason that they wish to seek clarification on a particular issue, consider that further material information is required on a particular matter or for any other substantial reason, they should seek to obtain such clarification or additional information from the relevant Business Manager or the relevant Case Officer at least two hours prior to the commencement of the Planning Committee meeting.

16.0 Annual Review of Decisions

16.1 It is good practice for councillors to visit a sample of implemented planning permissions to assess the quality of the decisions and the development. This should improve the quality and consistency of decision making, strengthen public confidence in the planning system, and can help with reviews of planning policy.

16.2 Reviews should include visits to a range of developments such as major and minor schemes; upheld appeals; listed building works and enforcement cases. Briefing notes should be prepared on each case. The Planning Committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

17.0 Complaints

17.1 Complaints relating to planning matters will be dealt with in accordance with the Council's complaints procedures.

17.2 So that complaints may be fully investigated and as general good practice, record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it had been reached. This applies to decisions taken by Committee and under delegated powers, and to applications, enforcement and development plan matters.

**PROTOCOL TO GUIDE OFFICERS ON THE PROCEDURE TO FOLLOW
WHEN A MEMBER (PAST OR PRESENT) OR A SERVING OFFICER PASSES AWAY**

1.0 Introduction

1.1 The purpose of this protocol is to give guidance to council staff when they are advised that either a past or present Member of the Council has passed away or a serving officer of the Council who dies whilst in service.

2.0 Current/Ex-Council Members and Serving Officers

2.1 When notification is received advising that a Member or serving officer has died, after taking as many details as available, both the Chief Executive and the Chairman should be advised through their respective offices.

2.2 The Chief Executive's office will arrange for the flag to be lowered to half mast until the funeral takes place and will liaise with Building Services to this effect. The Chief Executive will also arrange for a letter of condolence to be sent to the Member's or Officer's family and ask to be notified of any funeral arrangements. (Subject to, in the case of serving officers, to respecting the wishes of the family if they wish to have a private service and do not wish the details to be notified).

2.3 In the case of Members, the Chairman's office will advise all Members of the Council with a further notification to all Members once the funeral arrangements are known. In the cases of serving officers any notification will be subject to the wishes of the officer's family.

2.4 The Chief Executive and Chairman will arrange for a one minute silence to be held at the meeting of Full Council following the date of death.

2.5 The protocol **only** applies to serving Members and past Chairmen of the Council and to serving officers of the Council and does not extend to their spouses/partners or families. The protocol does not apply to Officers who have retired or are no longer serving officers of the Council.

3.0 Spouse/Partners of Serving Members

3.1 If the Council are advised that a spouse/partner of a Member has passed away a letter to this effect will be forwarded to Members of the Council with funeral details, if they are known, to enable colleagues/friends to attend if they so wish.

3.2 A letter of condolence will be sent to the relevant Member by the Chief Executive. A one minute silence will not be held at any meetings of Full Council.

3.3 This part of the protocol does not apply to spouse or partners of Council officers.

NEWARK & SHERWOOD DISTRICT COUNCIL
WHISTLEBLOWING POLICY

1.0 Introduction

- 1.1 The Public Interest Disclosure Act became law in July, 1999 (PIDA – amended by the Enterprise and Regulatory Reform Act 2013). This Act, introduced for the protection of whistleblowers, removed the limit of financial liability to which an organisation could be exposed should a whistleblower receive unfair treatment. This policy document sets out the Council’s response to the requirements of the Act.
- 1.2 A whistleblower is generally a person who works in or for an organisation and raises an honest and reasonable concern about a possible fraud, crime, danger or other serious risk that could threaten colleagues, service users, customers, members of the public or the success and reputation of the organisation. In doing so they are acting in the wider public interest, usually because it threatens others or impacts on public funds.

2.0 Detail

- 2.1 All of us at one time or another may have concerns about what is happening at work. Usually these concerns are easily resolved, however, when they are about unlawful conduct, financial malpractice or dangers to the public or the environment (see Section 4.2 for particular types of concerns), it can be difficult to know what to do.
- 2.2 You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling either that it’s none of your business, or that it’s only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or the organisation. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.
- 2.3 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment it is expected that you, the Members and the employees of the Council, and others with whom the Council deals who have serious concerns about any aspect of the Council’s work, which they consider to be wrong-doing and is in the public interest, will come forward and voice those concerns. It is recognised that most cases will be undertaken on a confidential basis.
- 2.4 Newark and Sherwood District Council has introduced this procedure to enable you, as a Member or an employee, to raise your concerns about such malpractice at an early stage and in the right way. The Council would rather that you raised the matter when it is just a concern rather than waiting for proof. The policy is based on the Local Government Management Board Model Confidential Reporting Policy and on, the Public Concern at Work Whistleblowing Policy and Code of Practice. Any amendments to this policy will be notified to Members and employees through the usual channels.

2.5 If something is troubling you, which you think should be known about or looked into, please use this procedure. If, however, you are aggrieved about your personal position, please use the Grievance Procedure (which can be obtained from the intranet, your immediate manager or the Business Manager - Human Resources, Organisational Development and Legal [HR, OD & Legal]). This Whistleblowing Procedure is primarily for concerns where the interests of others or of the organisation itself are at risk and you have a reasonable belief that raising the concern is in the public interest.

2.6 These procedures do not replace the following policies:

- Children and Adults Safeguarding Policy
- The Council's Complaints Procedures including:
 - Disciplinary and Dismissal Procedure
 - Grievance Procedure
 - Dignity at Work Policy

2.7 This policy applies to:

- (i) All Members of the Council;
- (ii) All employees of the Council;
- (iii) Contractors working for the Council on Council premises (for example agency workers);
- (iv) Suppliers and those providing services under a contract with the Council;
- (v) People working in partnership with the Council, and its employees and Members (e.g. volunteers, trustees etc).

If you are in any doubt as to whether the policy applies to you, please contact the Business Manager - HR, OD and Legal, for clarification.

2.8 **If in doubt - raise it!**

3.0 **The Council's Assurances to You**

3.1 Your Safety

The Members, the Management Team and Director of Resources (who is the Responsible Officer - see Section 9) are committed to this policy. You will not be at risk of losing your job or suffering any form of retribution or detriment as a result of raising your concerns, provided that you reasonably believe that you are acting in good faith and making the disclosure in the public interest. It does not matter if you are mistaken, so long as you reasonably believe there is a problem.

3.2 **Of course, the Council does not extend this assurance to someone who maliciously raises a matter that they know is untrue or makes an allegation for personal gain. This could be construed as Gross Misconduct and disciplinary action may be taken.**

3.3 Your Confidence

The Council will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, it is recognised that you may nonetheless want to raise a concern in confidence under this policy. If you ask that your identity is protected by keeping your confidence, it will not be disclosed without your consent. If the situation arises where the Council is not able to resolve the concern without revealing your identity (for instance because your evidence is needed in court, or relates to child protection or adult safeguarding), it will be discussed with you to determine whether and how the matter can be progressed.

3.4 Remember that if you do not tell the Council who you are, it will be much more difficult to look into the matter, or to protect your position, or to give you feedback. Accordingly, while anonymous reports will be considered, this policy is not appropriate for concerns raised anonymously - concerns raised anonymously are much less powerful, but may be considered at the discretion of the Council. This discretion will be based on the:

- seriousness of the issues raised;
- credibility of the concern;
- likelihood of confirming the allegation from an attributable source;
- evidence base.

3.5 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that may already affect you.

4.0 Aims and Scope of the Policy

4.1 This policy aims to:

- (i) Encourage you to feel confident in raising serious concerns and to question and to act upon concerns about Council practice.
- (ii) Provide avenues for you to raise those concerns and receive feedback on any action taken.
- (iii) Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
- (iv) Reassure you that you will be protected from any possible reprisals and victimisation if you have a reasonable belief that you have made the disclosure in the public interest.

4.2 There are already existing procedures in place within the Authority for disclosing certain concerns. These are:

- (i) The Authority's Grievance Procedure, which enables you to lodge a grievance/ complaint relating to your own employment.
- (ii) The Authority's Anti-Fraud Strategy, which outlines how you can disclose potential fraud, corruption or theft.

- (iii) The Authority's Dignity at Work Policy, which enables you to disclose cases of potential harassment.
- (iv) The Authority's Children and Adult Safeguarding Policy, which outlines the procedure for reporting safeguarding concerns.

This policy is intended to cover major concerns that may fall outside the scope of other procedures. These include:

- The unauthorised use of public funds.
- Possible fraud or corruption.
- Sexual or physical abuse of both employees and clients.
- Health and Safety risks (including risks to the public as well as other employees).
- Conduct which is an offence or breach of law.
- Failure to comply with a legal or regulatory duty or obligation.
- Disclosures related to miscarriages of justice (ie where the Council has acted improperly or unfairly).
- Damage to the environment.
- Other unethical conduct including improper use of authority
- Concealment of any of the above.

N.B. This is not an exhaustive list

4.3 It is clear that any serious concerns that you may have about any aspect of service provision, or the conduct of officers or Members of the Council, or others acting on behalf of the Council, can be reported under this policy. This may be something that:

- makes you feel uncomfortable,
- is against any of the Council's existing Codes and policies, such as Standing Orders etc,
- is contrary to established standards of practice,
- amounts to improper conduct or
- involves child abuse

5.0 How to Raise a Concern

5.1 STEP 1

If you have a concern about malpractice and you have a reasonable belief that disclosing the information is in the public interest, it is hoped that you will be able to raise it first with your immediate manager or supervisor. This will obviously depend upon the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that a member of management is involved you should approach the officers identified in Step 2 below. We advise that you make it clear that you are raising your concerns under the Council's whistleblowing arrangements – this will help managers respond in line with this policy. You may, at any stage, feel the necessity to take independent advice (See Section 5.4).

5.2 STEP 2

If you feel unable to raise the matter with your manager, for whatever reason, you can raise the matter with:

Name: Business Manager – Financial Services
Contact Details: Castle House, Great North Road, Newark, Notts, NG24 1BY
Tel: 01636 655317

OR

Name: Business Manager - HR, OD and Legal
Contact Details: Castle House, Great North Road, Newark, Notts, NG24 1BY
Tel: 01636 655219

OR

Name: Karen White – Director Safety and Senior Named Manager for Safeguarding
Contact Details: Castle House, Great North Road, Newark, Notts, NG24 1BY
Tel: 01636 655240

5.3 STEP 3

If one, or all, of these channels have been followed, and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, you may wish to contact the Director Resources:

Name: The Director Resources and Responsible Officer - See Section 9
Contact Details: Castle House, Great North Road, Newark, Notts, NG24 1BY
Tel: 01636 655303

5.4 INDEPENDENT ADVICE

If you are unsure whether in principle to use this procedure or you want independent advice at any stage, you may contact:

- The Business Manager - Human Resources, OD and Legal - See Step 2 above;
 - your Union (if you are a member);
 - The Council's External Auditors;
- or
- The independent charity Public Concern at Work on 0207 404 6609. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.

5.5 EXTERNAL CONTACTS

While it is hoped that this policy gives you the reassurance you need to raise such matters internally, it is recognised that there may be circumstances where you can properly report matters to outside bodies, such as the prescribed regulators, some of which are outlined below, or the police (Prescribed regulators, who will be appointed by the Government, are external bodies able to take and consider your concerns). Public Concern at Work, or if applicable your own union, will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely.

Relevant Prescribed Regulators are as follows:

- | | | |
|----|---------------------------------|---|
| 1. | Health and Safety risks | Health and Safety Executive. |
| 2. | Environmental issues | The Environment Agency. |
| 3. | Financial Services | Financial Services Authority (and, pending its full operation, its predecessor bodies) and HM Treasury. |
| 4. | Fraud and Fiscal Irregularities | Serious Fraud Office, Inland Revenue and Customs and Excise. |
| 5. | Public Sector Finance | National Audit Office and Audit Commission. |
| 6. | Competition & Consumer Law | Office of Fair Trading |
| 7. | Others | Certification Officer (Trade Unions), Charity Commission, Data Protection Registrar. |

There are additional regulators other than those outlined above. It is strongly recommended that if you consider taking this route, advice is taken as previously outlined.

5.6 You may wish to consider discussing your concern with a colleague first, and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

5.7 You may invite your Union representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

6.0 **Information needed to raise a concern**

6.1 When raising a concern under the procedure you should try to provide the following information:

- The background and reason behind the concern;
- Whether you have already raised a concern with anyone and the response; and
- Any relevant dates when actions relating to the concern took place.

This information should demonstrate that there are reasonable grounds for the concern to be acted upon. It is important that you do not attempt to investigate the concerns yourself.

7.0 How the Matter Will Be Handled

7.1 Any concerns raised will always receive a response. Once you have notified the Council of your concern, in order to protect individuals and those accused of possible malpractice, initial enquiries will be made in order to identify whether an investigation is appropriate and, if it is, what form it should take.

This may involve an internal enquiry or a more formal investigation by management or Internal Audit, following which, matters may be referred to an external agency (such as External Audit or the police).

The overriding principle here is the public interest.

7.2 When you raise the concern you may be asked how you think the matter might best be resolved. If you have any personal interest in the matter, it is vital that this is mentioned at the outset. If your concern more properly falls within another Council Policy, such as the Grievance Procedure or Dignity at Work Policy, you will be notified.

7.3 Before a final decision is taken on how to proceed, or as part of the investigation, you may be asked to meet with those investigating the concern.

7.4 If a meeting is arranged, you may wish to be accompanied by a trade union representative or work place colleague. The person who accompanies you should not be involved or have a direct interest in the area of work to which the concern relates. The meeting can be conducted over the telephone rather than face to face.

7.5 You will be notified who is handling the matter, how you can contact them, and whether your further assistance may be needed.

7.6 Within ten working days of a concern being raised, the Responsible Officer will write to you:

- (i) acknowledging that the concern has been received.
- (ii) indicating how it is proposed to deal with the matter.
- (iii) giving an estimate of how long it will take to complete investigations.
- (iv) advised of the investigating officer (where appropriate).
- (v) telling you whether any initial enquiries have been made.
- (vi) telling you whether further investigation will be made, and if not, why not.
- (vi) supplying you with information on how the Council will support you if you think this is necessary, whilst the matter is under consideration.
- (vii) advise you of how we will inform you of progress.

- 7.7 The amount of contact between you and the officers considering the matter will depend on both the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.
- 7.8 You will be notified when the matter is concluded and, if appropriate, the outcome of the investigation, maintaining security and confidentiality for all parties as far as possible.
- 7.9 Throughout any investigation, you will still be expected to continue your duties/role as normal unless deemed inappropriate.
- 7.10 While the purpose of this policy is to investigate possible malpractice and take appropriate steps to deal with it, you will be given as much feedback as appropriate.
- 7.11 Rarely, a case might arise where it is the employee that has participated (or even continues to participate) in the action causing concern. In such a case it is in the employee's interest to come into the open as soon as possible. The Policy cannot undertake not to act against such an employee, but by virtue of coming forward there is a mitigating factor to be taken into account.
- 7.12 Steps will be taken to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, arrangements will be made for you to receive advice about the procedure. The Council will take all reasonable steps to ensure that you do not suffer a detriment by a colleague because you have made a protected disclosure and if you believe that you have suffered a detriment for having raised a concern you should report this.
- 8.0 If You Are Dissatisfied**
- 8.1 If you feel that the Council has not responded correctly at any stage, remember you can go to the other levels and bodies mentioned in Section 5.5. While it cannot be guaranteed that all matters will be addressed in the way that you might wish, it will always be the Council's intention to handle the matter fairly and properly. By using this policy, you will help achieve this.
- 8.2 If you do take the matter outside the Council, you must ensure that you do not disclose confidential information.
- 9.0 The Responsible Officer**
- 9.1 The Director - Resources has overall responsibility for the maintenance and operation of this policy, and will maintain a record of concerns raised and the results of any investigations made (in a form that will not compromise your confidentiality).

**PROTOCOL FOR JOINT WORKING AND COUNCILLOR
ACCESS TO INFORMATION ABOUT
NEWARK AND SHERWOOD HOMES' SERVICES**

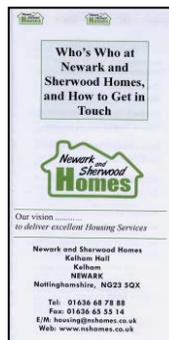
Purpose of the Protocol

- 1.0 This Protocol has been agreed in order to consolidate and further improve current communications between the Council, its Members and Newark and Sherwood Homes (the Company).
- 2.0 It is based upon a recognition that good communications are:
- (a) essential to facilitate the Company's success in delivering the effective management of the Council's housing stock;
 - (b) Important for the reputation of the Council and the Company;
 - (c) an essential part of a customer and tenant focused approach.
- 3.0 The adoption of this Protocol is not intended to obstruct the proper conduct of business by the Company. It is however intended to recognise the role that Councillors have both on an individual basis and collectively as Members of Council Committees in overseeing the management of the Council's housing stock. The Protocol sets out the procedure by which Councillors can access information about the services provided by Newark and Sherwood Homes to enable them to discharge their duty as Councillors.
- 4.0 **Scope**
- The Protocol supports and reflects the provisions of the Management Agreement and its related documents.
- 5.0 **What Does the Protocol Include?**
- Access to Information About Services
 - Who to contact
 - Ways to contact
 - Times for response
 - Dissatisfaction with response
- 6.0 **Access to Information About Services**
- 6.1 It is acknowledged that Councillors are entitled to access such information and documents from the Company about individual tenant and housing matters occurring in their Ward, which is reasonably necessary to enable them to properly perform their duties as a Councillor on behalf of their constituents.

- 6.2 Councillors who are also Board Members of Newark and Sherwood Homes are “dual-hatted” in that they have duties and responsibilities both as a Board Member to the Company and as a Councillor to their constituents. Whilst the two roles are distinct and separate, the role as a Council Board Member should not generally prevent the Councillor from discharging their duties and responsibilities as a Ward Councillor. However, when raising ward issues, they should do so clearly in their role of Ward Councillor and not as a Director of the Board.
- 6.3 This Protocol sets out the procedure by which Councillors can readily access information about the services provided by Newark and Sherwood Homes, to enable them to discharge their duty as Councillors.
- 6.4 The Council’s Policy & Finance Committee is responsible for strategic and operational housing including determining and managing the relationship with Newark and Sherwood Homes. The remit of the Homes & Communities Committee includes scrutiny and managing the performance of Newark and Sherwood Homes. The Company will provide relevant and available performance data and information to the Council to support and assist these Committees in effectively fulfilling their role.
- 6.5 Councillors who are also Council Board Members should not participate in any decisions of the Policy & Finance Committee as to the strategic and operational relationship with Newark and Sherwood Homes because of the potential conflict of interest. Councillors who are also Council Board Members may however participate in scrutiny and managing the performance of Newark and Sherwood Homes as members of the Homes & Communities Committee. Council Board Members acting in this capacity will need to respect those instances where matters discussed by the Board are confidential. As Directors of the Board, they must be mindful of their obligation to act in the best interests of the company. Where they consider that a potential conflict of interest might arise they should not participate.
- 7.0 Areas of Housing not within Newark and Sherwood Homes’ Remit
- 7.1 Strategic housing issues do not fall within the remit of the Company but remain with the Council. These include:
- Housing advice, homelessness prevention, temporary accommodation, homelessness applications and rehousing, homelessness strategy development – housing strategy and policy development, allocations scheme, statistical returns, partnership working, affordable housing, housing needs information and assessments, land asset management, housing related support, monitoring and reviewing the Housing Revenue Account Self Financing Business Plan.

8.0 Procedure for Contact by Individual Councillors**8.1 Who to Contact**

In the first instance, Councillors should contact the Manager immediately responsible for the service. Responsibilities of Managers and personnel can change from time to time. Newark and Sherwood Homes will keep up to date its leaflet: *"Who's Who at Newark and Sherwood Homes and How to Get in Touch"* and forward a copy to all Councillors when a change is implemented.

**8.2 Ways to Contact:**

The relevant Manager can be contacted by:

- Telephone 01636 65(+four digit extension) when dialling from outside Castle House; e.g. 01636 655555
- E-mail Christian.name.surname@nshomes.co.uk (this applies when e-mailing internally or externally of Castle House); e.g. fred.bloggs@nshomes.co.uk
- Letter Please use the Castle House postal address but ensure envelopes are marked with the Manager's Name and Newark and Sherwood Homes written before the address.
- In Person In general, areas occupied by Newark and Sherwood Homes staff are: part of Sherwood House, Farrar Close Offices, Newark and part of the second floor at Castle House. Please be aware that due to diary commitments, Managers may not always be instantly available in the office.
- Out of Office Hours
 - An answerphone service is available for general enquiries for each service area.
 - An emergency service is available 24 hours a day, 7 days a week by telephoning: 0800 561 0010 (freephone).

If the Manager is not available and the matter needs to be progressed, a message may be left either giving the detail of the matter to be looked into, or asking for a return call.

Times for Response:

Where possible, Newark and Sherwood Homes will seek to give assistance at the first point of contact. Newark and Sherwood Homes has a target to respond to Councillor Enquiries in 5 working days. Newark and Sherwood Homes has a target to answer telephone calls in ten seconds.

8.3 How Will Newark and Sherwood Homes Help?

Newark and Sherwood Homes will provide information to Councillors about the service to enable them to discharge their role as a Councillor. If the information requested relates to an individual tenant or tenancy and involves the release of personal data, the tenant's prior written consent to the release of that data must be obtained.

8.4 What Should Councillors do if they are Not Satisfied?

In the first instance, contact a member of the Senior Management Team:

Rebecca Rance	Chief Executive	Extension 5510
Stephen Feast	Business Services Director	Extension 5448

If still dissatisfied, contact the Head of Paid Service or relevant Director at Newark & Sherwood District Council.

This Protocol was adopted in June 2006 and will be reviewed annually.

THE BUDGET PROCESS

The role of setting the budget strategy and co-ordinating the budget process is undertaken by the Policy & Finance Committee.

The budget will be developed in accordance with the processes set out in section 2 herewith.

Monitoring and management of the budget during the financial year will be in accordance with section 3 herewith.

1.0 Introduction

- 1.1 This section sets out the process for development of the Council's annual budget and management of the budget once it has been set.
- 1.2 The Council's overall revenue budget and capital programme are approved by full Council and these lead to the setting of the Council Tax, which is required to be set by 11th March in each year.

2.0 Developing the Budget

- 2.1 The Policy & Finance Committee will determine the Council's budget strategy and co-ordinate the preparation of the budget.
- 2.2 The Council's budget strategy will be set in September each year. This gives sufficient time for the budget to be developed and agreed in time for the Council Tax to be set in March each year. The budget strategy needs to take account of the Council's objectives and the resources available to the Council, as far as these can be estimated at this stage. The budget strategy may change each year, and will include the following:
 - An assessment of the overall resources available to the Council;
 - Parameters to be used in developing the budget;
 - The methodology for setting budget targets;
 - Budget targets for each functional Committee and for Policy & Finance Committee budgets;
 - Priorities to be considered when developing the budget; and
 - Guidance on whether there is any scope for growth in the budget and/or setting out the savings requirement.
- 2.3 Policy & Finance Committee will consider progress on the budget at its meeting in December. This will incorporate consideration of any proposals made by Committees. Committees therefore will need to consider their budget and make any proposals between September and December. The December meeting of Policy & Finance Committee will also assess the budget proposals against the resources available, taking into account the local government finance settlement if that is available, and assess proposals against the Council's priorities. Policy & Finance Committee may refer items back to functional Committees and give further guidance if it appropriate.

- 2.4 The Policy & Finance Committee will consider the overall budget at its meeting in February and make a recommendation to Council on the final budget and proposed level of Council Tax. Functional Committees will be able to forward final budget proposals to the meeting of Policy & Finance Committee in February.
- 2.5 As part of developing the budget, it may to be necessary to review aspects of the budget during the year. This will normally be initiated by Policy & Finance Committee as reviews are likely to be cross cutting. Examples could include areas such as Fees and Charges or Renewal and Repairs Funds. Whilst such reviews could be carried out at any time of year, it is anticipated that they will normally be initiated between April and September so that the results can be incorporated into the budget strategy.
- 2.6 It is important that the Council's budget strategy includes a co-ordinated approach to Fees and Charges. Guidance relating to fees and charges will be set out in the budget strategy and are ultimately set by full Council as part of the approval of the Council's overall budget. In order to ensure a strategic approach, the Policy & Finance Committee will make recommendations to Council about the levels of fees and charges and the process of developing fees and charges will therefore follow the process set out above.
- 2.7 The process set out above is applicable to the revenue budget. The process for the Capital Programme is set out below
- 2.7.1 A capital strategy will be considered by the Policy & Finance Committee in September of each year and will include the following:
- An assessment of the overall capital resources available to the Council
 - Consideration of existing commitments in the approved capital programme
 - Consideration of the capital requirements to deliver the Council's strategic objectives
 - Whether to invite proposals from Committees, if available resources allow
 - Approval of the methodology to evaluate capital proposals
- 2.7.2 If it is agreed that new capital bids can be considered, the timetable will follow that set out for the revenue budget, above.
- 2.8 The Policy & Finance Committee will have budgets relating to its own functions and so will need to be considered as a functional Committee when developing its proposals with regard to its own budgets.
- 2.9 The process for developing the budget set out in the above paragraphs is shown in table form in Appendix A.
- 3.0 Managing the Budget**
- 3.1 Once the budget has been set, and the financial year has commenced, the budget will be monitored and managed during the financial year.

- 3.2 Each Committee, including Policy & Finance Committee will receive budget monitoring reports on a regular basis covering the services and budgets within the remit of the Committee. In addition, the Policy & Finance Committee will receive budget monitoring reports on performance against the Council's overall budget.
- 3.3 Whilst the purpose of the budget is to deliver the Council's objectives and policies, it may be appropriate during the year to transfer budget from one budget to another. This is termed budget "virement". It must be emphasised that this is the transfer of budget from one heading to another and this does not increase (or decrease) the overall budget. Virements are often minor in nature and are delegated to officers through the Council's financial regulations. Virements in excess of £25,000, will require the approval of & Finance Committee. Policy & Finance Committee will take recommendations from functional Committees where appropriate. In addition, any proposed virement involving a change in policy, such as service closure or withdrawal, requires the approval of Policy & Finance Committee.
- 3.4 As set out above, the level of fees and charges is set as part of the budget process. Fees and charges should not normally be varied during the financial year as this can impact on the achievement of the budget and could also affect the budget for future years (the Medium Term Financial Plan). Only Policy & Finance Committee can vary the level of fees and charges during the financial year. This includes consideration of any changes to the level of VAT, as it is necessary to have a consistent approach across the Council. Any statutorily prescribed charges, however, can be implemented in accordance with the relevant regulations without requiring Committee approval.
- 3.5 Long term commitments (longer than 1 year in this context) through contracts with external bodies can impact on the Council's Medium Term Financial Plan and so must be entered into through a strategic process. Where any long term commitment is considered that is not included in the approved budget, it will be necessary for approval to be given by Policy & Finance Committee to ensure that the impact on the Medium Term Financial Plan has been considered.
- 3.6 On occasion, there may be budget under-spends. It will be necessary for these to be considered as part of the budget process for future years. Functional committees will be able to spend savings in the year that they occur, provided that the saving is certain to be achieved, but will not be able to commit savings beyond the end of the financial year. This does not apply to the Capital Programme where all savings must be notified to Policy & Finance Committee for consideration as part of the Council's overall capital resources.
- 3.7 Management of the capital programme is set out in sections 6.2.3 and 6.2.4 of Financial Regulations which are set out as Appendix B.

APPENDIX A

April to August	Policy & Finance Committee initiate reviews of specific areas of the budget.
September	Policy & Finance Committee consider budget strategy and financial policies, set budget targets, and invite proposals from Committees.
September - December	Committees consider their budgets in the light of the proposals of the Policy & Finance Committee and submit proposals to Policy & Finance Committee.
December	Policy & Finance Committee considers the proposals of functional committees and collates these into a draft budget. Policy & Finance Committee considers the local government finance settlement, if available. Committees may be asked to consider their budget proposals further.
January - February	Committees may give further consideration to the budget and make further proposals to Policy & Finance Committee.
February	Policy & Finance Committee considers the overall budget for the Council and makes recommendations to Council on the budget and Council Tax.
March	Budget, Capital Programme and Council Tax set by Council.

APPENDIX B

Extract from Financial Regulations

6.2.3 Capital Estimates

- (i) New schemes must be accompanied by the appropriate Appraisal forms, and will normally be added to the uncommitted scheme list before proceeding to the committed Capital Programme.
- (ii) Each Committee may recommend capital schemes to Policy & Finance Committee for inclusion within the Council's Capital Programme.
- (iii) Prior to February of each year the Policy & Finance Committee shall consider the comprehensive capital estimates together with capital financing proposals and shall consult as appropriate with other Committees in accordance with the Council's Constitution.
- (iv) The Policy & Finance Committee shall consider any recommendations arising from consultation with members and will submit recommendations to the Council for the approved Capital Programme for the following five years, or such other period as the Section 151 Officer advises.
- (v) The Council shall in March of each year, by simple majority, determine the Council's Capital Programme, having considered the proposals of the Policy & Finance Committee.
- (vi) Following approval of the Council's committed Capital Programme the appropriate Chief Officers are authorised to incur expenditure in respect of all schemes included in the committed Capital Programme unless otherwise directed by the Policy & Finance Committee or Section 151 Officer.
- (vii) The Section 151 Officer is authorised to arrange the financing of the Capital Programme so as to maximise the resources available to the Council, having regard to the provisions of the Local Government and Housing Act 1989 or subsequent relevant legislation.
- (viii) The Section 151 Officer is authorised to make any necessary adjustments to the capital programme that arise at year-end due to slippage and report these retrospectively to the Policy & Finance Committee.
- (ix) Any underspending identified within the approved committed Capital Programme revert to the centre and must be reported to the Policy & Finance Committee for consideration.
- (x) Any scheme involving matched funding that does not proceed will have any funding which has already been released, returned to the central pot and must be reported to the Policy & Finance Committee for consideration.
- (xi) The Section 151 Officer will report periodically to the Policy & Finance Committee on any variations to the Capital Programme which have been identified.
- (xii) The Section 151 Officer is required to take all necessary steps to implement the committed capital programme and is authorised, in the event of slippage, to bring forward schemes from the following year provided that this does not increase the total commitment and that such changes are reported to the Policy & Finance Committee.

- (xiii) In the event of the Section 151 Officer or the Deputy Section 151 Officer not being available, the Chief Executive will determine how the delegated authority to bring schemes forward will be exercised.
- (xiv) No third party funding or grant aid may be accepted where matched funding is required until the source of the matched funding has been identified and approved by the Policy & Finance Committee.

6.2.4 Capital Programme Monitoring

6.2.4.1 The Policy & Finance Committee shall consider details of proposed Capital Expenditure.

6.2.4.2 The monitoring of the overall Capital Programme, with regard to the monitoring of funding, progress, variations, amendments etc is the responsibility of the Section 151 Officer who can delegate to an appropriate working group.

6.2.4.3 A quarterly report is to be made to the Policy & Finance Committee on the overall progress of the capital programme.

6.2.4.4 It is the individual Chief Officers responsibility to exercise control over any capital schemes within their remit and to report any possible significant variations, which may arise, to the Section 151 Officer.

**SCHEME FOR THE APPOINTMENT OF
HONORARY ALDERMEN, HONORARY FREEMEN AND FREEWOMEN**

SCHEME FOR THE CONFERRING THE TITLE OF HONORARY ALDERMEN

1.0 Procedure for Nominations

- 1.1 Nominations for conferring the title of Honorary Aldermen may be submitted by any Member of the Council to the Chief Executive. Normally nominations will only be considered in the year of ordinary district elections but may be considered at other times in exceptional circumstances. Nominations should be submitted not later than 1st May in any year.
- 1.2 Nominations will be considered by a meeting of the Councillors Commission (or such other body succeeding it whose remit shall include the consideration of such nominations). Where there is agreement to support the nomination, the person nominated will be asked if he/she is willing to accept their name going forward.
- 1.3 A meeting of the Council will be specifically convened for the purpose of considering any recommendations from the Councillors Commission. The same meeting may consider nominations for the admission of Honorary Freeman/Women.
- 1.4 The resolution to confer the title Honorary Aldermen must be passed by not less than two thirds of the Members voting on the said resolution.
- 1.5 The resolution will normally be put to a special meeting of the Council convened as close as practicable to the date of the meeting immediately after the Annual Meeting following ordinary district elections.

2.0 Criteria

- 2.1 A nomination will not normally be considered unless the person being nominated has served at least 3 terms as a District Councillor at Newark & Sherwood District Council [or a predecessor authority].
- 2.2 Notwithstanding 2.1 above, nominations may be considered in exceptional circumstances in respect of persons not satisfying the above criteria where it can be demonstrated that they have rendered eminent service to the Council.
- 2.3 Nominations may be considered where the person so nominated is a serving Member at the time of the nomination provided that they are not a serving Member at the time the appropriate resolution is passed to confer the title.

3.0 Privileges

3.1 Honorary Aldermen shall be entitled to the following rights and privileges:-

- to enjoy the courtesy title of Aldermen and to be so addressed;
- to receive invitations to all civic events to which Members of the Council are invited.

4.0 Suspension of Title

4.1 In the event of the Honorary Aldermen resuming membership of the Council, he/she will cease to hold the position of Honorary Aldermen and will cease to hold the privileges attaching to that position for such time as he/she is a serving Member of the Council.

5.0 Withdrawal of the Title

5.1 The Council may, in any case, withdraw the title of Honorary Aldermen and the attached rights and privileges. Such withdrawal of the title shall be by resolution of the Council passed by not less than two thirds of the Members voting thereon at a meeting of the Council, the summons to which contains special notice that such withdrawal is proposed.

SCHEME FOR THE ADMISSION OF HONORARY FREEMEN AND FREEWOMEN

1.0 Purpose

- 1.1 The purpose of this Scheme is to recognise individuals who have contributed significantly to the District and its communities.

2.0 Procedure for Nominations

- 2.1 Nominations for the admission of Honorary Freeman and Freewomen may be submitted by any Member of the Council to the Chief Executive.
- 2.2 Nominations will be considered by a meeting of the Councillors Commission (or such other body succeeding it whose remit shall include the consideration of such nominations) formally convened for that purpose. Where there is agreement to support the nomination, the person nominated will be asked if he/she is willing to accept their name going forward.
- 2.3 Nominations will be considered on an annual basis with nominations being received not later than 1st May in any calendar year.
- 2.4 A meeting of the Council will be specifically convened for the purpose of considering any recommendations from the Councillors Commission. The same meeting may consider nominations for conferring the title of Honorary Aldermen.
- 2.5 The resolution to admit any person as an Honorary Freeman/Freewomen must be passed by not less than two thirds of the Members voting on the said resolution.
- 2.6 The resolution will normally be put to a special meeting of the Council convened as close as practicable to the date of the meeting immediately after the Annual Meeting of the Council.

3.0 Criteria for Admission

- 3.1 Persons shall not be admitted as Honorary Freeman/Women unless the Council is satisfied that they are a person of distinction and a person who has, in the opinion of the Authority, rendered eminent service to the District.
- 3.2 In submitting a nomination, the person putting forward that nomination shall be required to demonstrate how the above criteria have been met.

4.0 Privileges

- 4.1 Persons admitted as Honorary Freeman/Women will be invited as distinguished guests to the Council's civic and ceremonial events.

GUIDELINES ON APPOINTMENTS TO OUTSIDE BODIES

1. Other than in exceptional circumstances appointments to outside bodies will be made by the Council, normally annually at the Annual Meeting of the Council. There is no requirement for appointments to outside bodies to reflect political balance and appointments will therefore be made as the Council determines and having regard to these guidelines.
2. When appointing a representative to an outside body the Council will seek to avoid any appointment where a conflict of interest is likely to arise or may be perceived to arise.
3. Where the outside body appointment has particular local connection there will be a presumption that one of the local members for the ward or area to which the appointment relates will be appointed to the role.
4. Where the work of the outside body is relevant to the remit of a particular committee, there will be a presumption that a member of that committee will be appointed to the position.
5. Outside body appointments made by the Council will normally be to elected members of the Newark and Sherwood District Council other than in exceptional circumstances.
6. Any person appointed as the Council's representative on an outside body should be required to report back regularly to the council through the appropriate committee and this should be made clear as a term of their appointment.
7. Appointments will be for a maximum of one year term and will be reviewed annually at the Annual Meeting of the Council.
8. The appointment will cease immediately if the member is disqualified or otherwise ceases to hold office.
9. No payment of expenses shall be made to any person appointed as the Council's representative on an outside body unless they are an Officer or elected member of the Council.
10. Members of the Council appointed to outside bodies will be expected to report back to the Council, as appropriate, on the activities of the outside body but with due regard being had in such reporting to the need to preserve confidentiality as to any information obtained from that outside body where necessary and appropriate.
11. Other than in exceptional circumstances, should they fail to attend 3 consecutive meetings of the outside body they shall automatically cease to be the Council's nominated representative on that outside body unless the Council had expressly authorised their absence. Where there are, in the opinion of the Proper Officer, exceptional circumstances these shall be reported to the next available meeting of the Council for information and Council shall determine whether to approve any further absence.

12. Representatives on outside bodies do not hold any executive authority on behalf of the council and shall not therefore bind the Council without being expressly authorised by the Council to do so.

13. Where the outside body appointment is of strategic importance to the Council, there will be a presumption that a member of the Policy & Finance Committee will be appointed to the role.

LOCAL CODE OF CORPORATE GOVERNANCE

Introduction

Corporate Governance is a term used to describe the way that organisations direct and control what they do. For local authorities, it includes the systems, policies and processes, as well as the culture and values that underpin a Council's arrangements for effective:

- Leadership
- Management
- Performance
- Delivery of positive customer outcomes
- Community engagement
- Stewardship of public money

Good Corporate Governance

Newark & Sherwood District Council is committed to achieving good corporate governance and this local Code describes how the Council intends to achieve this in an open and explicit way. In developing this Code the Council has considered best practice and guidance, particularly the CIPFA/SOLACE framework "Delivering Good Governance in Local Government".

However, this Code is purposefully written in a way that best reflects the Council's own structure, functions, size and governance arrangements.

The Code is based on the following key principles:-

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

Good governance means acting in the public interest with members and officers demonstrating integrity, putting ethical values into practice, leading by example and demonstrating commitment to upholding the law.

B. Ensuring openness and comprehensive stakeholder engagement

Good governance means developing an open culture, consulting, seeking views, evidence and experiences, encouraging feedback, being a trustworthy partner and accepting challenge.

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

Good governance means developing a vision, specifying desired impacts, managing competing priorities and expectations, identifying risks, balancing impacts of policies and decisions, taking the longer term view and working within resource restraints.

D. Determining the interventions of the intended outcomes

Good governance means analysing options, understanding risks, planning, controlling and monitoring quality, performance, impact and effectiveness and remaining responsive.

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

Good governance means reviewing the use of assets, benchmarking, workforce planning, ensuring clarity of roles, leadership development, supporting training and development of skills, feeding back and reviewing performance and supporting health and wellbeing.

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

Good governance means managing risks, using scrutiny to support better decision making, aligning controls to objectives, providing internal audit assurance, Audit and Accounts Committee assurance and recommendations, effective counter fraud and anti-corruption, managing and sharing data, ensuring data quality, integrating financial management with planning and control and supporting operational performance.

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

Good governance means supporting transparency, understandable and timely reporting, assessing the Council's performance, supporting public comparisons, being responsive to recommendations from external audit, internal audit, regulators and inspectors and peer reviews and maintaining accountability when working collaboratively.

The following schedule details how the Council meets these core principles and the systems, policies and procedures it has in place to support this. This schedule is reviewed and updated annually.

Schedule to the Code of Corporate Governance

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

<p>Good governance is about:</p>	<p>To demonstrate its commitment to achieving good governance, Newark & Sherwood District Council has:</p>
<ul style="list-style-type: none"> • Behaving with integrity • Demonstrating strong commitment to ethical values • Respecting the rule of law 	<ul style="list-style-type: none"> (i) Published a Local Code of Corporate Governance to be approved by Council on 9th March 2017 that demonstrates its commitment to the principles of good governance and the importance of operating in an open and accountable manner and demonstrating high standards of conduct. (ii) Developed and promotes a culture of behaviour based on shared values, high ethical principles and good conduct that include the following:- <ul style="list-style-type: none"> • Member code of conduct • Officers code of conduct • Protocol on member/officer relations • Protocol for dealing with Ombudsman matters • Protocol for members on hospitality and gifts • Policy for officers on hospitality and gifts • Protocol for members on dealing with planning matters • Whistleblowing policy • Protocol relating to the Independent Person (iii) Established a local complaints procedure for considering any complaint that a councillor has breached the Code of Conduct with the Policy and Finance Committee having responsibility for standards and probity issues to reflect the importance which the Council attaches to ethical governance issues. (iv) Provides regular training to district and town and parish councillors on ethical governance (v) Provides an advice service to district and town and parish councillors on code of conduct issues through its Democratic Services team. (vi) Provides training on codes and protocols

	<p>(vii) Is able to monitor and investigate officer and member behaviour through its customer complaints procedure</p> <p>(viii) Regularly reviews the completion and updating by members of their Register of Interest forms for staff as well as Members (including those of town and parish councillors)</p> <p>(ix) Maintains a register of gifts and hospitality for staff as well as Members</p> <p>(x) Has adopted a whistleblowing policy which is accessible to officers, Members and the public on the Council’s website. The policy provides guidance around how to raise concerns and to whom these should be addressed.</p> <p>(xi) Anti-fraud and corruption policies are up to date and working effectively. A counter fraud policy is in place and is available to all staff and on the Council’s website. A comprehensive programme of counter fraud training has been delivered to all staff. An annual fraud risk assessment is carried out, leading to an action plan to address any identified risks and to proactively work on fraud prevention.</p> <p>(xii) Has appropriate governance arrangements in place in respect of its significant partnerships including the Community Safety Partnership, its relationship with Newark and Sherwood Homes and Active4Today, the GNSR collaboration agreement and East Midlands Building Control Services.</p> <p>(xiii) Publishes an Annual Report which is presented to Council on ethical governance and code of conduct issues.</p> <p>(xiv) Has clear role specifications within the constitution in respect of the Statutory Officer roles (see post).</p> <p>(xv) The effectiveness of the Council’s Constitution and Protocols is regularly reviewed through the Councillors Commission.</p>
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Core Principle B: Ensuring Openness and Comprehensive Stakeholder Engagement

Good governance is about:	To demonstrate its commitment to achieving good governance, Newark & Sherwood District Council:
<ul style="list-style-type: none"> • Openness • Engaging comprehensively with institutional stakeholders 	<p>(i) Has developed an informative, user friendly website to share information with the community.</p> <p>(ii) Proactively provides information and interacts with the community through social media and in particular Twitter and Facebook in a corporate capacity.</p>

<ul style="list-style-type: none">• Engaging with individual citizens and services users effectively	<ul style="list-style-type: none">(iii) Has arrangements in place to seek and respond to the views of stakeholders and the community by<ul style="list-style-type: none">• Consulting residents about Council services and priorities• Having a Petition Scheme so that the community can have their say about any issues that concern them• Holds meetings in public wherever possible• Documents and publishes agendas, minutes and decisions as well as the criteria, rationale and considerations on which decisions are based.• Makes provision in its Council Procedure Rules for the public to ask questions at Council meetings• Has developed effective relationships with other public sector agencies and the private and voluntary sectors(iv) Has a Communications and an Engagement Strategy which are published on the Council’s website. These are currently being reviewed and updated – research work is undertaken using a range of techniques appropriate to the relevant stakeholders including face to face interviews, household postal surveys, internet surveys, workshops and focus groups.(v) Undertakes Equality Impact Assessments to identify how the needs of particular communities have been considered to inform decision making.(vi) The LDF has a statement of Community Involvement that has been subject to external validation.(vii) The Council’s committees undertake reviews of the work of other public service providers and hold those representatives to account.(viii) The Council proactively engages in the health agenda through officer and member involvement in the district’s two clinical commissioning groups and Nottinghamshire Health and Wellbeing Board.(ix) The Council communicates with all sections of the community through the VOICE newsletter which is currently issued twice a year. This is done in conjunction with the Clinical Commissioning Group who share the cost.(x) Safer neighbourhood groups have been established under the umbrella of the Community Safety Partnership.
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	<p>(xi) The Council works proactively with local communities in establishing resilience in emergencies, for example flooding where flood wardens have been identified and local flood forums established.</p> <p>(xii) Has a Freedom of Information Act Publication Scheme on the Council’s website.</p> <p>(xiii) Issues a council tax leaflet.</p> <p>(xiv) Calendar of dates for submitting, publishing and distributing timely reports is adhered to.</p> <p>(xv) Has developed a Partnership toolkit and a Partnership register. This identifies significant partnerships and potential impacts on the Council.</p>
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Core Principle C: Defining outcomes in terms of sustainable economic, social and environmental benefits

Good governance is about:	To demonstrate its commitment to achieving good governance, Newark & Sherwood District Council has:
<ul style="list-style-type: none"> • Developing a vision • Managing competing priorities and expectations • Identifying risks • Balancing impacts of policies and decisions • Taking the longer term view • Working within resource constraints 	<p>(i) Agreed its vision and priorities – the Council’s priorities were reviewed in July 2016 and reaffirmed four strategic themes which should be of equal weight namely prosperity, people, place and public service and has developed detailed delivery plans in relation to those strategic priorities.</p> <p>(ii) Has developed and maintains proper financial management arrangements. These include a Medium Term Financial Strategy designed to set a sound financial planning framework for the Council which reflects its vision and priorities; agrees a balanced budget before the start of each financial year together with a Medium Term Financial Plan which looks ahead four years; and an annual Accounting Statement that details the Council’s financial position in the previous year.</p> <p>(iii) Regularly reviews risks at a Strategic, Corporate, Project and Operational level and ensures that appropriate plans are in place to mitigate risks.</p> <p>(iv) Has arrangements in place to publish the annual external auditor’s report which includes a formal conclusion on whether the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.</p> <p>(v) Has developed and recently reviewed its Contract Procedure Rules.</p> <p>(vi) Undertakes regular monitoring and review of strategic and operational risks and risk owners are clearly identified.</p>

	<p>(vii) Internal Audit regularly reviews the risk and control framework and produces a Combined Assurance Report in conjunction with Business Managers and the Corporate Management Team.</p> <p>(viii) Communicates its vision and priorities to employees through staff roadshows, briefings and “drop in” sessions for staff. Most recently this has taken the format of themed workshops as the Council develops its “Moving Ahead” strategies.</p> <p>(ix) Reflects the Council’s strategic priorities through individual business unit plans. These are captured and monitored in the Council’s performance management system, Covalent.</p>
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Core Principle D: Determining the interventions necessary to optimise the achievement of the intended outcomes

Good governance is about	To demonstrate its commitment to achieving good governance, Newark & Sherwood District Council has:
<ul style="list-style-type: none"> • Analysing options, understanding risks, planning, controlling and monitoring quality, performance, impact and effectiveness in order to: • Determine interventions • Plan interventions • Optimistic achievement of intended outcomes • Remain responsive 	<p>(i) The Council has established a Councillors Commission comprising a working group of members including all political group leaders which provides a forum for discussion between members and officers on the information needs of members to support decision making. A further vehicle for such dialogue is through the holding of agenda meetings prior to the publication of formal agendas.</p> <p>(ii) Reports to committee include an analysis of options together with the reasons for the recommendation contained within the report.</p> <p>(iii) Business Plans/Performance indicators aligned to Council priorities have been determined for each service area and are regularly monitored and reviewed. Members can access performance data on Covalent through the members extranet. Performance Management arrangements are embedded within the Council and a team of dedicated officers’ work with Business Managers to monitor/analyse performance and develop action plans as appropriate. Members of the Corporate Management Team/Members receive quarterly updates on how the Council is performing.</p> <p>(iv) The Council’s budget is developed to reflect the Council’s priorities and the Council has a clear financial strategy including a Medium Term Financial Plan (see (ii) ante) – budgets, plans and objectives are aligned.</p>

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

<p>Good governance is about:</p>	<p>To demonstrate its commitment to achieving good governance, Newark & Sherwood District Council has:</p>
<ul style="list-style-type: none"> • Reviewing use of assets • Benchmarking • Workforce planning • Working with others • Ensuring clarity of roles • Leadership development • Supporting training and development of skills • Feeding back and reviewing performance • Supporting health and wellbeing 	<p>(i) The Council has robust mechanisms in place to identify the development needs of members and senior officers in relation to their strategic roles which it supports with appropriate training, in particular:-</p> <ul style="list-style-type: none"> • The Council has a Member Induction Plan and Member Training and Development Plan which is regularly reviewed and updated through a member working party which includes all political group leaders. There is a dedicated budget for member training and development. • The Council has a corporate training and development plan which is reviewed annually against Council priorities. There is a dedicated corporate employee training budget. • The Council, in conjunction with Rushcliffe and Gedling Borough Councils (GNSR) and in partnership with the University of Birmingham has developed an in-house MPA Programme for senior managers to provide them with the opportunity to work together/share best practice whilst increasing their knowledge/skills. • The Council employ two National Management Trainees on behalf of GNSR and co-ordinate placements across the three organisations providing each NMT with 8 months in each authority as a means of growing talent for succession management purposes. • Staff appraisals are undertaken for all members of staff at least annually. The appraisal process offers the opportunity to provide feedback on performance and to identify any training and development needs. Any training needs are notified to the Human Resources team so that they can inform the corporate training plan. <p>(ii) The HR team work with service areas to complete an annual workforce planning exercise to feed into the budget planning process.</p> <p>(iii) Members of the HR team work closely with service areas to ensure that team structures are fit for purpose and staffing resources are used to best effect to deliver Council priorities.</p>

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| | <ul style="list-style-type: none">(iv) The Council operates robust recruitment and selection process. The Council is an accredited mindful employer adhering to a policy which reflects best practice standards in the recruitment of staff. All recruitment advertisements carry the “Two Ticks” symbol (Positive about Disabled People) and managers cannot attend interview panels until they have attended internal recruitment training.(v) The Council has a raft of HR Policies and Procedures which are reviewed regularly to ensure that they remain fit for purpose.(vi) The Council adopts and publishes an annual Pay Policy Statement that sets out the Council’s approach to pay and provides links to relevant policies and procedures.(vii) Recently undertaken a Corporate Peer Review and has developed an action plan to address the key recommendations contained in that review.(viii) Uses systems and technology effectively – for example as a training tool and to enable members to scrutinise and challenge – a members extranet has been developed to assist members in undertaking their roles.(ix) The Council has adopted an agile working strategy to facilitate flexible and home working.(x) The Council is currently working with partner organisations across Nottinghamshire to facilitate the introduction of Timewise as a means of maximising the opportunity for current and prospective employees to work in a more agile manner and in doing so encourage a wider pool of applicants to vacant posts.(xi) The Council provide access to occupational health arrangements, counselling and therapy services to help improve employee well-being and ensure that sickness absence is kept to a minimum.(xii) The Wellbeing at Work Team led by the Health Improvement Officer provide regular updates around health related matters as well as running a calendar of events to encourage staff to become more active. The work of the team was recently recognised through receipt of the Well-being at Work Bronze Award and nominations for the recent Pride Awards resulting in the lead and members of the team receiving highly commended awards. |
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Core Principle F: Managing risks and performance through robust internal control and strong public financial management

<p>Good governance is about:</p>	<p>To demonstrate its commitment to achieving good governance Newark & Sherwood District Council has:</p>
<ul style="list-style-type: none"> • Managing risk • Managing performance • Robust internal control • Managing data • Strong public financial management 	<p>(i) Put in place assurance arrangements which conform with CIPFA’s requirements:</p> <ul style="list-style-type: none"> • The Council has appointed an Audit and Accounts Committee which can report to full Council if it considers this necessary. • The Risk Management Strategy is reviewed by the Committee along with the strategic and operational Risk Registers • The Council has contracted with Assurance Lincolnshire to provide an internal audit service. Internal auditors are independent and have access to all people, premises and systems. An annual report from the Head of Internal Audit is presented to the Committee. • The Annual Audit Plan is shaped through an assessment of the Council’s key strategic risk areas and critical services • All audit reports are considered by the Corporate Management Team. • Results of audit reviews are reported to the Audit and Accounts Committee along with follow up work to ensure that the recommendations have been implemented. • Financial systems are reviewed annually to ensure appropriate, effective controls are in place. • External audit report to the Committee annually on the results of the audit of the financial statements • The Annual Governance Statement considers the internal control framework, and is presented to the Committee annually with the Statement of Accounts. It is also reviewed halfway through the year, to ensure that significant control issues are monitored and reported on. <p>(ii) Ensured that effective arrangements are in place for the discharge of statutory officer roles by:</p> <ul style="list-style-type: none"> • Defining roles and responsibilities in the constitution • A meeting of the statutory officers not less than once a year to review governance issues <p>(iii) Ensuring compliance with relevant laws and regulations, internal policies and procedures and that expenditure is lawful by:-</p>

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| | <ul style="list-style-type: none">• Incorporating legal and financial comments in reports to members where necessary and appropriate• Ensuring that senior managers are briefed on significant legislative changes or changes in policies and procedures – there is a regular dialogue with the Corporate Management Team through monthly business managers meetings. <p>(iv) The Council’s financial management arrangements conform with the requirements of the CIPFA statement on the role of chief financial officer in local government and with statutory provisions in the Local Government Act 1972, the Local Government Act 1988 and the Accounts and Audit Regulations 2011.</p> <p>(v) Regulations covering all aspects of financial management including contract procedure rules are in place and reviewed regularly. Training on Financial Regulations has been provided to all relevant staff.</p> <p>(vi) Financial performance reports are sent to business managers monthly and members are also able to monitor financial performance through the member extranet and by exceptions reporting to committee.</p> <p>(vii) Clear performance management arrangements are set out within management agreements for the Council’s companies, Newark & Sherwood Homes and Active4Today Ltd.</p> <p>(viii) Members of the corporate management team carry out an annual review of strategic, corporate and project related risks to ensure that they are relevant, whilst at the same time reviewing risk appetite. Quarterly reports are submitted to CMT to allow for effective monitoring. Following a recent review members of CMT have requested more regular updates in relation to high risks to ensure that these are being mitigated effectively. Members of the performance team work closely with business managers to ensure that they regularly review operational based risks and provide assurance to CMT in this regard.</p> <p>(ix) An annual review of fraud risks is carried out to ensure controls are in place and are effective. The results of the review are reported to the Audit & Accounts Committee.</p> <p>(x) Biannual reports on counter-fraud activity are taken to the Accounts & Audit Committee.</p> |
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Core Principle G: Implementing good practices in transparency, reporting and audit to deliver effective accountability

<p>Good governance is about:</p>	<p>To demonstrate its commitment to achieving good governance Newark & Sherwood District Council has:</p>
<ul style="list-style-type: none"> • Implementing good practice in transparency • Implementing good practices in reporting • Assurance and effective accountability 	<ul style="list-style-type: none"> (i) Moved to a committee style of governance (May 2013) where overview and scrutiny principles are embedded within committee remits. (ii) Appointed a dedicated Information Governance Officer who monitors compliance with the Freedom of Information Act and Access to Information Act and deals with FOI requests. (iii) The Council has a presumption of openness and transparency and publishes key information on its website. The Council adheres to the Government’s Transparency Initiative. (iv) The Authority’s assurance arrangements conform with CIPFA’s requirements (see F(i) ante) with a dedicated Audit and Accounts Committee and regular training provided to members of that Committee. (v) Publishes an Annual Report summarising the Council’s key achievements over the last 12 months and highlighting future goals. The Council also includes a review of the past year within the explanatory foreword in the Annual Statement of Accounts. (vi) Through reviews by external auditors, external agencies, internal audit and its performance team the Council constantly seeks ways of ensuring that value for money is achieved and for securing continuous improvement in the way in which its functions are exercised. (vii) Introduced an effective complaints system which is managed through the customer services team. All complaints are monitored and evaluated. The complaints procedure includes a senior management review. There are clearly set targets for responses.

PROTOCOL RELATING TO THE INDEPENDENT PERSON

Introduction

The Localism Act 2011 introduced a system of members' standards in local government. This included the duty under Section 27 of the Act to appoint an Independent Person or Persons. The Council has adopted a Role Description for the post holders. This role requires the persons appointed to relate to the Council's Standards Committee and also to the Monitoring Officer. The Independent Persons also have a role in the consideration of disciplinary matters relating to statutory officers which may result in their dismissal. However, the purpose of this protocol is to set out the principal ways in which the Council, the Monitoring Officer and the Independent Persons will interact within the new Member Standards System. The protocol is not seeking to be prescriptive but rather to set out the general principles which all parties will use their best endeavours to comply with.

The Council has appointed 2 Independent Persons to act in this role. Either may act independently of the other in a particular matter.

1. Contact with the Independent Person

- (i) A Member of the District Council or of a Town or Parish Council who is the subject of a complaint should only contact the Independent Person if a formal complaint has been made in writing to the Council. The Monitoring Officer will notify the Independent Person of all formal complaints. If a Member contacts the Independent Person prior to a formal complaint being lodged, the Independent Person will refer them to the Monitoring Officer.
- (ii) The Independent Person should not discuss a potential or actual complaint directly with the potential complainant or complainant and shall refer the complainant to the Monitoring Officer to speak directly to any complainant.

2. Considering written allegations

- (i) Where the Monitoring Officer is acting under delegated powers in considering written allegations, the Monitoring Officer will seek the views of the Independent Person before reaching a decision on whether any further action should be taken on a written complaint.
- (ii) When issuing the decision letter, the Monitoring Officer will record that the Independent Person has been consulted and that their views have been taken into account.
- (iii) Where the Monitoring Officer refers a written allegation to an Assessment Sub-Committee rather than determining whether any further action should be taken acting under delegated powers, the Assessment Sub-Committee shall have discretion as to whether or not to consult the Independent Person on the matter before reaching their decision.

- (iv) The Monitoring Officer may ask the Independent Persons to support her in efforts to try to resolve complaints informally where the basis of the complaint appears insubstantial or otherwise does not appear to warrant a formal investigation or where an alternative route to formal investigation would appear to offer a better means of resolving the matter e.g. where it appears that complaints have been made on a tit for tat basis or where a town or parish council appears to have become dysfunctional.

3. Relationship with the Standards Committee

- (i) The Monitoring Officer may consult the Independent Persons where appropriate on recommendations to the Standards Committee particularly where these relate to the procedures for handling complaints.
- (ii) The Independent Persons shall receive agendas and minutes of all meetings of the Standards Committee and shall be entitled to attend the Committee as observers.
- (iii) Where a matter has been referred to a Hearing Sub-Committee of the Standards Committee for determination, the Sub-Committee must seek the views of either of the Independent Persons before reaching its conclusions. The Independent Person may attend the Sub-Committee to convey their views or may alternatively submit their views in writing to the Sub-Committee through the Monitoring Officer

4. Right of Access to Documentation

The Independent Persons shall have a right of access to such files and other documents as are necessary to fulfil their duties and obligations as set out in this protocol, their role description and the arrangements adopted from time to time by the Council for dealing with standards complaints. The Independent Persons shall not have a right to undertake a roving commission. Normally access to files and other documents will be through the Monitoring Officer, Deputy Monitoring Officer or other officer appointed on their behalf.

5. Confidentiality

- (i) The Independent Persons shall respect the confidentiality of any documents provided to them and shall be responsible for their safe custody.
- (ii) The Independent Persons should respect the general confidentiality of the Council's Standards process and should not proactively make any comments to the media on any matter relating to the Council's Standards business. Any requests for comments from the media should be referred in the first instance to the Monitoring Officer who may refer these to the Chairman of the Standards Committee as appropriate.

6. Role of Independent Person

Where one of the Independent Persons is not available to deal a particular matter or where that Independent Person has a potential conflict of interest the other Independent Person shall act in the particular matter.

SOCIAL MEDIA PROTOCOL FOR MEMBERS

Purpose of this Protocol

The Council welcomes Members' use of social media and would like to support this by giving guidance so that Members have greater clarity as to what is and is not acceptable usage of social media. This protocol is intended to provide such guidance and complements the general rules under the Code of Conduct for Members.

What is Social Media?

Social media is the term to describe websites and online tools which allow people to interact with each other. This could, for example, be blogs, and postings on a wide range of social media platforms including (but not limited to) Facebook, Twitter, LinkedIn, Snap-chat, Instagram etc.

On many social media sites users share information, give opinions and may create interest groups or pages leading to longer exchanges. Ultimately people use these sites and tools to build online communities and networks which encourage participation and engagement.

Social Media and Members

It is not a requirement for Members to have a Facebook or Twitter account or to use other forms of social media to fulfil their job as a Member. However, if you are using or planning to use social media in connection with your work as a Councillor, or are already using such media in your private capacity, these guidelines will be relevant. Remember that, whenever you act or appear to act in your official capacity, you must comply with the Code of Conduct.

Social Media can be used:

- To support councillors in performing their community leadership role.
- To keep in touch with or obtain local views and opinions.
- For political campaigning.
- For campaigning on local issues.

Types of Social Media:

- Blogging and micro blogging – online journals – Twitter is an example of micro blogging, where entries are limited to 280 characters.
- Online Forums – people with similar interests sharing information and opinions – AccyWeb is an example.
- Social networking sites – these facilitate connections between those who already know each other, often in a social context, but are increasingly used by businesses to promote their products or services- Facebook is an example.
- Video and photo publishing – sharing videos and photographs worldwide – Flickr is an example.

Things to Bear in Mind

- Any communication is capable of being misinterpreted. While the use of social media should not be more susceptible to this problem than any other form of communication, something about the immediacy of social media seems to magnify the problem.
- By the nature of such media, misinterpretation or misrepresentation, particularly with regard to something that is perceived as being more controversial than it was expected to be, is likely to lead to rapid and wide broadcasting of that apparently “controversial” item.
- There are no special, additional legal or ethical burdens relating to the use of social media. The same rules apply here that govern the rest of your behaviour as a councillor – you just need to think about them in this new context – their immediacy and ease of dissemination.
- Although the best use of social media is conversational in tone, publishing to the internet is still publishing. What you’ve said online is recorded and it is permanent. Most pitfalls will be avoided if your online content is accurate, informative and thought through. Think of it as speaking in public. Think before you commit each word.
- This doesn’t mean that members cannot, in the appropriate context, communicate politically. This is expected of a councillor, but you should be careful not to say anything that you wouldn’t be comfortable repeating or justifying, for example, at a public meeting.

Some Legal Issues:

- **Libel** – If you publish an untrue statement about a person which is damaging to their reputation, they may consider it as defamatory and consider legal action. The same thing may happen if, for example, someone else publishes something defamatory on your website; you know about it and don’t take swift action to remove it. A successful legal claim could result in the award of damages against you.
- **Defamation** – the Communications Team endeavour to monitor local social media channels. However, it cannot police every single comment that is made about the council or councillors. The Communications Team can directly remove postings on social media channels which it owns but not those on third party sites. Some sites are private or closed for which the team has no access to comment or report offending postings. Comments can be reported to some sites, for example to Facebook, if they are distasteful, illustrates use of drugs, guns or products of harm or is a comment based on race, gender, sexual orientation or disability. It is then in the hands of the social media channel to decide on the removal of the comment. Regarding defamation and social media, a complainant would need to prove that comments actually caused damage to a member’s reputation. This may be very difficult to quantify, and generally, the council is unable to commit resources to an action for defamation by an individual or group of members but would provide supporting evidence to those wishing to take such action.
- **Copyright** – Placing images or text on your site / channel from a copyrighted source (for example extracts from publications or photos), without obtaining permission, is likely to breach copyright laws. Therefore don’t publish anything you are unsure about, or obtain prior permission. Again, a successful claim for breach of copyright would be likely to lead to an award of damages against you.

- **Data Protection** – Do not publish the personal data of individuals unless you have their express permission. Personal information in an email or personal exchange should not be presumed to imply any consent to pass it on to others. If you place personal information on a public forum you should expect it to be published by others.
- **Bias and Predetermination** – if you are involved in making planning, licensing or other quasi-judicial decisions, do not say anything through social media (or indeed anywhere) that suggests you have made your mind up on an issue that is due to be formally decided. While your likely view on a particular application may be well known, you need to be able to show that you attended the committee or hearing prepared to take on board and weigh all the evidence, and were genuinely persuadable to a different view, otherwise, the decision may be later challenged as invalid. If a person has suffered some sort of detriment as a result of such an invalid decision, they may have a claim against the council for damages.
- **Electoral periods** – be mindful that when you are using social media for campaigning during election periods you will need to provide a return of expenditure on any advertising or campaign literature, including web advertising and the design and website costs of downloadable material.

Social Media and the Code of Conduct for Members Generally:

- Aspects of the Code of Conduct for Members will apply to your online activity in the same way as they do to any other communication you may use. The key to whether your online activity is subject to the Code is whether you are, or appear to be, acting in your capacity as a councillor rather than as a private individual. If you have a Facebook or Twitter account which includes your role as a councillor, you should keep this separate from your personal accounts or you risk being subject to the code of conduct.
- It can be presumed by others that you are speaking as a councillor. This can happen where you have a social media account where you comment both as a councillor and as an individual. Although you may be clear in your mind that you are acting in a private capacity it may be less clear to others. This can also mean that your views can be taken as being those of your organisation or party (rather than you personally) when this may not be the case.
- The presumption can arise simply because you are commenting on council business, because you are known to be a councillor or make reference to this, use party political symbols or references in the text.
- One way of avoiding this, and avoiding some of the potential problems related to the Code of Conduct, may be to consider keeping your online accounts as a councillor separate from those where you communicate in a personal capacity. Another is to spell it out in the text (e.g. “speaking entirely personally...”). This is a decision for each member and some Members may find the convenience of having one account outweighs the advantages of separate accounts. The council’s Communications Team can help you with more specific advice if needed.

Relevant Elements of the Members’ Code of Conduct:

- **You must treat others with respect** - do not use social media to make personal attacks or indulge in rude, disrespectful or offensive comments.
- **You must comply with equality laws** – do not publish anything that might be seen as racist, sexist, ageist, homophobic or anti-faith.

- **You must not bully or harass anyone** – do not say anything, particularly if it is part of a series of similar comments about a person or on a theme that might be construed as bullying or intimidation.
- **You must not bring the council into disrepute** – you should not publish anything that could reasonably be perceived as reflecting badly upon or lowering the reputation of you or the Council.
- **You must not disclose confidential information** - you must not, in your use of social media, just as in any other circumstances, disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature. Inadvertent leaks of the council's confidential information are more likely to take place when a councillor is using social media, rather than, say, when they are carefully drafting a letter for publication in the local paper. This may be because of the more immediate, conversational, off- the cuff nature of much social media communication. Members must be careful to apply exactly the same standards to their social media communications as they would to statements made in a more formal context.

Staying out of Trouble - Some Do's and Don'ts

Some Do's

- set appropriate privacy and security settings for your blog or networking site –especially if you have a private, non-political blog.
- keep an eye out for defamatory or obscene posts from others on your blog or page and remove them as soon as possible to avoid the perception that you condone such views. Be aware that the higher your profile as an elected member, the more likely it is you will be seen as acting in your official capacity when you blog or network.
- Consider keeping your personal and elected member profile on social networking sites separate and maintain appropriate professional boundaries.
- ensure you use council facilities appropriately; if you use a council provided blog site or social networking area, any posts you make will be viewed as made in your official capacity.
- be aware that you will be seen as acting in your official capacity if you publish information that you could only have accessed by being an elected member.
- feel able to make political points, but be careful about being too specific or personal if referring to individuals. An attack on individuals may be seen as disrespectful, whereas general comments about another party or comments on policy are less likely to be viewed as disrespect.

Some Don'ts

- Blog in haste, particularly in circumstances where your judgement might be impaired; for example if you are tired or have consumed alcohol.
- post comments that you would not be prepared to make on paper or face to face.
- request or accept a Council employee or contractor providing services to the council as a "friend" on a social networking site where this suggests close personal association. For the avoidance of doubt, this does not apply to sites which are intended as a neutral, professional connections registry (such as LinkedIn.)

- use social media in any way to attack, insult, abuse, defame or otherwise make negative, offensive or discriminatory comments about council staff, service users, their family or friends, colleagues, other professionals, other organisations, or the council.
- publish confidential information that you may have learned or had access to as part of your role as an elected member. This includes personal information about service users, their families or friends or others e.g. contractors, council staff as well as council related information.
- represent your personal views, or those of any political party or interest group you belong to, as being those of the council, on any social medium.
- browse, download, upload or distribute any material that could be considered inappropriate, offensive, defamatory, illegal or discriminatory.
- make conspicuous or excessive use of social media technology during the course of a Council or committee meeting so that you give the impression to the public of not being respectful of the proceedings and, more seriously, taking decisions that are not based on full engagement with the facts and arguments.

General

The Council wishes to encourage Members' use of new technology, including social media. This guidance is intended to help Members use social media in a way that avoids legal and reputational risk.

The Monitoring Officer and the Communications Team are happy to help Members by providing additional advice and guidance as appropriate.

Further Information

Local Government Association - Digital Councils

<http://www.local.gov.uk/digital-councils/get-started>