

Part 5

Codes and Protocols

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A. Code of Conduct for Members

1. Application

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

- 1.1 at formal meetings of the Council, its Committees and Sub-Committees, its Cabinet and Cabinet Committees
- 1.2 when acting as a representative of the authority
- 1.3 in taking any decision as a Cabinet 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 observe the Council's Member-Officer Relationship Protocol and 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 over-riding public interest in doing so; and
 - 2.4.2 not obstructing third parties' legal rights of access to information.
- 2.5 not misconduct 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.
- 2.11 When dealing in planning matters, observe the Council's Planning Matters Guidance Note.

3. Disclosable Pecuniary Interests

You must:

- 3.1 Register any disclosable pecuniary interest of yourself or a 'relevant person'¹ (as set out in the Appendix to this Code) with the Monitoring Officer within 28 days of the adoption of this Code.
- 3.2 comply with the statutory requirements to register, disclose and withdraw from participating in respect of any matter in which you or a 'relevant person' has a disclosable pecuniary interest.
- 3.3 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.
- 3.4 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.
- 3.5 "Meeting" means any meeting organised by or on behalf of the authority, including:
 - 3.5.1 any meeting of the Council, or a Committee or Sub-Committee of Council
 - 3.5.2 any meeting of the Cabinet and any Committee of the Cabinet
 - 3.5.3 in taking a decision as a Ward Councillor or as a Member of the Cabinet
 - 3.5.4 at any briefing by officers; and
 - 3.5.5 at any site visit to do with business of the authority

¹'relevant person' means:

- (i) your spouse or civil partner; or
 - (ii) a person with whom you are living as husband and wife; or
 - (iii) a person with whom you are living as if you are civil partners; and
- You are aware that that other person has the interest

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 non-pecuniary 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 and otherwise act, similarly to in circumstances covered by 3.2 above, as if the interest had been a Disclosable Pecuniary Interest (unless you have been granted a Dispensation under Section 33 of the Localism Act 2011).
- 4.2 You have a “non-disclosable pecuniary interest or non-pecuniary 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 any person, body or organisation 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 Appendix to this Code, but in respect of a member of your family (other than a “relevant person”) 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 £50 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 by the authority for this purpose.

6. Compliance with the Code of Conduct

- 6.1 Though it is no longer compulsory under the law for Members to declare that they will agree to abide by the Code of Conduct which is for the time being in force, Wycombe District Council has nonetheless resolved (14 December 2015) that it expects and encourages all of its Members to do so, and will publish a list of Members who have voluntarily agreed to do so. Accordingly, Members who are willing to so declare should ensure that they have confirmed their agreement within their own modern.gov online profile which forms part of the Council website.

Appendix 1

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:

Interest	Prescribed description
Employment, office, trade, profession or vacation	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 relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</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 the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <ul style="list-style-type: none">(a) under which goods or services are to be provided or works are to be executed; and(b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to M's knowledge):</p> <ul style="list-style-type: none">(a) the landlord is the relevant authority; and(b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	<p>Any beneficial interest in securities of a body where:</p> <ul style="list-style-type: none">(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and(b) either:<ul style="list-style-type: none">(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 the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose:

“the Act” means the Localism Act 2011;

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

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

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

“M” means a member of a relevant authority;

“member” includes a co-opted member;

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

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

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

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

Appendix 2

On 14 December 2015 the Council resolved to include within the Code information about the criminal offence and sanctions which the law provides for breaches of the Code centred upon declarations of interests.

Sections 30 – 34 of the Localism Act 2011 are reproduced below. Particular attention is drawn to Section 34 (1) – (4).

30 Disclosure of pecuniary interests on taking office

- (1) A member or co-opted member of a relevant authority must, before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the authority, notify the authority's monitoring officer of any disclosable pecuniary interests which the person has at the time when the notification is given.
- (2) Where a person becomes a member or co-opted member of a relevant authority as a result of re-election or re-appointment, subsection (1) applies only as regards disclosable pecuniary interests not entered in the authority's register when the notification is given.
- (3) For the purposes of this Chapter, a pecuniary interest is a "disclosable pecuniary interest" in relation to a person ("M") if it is of a description specified in regulations made by the Secretary of State and either:
 - (a) it is an interest of M's, or
 - (b) it is an interest of:
 - (i) M's spouse or civil partner,
 - (ii) a person with whom M is living as husband and wife, or
 - (iii) a person with whom M is living as if they were civil partners,and M is aware that that other person has the interest.
- (4) Where a member or co-opted member of a relevant authority gives a notification for the purposes of subsection (1), the authority's monitoring officer is to cause the interests notified to be entered in the authority's register (whether or not they are disclosable pecuniary interests).

31 Pecuniary interests in matters considered at meetings or by a single member

- (1) Subsections (2) to (4) apply if a member or co-opted member of a relevant authority:
 - (a) is present at a meeting of the authority or of any committee, subcommittee, joint committee or joint sub-committee of the authority,
 - (b) has a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, and
 - (c) is aware that the condition in paragraph (b) is met.
- (2) If the interest is not entered in the authority's register, the member or co-opted member must disclose the interest to the meeting, but this is subject to section 32(3).
- (3) If the interest is not entered in the authority's register and is not the subject of a pending notification, the member or co-opted member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date of the disclosure.

- (4) The member or co-opted member may not:
 - (a) participate, or participate further, in any discussion of the matter at the meeting, or
 - (b) participate in any vote, or further vote, taken on the matter at the meeting, but this is subject to section 33.
- (5) In the case of a relevant authority to which Part 1A of the Local Government Act 2000 applies and which is operating executive arrangements, the reference in subsection (1)(a) to a committee of the authority includes a reference to the authority's executive and a reference to a committee of the executive.
- (6) Subsections (7) and (8) apply if:
 - (a) a function of a relevant authority may be discharged by a member of the authority acting alone,
 - (b) the member has a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, by the member in the course of discharging that function, and
 - (c) the member is aware that the condition in paragraph (b) is met.
- (7) If the interest is not entered in the authority's register and is not the subject of a pending notification, the member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date when the member becomes aware that the condition in subsection (6)(b) is met in relation to the matter.
- (8) The member must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).
- (9) Where a member or co-opted member of a relevant authority gives a notification for the purposes of subsection (3) or (7), the authority's monitoring officer is to cause the interest notified to be entered in the authority's register (whether or not it is a disclosable pecuniary interest).
- (10) Standing orders of a relevant authority may provide for the exclusion of a member or co-opted member of the authority from a meeting while any discussion or vote takes place in which, as a result of the operation of subsection (4), the member or co-opted member may not participate.
- (11) For the purpose of this section, an interest is "subject to a pending notification" if:
 - (a) under this section or section 30, the interest has been notified to a relevant authority's monitoring officer, but
 - (b) has not been entered in the authority's register in consequence of that notification.

32 Sensitive interests

- (1) Subsections (2) and (3) apply where:
 - (a) a member or co-opted member of a relevant authority has an interest (whether or not a disclosable pecuniary interest), and
 - (b) the nature of the interest is such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

- (2) If the interest is entered in the authority's register, copies of the register that are made available for inspection, and any published version of the register, must not include details of the interest (but may state that the member or co-opted member has an interest the details of which are withheld under this subsection).
- (3) If section 31(2) applies in relation to the interest, that provision is to be read as requiring the member or co-opted member to disclose not the interest but merely the fact that the member or co-opted member has a disclosable pecuniary interest in the matter concerned.

33 Dispensations from section 31(4)

- (1) A relevant authority may, on a written request made to the proper officer of the authority by a member or co-opted member of the authority, grant a dispensation relieving the member or co-opted member from either or both of the restrictions in section 31(4) in cases described in the dispensation.
- (2) A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority:
 - (a) considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
 - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
 - (c) considers that granting the dispensation is in the interests of persons living in the authority's area,
 - (d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or
 - (e) considers that it is otherwise appropriate to grant a dispensation.
- (3) A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Section 31(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.

34 Offences

- (1) A person commits an offence if, without reasonable excuse, the person:
 - (a) fails to comply with an obligation imposed on the person by section 30(1) or 31(2), (3) or (7),
 - (b) participates in any discussion or vote in contravention of section 31(4), or
 - (c) takes any steps in contravention of section 31(8).
- (2) A person commits an offence if under section 30(1) or 31(2), (3) or (7) the person provides information that is false or misleading and the person:

- (a) knows that the information is false or misleading, or
 - (b) is reckless as to whether the information is true and not misleading.
- (3) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A court dealing with a person for an offence under this section may (in addition to any other power exercisable in the person's case) by order disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority.
- (5) A prosecution for an offence under this section is not to be instituted except by or on behalf of the Director of Public Prosecutions.
- (6) Proceedings for an offence under this section may be brought within a period of 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor's knowledge.
- (7) But no such proceedings may be brought more than three years:
- (a) after the commission of the offence, or
 - (b) in the case of a continuous contravention, after the last date on which the offence was committed.
- (8) A certificate signed by the prosecutor and stating the date on which such evidence came to the prosecutor's knowledge is conclusive evidence of that fact; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.
- (9) The Local Government Act 1972 is amended as follows.
- (10) In section 86(1)(b) (authority to declare vacancy where member becomes disqualified otherwise than in certain cases) after "2000" insert "or section 34 of the Localism Act 2011".
- (11) In section 87(1)(ee) (date of casual vacancies):
- (a) after "2000" insert "or section 34 of the Localism Act 2011 or", and
 - (b) after "decision" insert "or order".
- (12) The Greater London Authority Act 1999 is amended as follows.
- (13) In each of sections 7(b) and 14(b) (Authority to declare vacancy where Assembly member or Mayor becomes disqualified otherwise than in certain cases) after sub-paragraph (i) insert:
- "(ia) under section 34 of the Localism Act 2011".
- (14) In section 9(1)(f) (date of casual vacancies):
- (a) before "or by virtue of" insert "or section 34 of the Localism Act 2011", and
 - (b) after "that Act" insert "of 1998 or that section".

Appendix 3

Social Media Guidelines for Members

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

This guidance sets out what is and is not acceptable usage of social media at Wycombe District Council and complements the general rules under the Code of Conduct for Members.

The Monitoring Officer and the Communications team are happy to help Members by providing additional advice and guidance as appropriate. Training is also available to individual Members or Groups through social media surgery sessions arranged through the Communications team.

What is social media?

- Social media describes a range of website and online tools which allow people to interact. This includes blogs and postings on a wide range of social media platforms including (but not limited to) Facebook, Twitter, LinkedIn, Instagram and Snapchat.
- Social media is all about sharing information and people use social media platforms to give opinions, create interest groups and 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 role as a councillor. Social media can help you to:

- increase your local profile as an active and engaged councillor
- perform better as a community leader by reaching out to local residents
- keep in touch with or obtain local views and opinions
- be more approachable
- campaign on local issues

A useful rule of thumb when using social media is that if you would not give out a piece of information or make a comment to a room full of people, then don't say it on social media.

- Remember that, whenever you act or appear to act in your official capacity on social media, you must comply with the Wycombe District Council Members' Code of Conduct. The overarching rules are that you should not bring Wycombe District Council into disrepute, and must respect confidentiality.

If you have any questions or concerns you should speak to the Communications team in the first instance.

Things to bear in mind

- Any communication is capable of being misinterpreted and this includes social media. There is something about the immediacy of social media and the lack of face to face contact which seems to magnify the problem;
- Things happen quickly on social media and sometimes people express emotional reactions in a knee jerk way. Comments can be misinterpreted or misrepresented particularly with regard to something that might be perceived as being more controversial than it was expected to be;
- Remember that information and comments that you and others make can be broadcast to a large number of people more quickly than other media, which is a double edged sword;
- Even if you withdraw a comment, someone may have taken a screenshot;
- The same rules apply to social media that govern the rest of your behaviour as a councillor – but you need to take extra care given their immediacy and ease of dissemination on social media;
- Although the best use of social media is conversational in tone, publishing to the web is still publishing. What you've said on the web is recorded and it is permanent so make sure that your online content and comment 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 but you should be careful not to say anything that you wouldn't be prepared to stand by under scrutiny or that you would not feel comfortable repeating or justifying, for example, at a public meeting;
- Be clear if you are expressing personal views. Consider adding this in your profile description.

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.
- **Copyright** – Placing images or text on your site 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.

- **RIPA (Regulation of Investigatory Powers Act 2000)** - where social media sites (SMS) are used for investigatory purposes anyone investigating on behalf of a Council should be mindful of Guidance issued by the OSC (Office of Surveillance Commissioners - the regulator of RIPA) in 2014. Usually investigations will be carried out by Council officers, but Members also need to be aware of legal restrictions in this area in case they are inclined to try to find online information which might be relevant to the Council's investigatory work. In particular, where access controls are applied to data, the author is deemed to have a reasonable expectation of privacy. Where data is "open source", repeated viewing may still constitute directed surveillance which could lead to a risk of a claim under the Human Rights Act 1998, and this should be borne in mind. In addition, a formal authorisation for the use and conduct of a Covert Human Intelligence Source is necessary if a relationship is established or maintained by a public authority or someone acting on its behalf (i.e. the activity is more than mere reading of the site's content). A member (or officer) of the Council should not adopt the identity of a person known, or likely to be known, to the subject of interest or users of the site without authorization, and without the consent (explicit) of the person whose identity is used, and without considering the protection of that person. If advice is needed please consult Legal Services.

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 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. (For example, if you want to make it clear that you are not expressing views in your capacity as a Member, you may choose to add phrases such as: "speaking entirely personally..." "the views expressed here are my personal views").
- Although you may be clear in your mind that you are acting in a private capacity it may be less clear to others, so to avoid doubt, it is better to spell out clearly whether you are stating personal, party or WDC corporate positions or views.
- One way of avoiding any confusion, 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. You should include this information in your profile.
- This is an individual 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:

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

- **Never 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.
- **Do 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.
- **Do 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. Apply exactly the same standards to your social media communications as you would to statements made in a more formal context.

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

Do:

- set and check you have the appropriate privacy settings for your blog or networking site – especially if you have a private, non-political blog. Do you want anyone to see it, or selected people? Remember that sites like Facebook often change the parameters of settings.
- 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.
- 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 being 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. General comments about another party or comments on policy or position are less likely to be viewed as a personal attack.

Don't:

- post social media content in haste, particularly in circumstances where your judgement might be impaired; for example if you are angered by a comment, tired or have consumed alcohol.
- never post comments that you would not be prepared to make on paper or face to face.
- use council facilities for personal or political blogs.

- 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, 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.

Appendix 4

Guidance for Members Relating to Gifts and Hospitality

1. Introduction

- 1.1 The acceptance and recording receipt of gifts and hospitality by Councillors is not simply an administrative issue. It reflects directly upon the perception of Councillors and of the Council as acting in the public interest and not for personal advantage. The principles of conduct in public life require all Councillors to act with openness, integrity and honesty. Paragraph 2.6 of Wycombe District Council's Code of Conduct for Members contains an obligation to "use your position as a member in the public interest and not for personal advantage".
- 1.2 "Gift or hospitality" includes:
- (i) the free gift of any goods or services;
 - (ii) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public, irrespective of the terms;
 - (iii) the opportunity to obtain any goods or services which are not available to the general public;
 - (iv) the offer of food, drink, accommodation or entertainment, and
 - (v) the opportunity to attend any cultural, sporting or entertainment event.
- 1.3 A requirement to register details of gifts and/or hospitality received which have an estimated value of £50 or more is also set out at Paragraph 5 of the Council's Code of Conduct for Members. Failure to declare such details is a breach of the Code of Conduct and could lead to a formal complaint being made against the Councillor concerned.
- 1.4 The Bribery Act 2010 also makes it a criminal offence to bribe or attempt to bribe another person, or to request, agree to receive or accept a bribe. It defines corruption as the dishonest influencing of actions or decisions. The corrupt acceptance of a gift or hospitality can lead to an unlimited fine or up to 10 years' imprisonment.

2. Aims and limits of the guidance

- 2.1 This Guidance sets out the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality. It does not apply to the acceptance of any facilities or hospitality which may be provided to you by the Council.

3. Consequence of breaching the guidance

- 3.1 If you do not abide by this Guidance, you may put yourself at risk of a complaint being made against you or in extreme cases, criminal action.
- 3.2 If you have any doubts about the application of this Guidance to your own circumstances you should seek advice from the Monitoring Officer or Deputy Monitoring Officer.

4. General principles

- 4.1 In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles.

Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor

- 4.2 As a Councillor, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.
- 4.3 The Bribery Act 2010 provides that if you request, agree to receive or accept a financial or other advantage intending that, in consequence, a function of a public nature should be performed improperly (whether by you or another person), you commit a criminal offence carrying a maximum term of imprisonment of 10 years. The Act defines improper performance as acting in breach of trust or failing to act either in good faith or impartially.
- 4.4 The Council's Code of Conduct for Members also provides that you must act in the public interest and not for personal advantage and must not conduct yourself in a manner which is likely to bring the Council into disrepute.

You should only accept a gift or hospitality if there is a commensurate benefit to the Council.

- 4.5 The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Council which would not have been available but for the acceptance of that gift or hospitality.
- 4.6 Acceptance of hospitality can confer an advantage on the Council, such as an opportunity to progress the business of the Council expeditiously through a working lunch, or to canvass the interests of the Council and the district at a meeting. Acceptance of a gift is much less likely to confer such an advantage. Therefore, unless the benefit to the Council is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit. In that case it should be declined.
- 4.7 As set out above, the Council's Code of Conduct for Members provides that you must not use your position for your own personal advantage or that of a family member or close associate, which would include acceptance as a Councillor of a gift or hospitality for your own or their benefit or advantage, rather than for the benefit of the Council.

Never accept a gift or hospitality if acceptance might be open to misinterpretation.

- 4.8 The appearance of impropriety can be just as damaging to the Council and to you as a Councillor as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Council favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

- 4.9 Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:
- 1) occasions when the Council is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer;
 - 2) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination;
 - 3) funding decisions, when the Council is determining a grant application by any person or organisation.

Never accept a gift or hospitality which puts you under an improper obligation.

- 4.10 You should recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour, now or in the future. Also, if others believe that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the Council.

Never solicit a gift or hospitality.

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

5. When gifts and hospitality may be accepted

For clarity, whilst not an exhaustive list, you may accept gifts and hospitality in the following circumstances:

- 1) civic hospitality below £25 in value provided by another public authority as part of your work as a Councillor;
- 2) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits;
- 3) tickets for sporting, cultural and entertainment events but only if these are sponsored by the Council;
- 4) small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise;
- 5) a modest alcoholic or soft drink on the occasion of an accidental social meeting with an employee of a contractor or party with whom you have done business on behalf of the Council. In such cases, you should make reasonable efforts to return the offer where this is practicable;

- 6) a modest working lunch not exceeding £15 per head in the course of a meeting in the offices of a party with whom the Council has an existing business connection and where this is required in order to facilitate the conduct of that business. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers should make it clear to the other party that such a lunch must not exceed a value of £15 per head;
- 7) modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to that authority;
- 8) hospitality received in the course of an external visit or meeting which has been duly authorised by the Council. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers should make it clear that any such hospitality for Councillors and officers is to be no more than commensurate with the nature of the visit;
- 9) other unsolicited gifts, where it is impracticable to refuse or return them to the person or organisation making the gift, provided that the Councillor deals with the gift strictly in accordance with the following procedure:
 - (i) The Councillor must, as soon as practicable after the receipt of the gift, and in any event within 28 days pass it to the Monitoring Officer together with information as to why it was impracticable to refuse or return the gift;
 - (ii) The Monitoring Officer will write to the person or organisation making the gift thanking them on the Councillor's behalf and informing them that the gift has been donated to a Charity of the Councillor's choice on whose behalf it will be raffled or otherwise disposed of in due course.
- 10) if in doubt you should contact the Monitoring Officer / Deputy Monitoring Officer.

6. Declaration of Gifts

- 6.1 Where you accept any gift or hospitality which you estimate to have a market value or cost of provision of £50 or greater, regardless of whether you should accept such gift or hospitality in accordance with this Guidance, in order to comply with the Code of Conduct you must, as soon as possible after receipt of the gift or hospitality, and in any event within 28 days of receipt notify the Monitoring Officer and make the necessary addition to your Register of Interests in the modern.gov system including details of the person from whom the gift or hospitality was received. The Register of Interests is available on the Council's website.
- 6.2 Even if the value of the gift or hospitality is less than £50, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary disclosure in the same manner to ensure that there is nothing lacking transparency about the gift or hospitality.
- 6.3 If at any time you require further advice, you should consult the Monitoring Officer or Deputy Monitoring Officer.

B. Arrangements for Dealing with Standards allegations under the Localism Act 2011

1. Context

These Arrangements set out how you may make a complaint that an elected or co-opted member of this Council (or of a Parish Council within its area) has failed to comply with the Council's Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Code.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a member or co-opted member of the Council (or of a Parish Council within its area), or of a Committee or Sub-Committee of the Council, has failed to comply with the Council's Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member (or a member or co-opted member of a Parish Council) against whom an allegation has been made.

2. The Code of Conduct

The Council has adopted a Code of Conduct for members, which is available for inspection on the authority's website and on request from Reception or the Complaints Officer at the Council Offices.

Each Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council's Code of Conduct, you should ask the parish clerk to provide you with a copy of that Parish's Code of Conduct, or make arrangements to inspect it.

3. Making a complaint

If you wish to make a complaint, please write to:

Complaints Officer
Wycombe District Council
Queen Victoria Road
High Wycombe
Bucks HP11 1BB

Or email: complaints@wycombe.gov.uk, heading your email "Complaint about Councillor(s)"

The Monitoring Officer has statutory responsibility for maintaining the register of members' interests and is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the authority's website, and is available on request from the Complaints Officer at the Council Offices, as well as the Code of Conduct for the relevant Council.

Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress.

If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

We will acknowledge receipt of your complaint within seven working days of receiving it, and we will keep you informed of the progress of your complaint. Not every complaint that falls under the Code will be referred for investigation. A decision will be made using the referral criteria below.

Complaints should be summarised as much as possible. Any complaints over 20 pages in length may require an extended period of time for consideration by the Monitoring Officer.

4. What happens next?

In certain straightforward circumstances, the Monitoring Officer is entitled to dismiss your complaint at the outset. This will happen if:

- (a) the person you are complaining about is no longer a councillor;
- (b) the conduct you are complaining about happened more than six months before you complained;
- (c) the conduct you are complaining about happened in the councillor's private life, not when they were acting as a councillor;
- (d) the complaint is essentially against the action of the council as a whole and cannot properly be directed against individual member(s)
- (e) the complaint is made anonymously;
- (f) there is no evidence that the code has been breached or there is not enough information to take the matter further;
- (g) the same or substantially the same issue has been the subject of a previous code of conduct allegation and there is nothing further to be gained.

If your complaint is not dismissed for any of these reasons, it will then be considered in 3 stages – the aim being to reach a satisfactory resolution.

Under Stages One and Two only the details contained on your complaint form will be considered. Therefore it is very important that you set your complaint out concisely, clearly and provide at the outset all the information you wish to be considered. The information provided should only be relevant to the alleged breaches of the Code, as the Monitoring Officer cannot consider any other subject of complaint. Please identify clearly the paragraphs of the Code you believe may have been breached by the councillor(s) and under each one provide the reason why you believe it has been breached.

5. Stage One

We will tell the Member that you are complaining about that we have received a complaint and provide them with a copy, unless you have completed section 5 of the form requesting confidentiality.

The Member will be invited to respond as soon as possible and in any event within 20 working days, including in his or her response any suggestion to resolve the complaint.

This response will be made available to you and you will be asked if you are satisfied with it, or whether you wish your complaint to be considered further under Stage Two. If you are satisfied with the response, no further action will be taken, or the action proposed by the Member will proceed.

6. Stage Two

Your complaint will then be considered by the Council's Monitoring Officer in consultation with a duly appointed Independent Person whose views will be taken into account. The Monitoring Officer will decide whether your complaint should be referred for investigation. This will normally happen within 20 working days of the date of the commencement of Stage Two.

Where he/she requires additional information in order to come to a decision, he/ she may come back to you for such information, and may request information from the member against whom your complaint is directed. Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.

Referral Criteria

Whilst each allegation will be considered on its individual merits, the following Referral Criteria will be considered in taking the decision either to accept a complaint for investigation or to take no further action:

- the public benefit in investigating the alleged complaint
- taking into account the nature of the allegation, whether using public funds to examine the matter further would be disproportionate
- whether the information submitted is sufficient to make a decision as to whether to refer for investigation
- whether the complaint is the same or substantially the same as a previous complaint and in that case, whether there is anything further to be gained
- whether the complaint involves conduct too trivial to warrant further action
- whether the complaint is essentially against the action of the Council as a whole and cannot properly be directed against an individual member
- whether the complaint appears to be vexatious, malicious, politically motivated or a 'tit for tat' retaliation or made by a persistent complainant
- whether the matter complained of is an individual act or part of a continuous pattern of behaviour which should be cumulatively considered
- whether any steps have been taken or proposed to remedy the action complained of, for example, an apology has already been made by the member concerned
- the complainant's view of the action taken or proposed.
- where the member or the authority has made a reasonable offer of local resolution, but the complainant is not willing to accept that offer, this may be taken into account in deciding whether the complaint merits formal investigation
- whether the complainant has requested that their identity as complainant be withheld from the member, and the matter cannot reasonably be taken further in these circumstances

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

After the decision is made by the Monitoring Officer in consultation with an Independent Person, and the parties have been informed, the Monitoring Officer may inform the Chairman and Vice Chairman of the Standards Committee of the existence of the complaint, the parties, and the decision.

7. Stage Three

If the Monitoring Officer decides that a complaint merits formal investigation, he/ she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/ she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/ her with a copy of your complaint, and ask the member to provide his/ her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where the Monitoring Officer and Independent Person consider it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer may delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/ her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

7.1 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned (and to the Parish Council, where your complaint relates to a Parish Councillor), notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/ her report.

7.2 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

(a) Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/ she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/ or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee (and the Parish Council) for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

(b) Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings, which is attached as an Appendix to these arrangements.

The Monitoring Officer will conduct a pre-hearing process, requiring the member to give his/ her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chairman of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/ her report, call such witnesses as he/ she considers necessary and make representations to substantiate his/ her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/ her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/ she considers that he/ she did not fail to comply with the Code of Conduct.

The Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chairman will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the

Independent Person, but will then decide what action, if any, to take in respect of the matter.

7.3 What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may take the following actions, as it considers appropriate:

District Councillor:

- 7.3.1 Censure or reprimand the member;
- 7.3.2 Publish its findings in respect of the member's conduct;
- 7.3.3 Report its findings to Council for information;
- 7.3.4 Recommend to the member's Group Leader (or in the case of independent members, recommend to Council or to Committees) that he/ she be removed from any or all Committees or Sub-Committees of the Council;
- 7.3.5 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 7.3.6 Recommend to Council that the member be replaced as Executive Leader;
- 7.3.7 Instruct the Monitoring Officer to arrange training for the member;
- 7.3.8 Remove from all outside appointments to which he/ she has been appointed or nominated by the authority or by the Parish Council;
- 7.3.9 Withdraw facilities provided to the member by the Council, such as a computer, website and/ or email and Internet access; or
- 7.3.10 Exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

Parish Councillor:

- 7.3.11 Censure or reprimand the member;
- 7.3.12 Publish its findings in respect of the member's conduct;
- 7.3.13 Report its findings to the Parish Council for information;
- 7.3.14 Recommend that the Parish Council arranges training for the member;
- 7.3.15 Recommend to the Parish Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;
- 7.3.16 Recommend to the Parish Council that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 7.3.17 Recommend that the Parish Council excludes the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' basic or special responsibility allowances.

7.4 What happens at the end of the hearing?

At the end of the hearing, the Chairman will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member (and to the Parish Council), make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

8. Who are the Hearings Panel?

The Hearings Panel is a sub-committee of the Council's Standards Committee. The Standards Committee has decided that it will comprise a maximum of five members of the Committee, including not more than one member of the authority's Executive and comprising members drawn from at least two different political parties.

The Independent Person is invited to attend all meetings of the Hearings Panel and his or her views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

9. Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/ she:

- 9.1 Is, or has been within the past five years, a member, co-opted member or officer of the authority;
- 9.2 Is or has been within the past five years, a member, co-opted member or officer of a parish council within the authority's area, or
- 9.3 Is a relative, or close friend, of a person within paragraph 9.1 or 9.2 above. For this purpose, "relative" means:
 - 9.3.1 Spouse or civil partner;
 - 9.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 9.3.3 Grandparent of the other person;
 - 9.3.4 A lineal descendant of a grandparent of the other person;
 - 9.3.5 A parent, sibling or child of a person within paragraphs 9.3.1 or 9.3.2;
 - 9.3.6 A spouse or civil partner of a person within paragraphs 9.3.3, 9.3.4 or 9.3.5; or
 - 9.3.7 Living with a person within paragraphs 9.3.3, 9.3.4 or 9.3.5 as husband and wife or as if they were civil partners.

10. Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chairman of the Hearings Panel the right to depart from these arrangements where he/ she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

11. Can I withdraw my complaint?

Complaints can be withdrawn by the complainant by agreement with Monitoring Officer at any stage in the process.

12 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman. Decisions which have been properly made according to the Council's procedure will not be overturned unless the decision making process was faulty. Please note that with regard to actions taken by this Council in respect of alleged breaches of the Code of Conduct, the Ombudsman can only consider complaints made by members of the public or those made on their behalf - this does not include complaints made by town, parish or district councillors.

Appendix - Procedure for Local Standards Hearings

Appendix

Procedure for Local Standards Hearings

1. Interpretation

- (a) "Councillor" means the member of the authority who is the subject of the allegation being considered by the Panel, unless stated otherwise. It also includes the Councillor's nominated representative.
- (b) "Investigating Officer" means the person appointed by the Monitoring Officer to undertake the investigation (which may include the Monitoring Officer and his or her nominated representative).
- (c) "The matter" is the subject matter of the Investigating Officer's report.
- (d) "The Panel" means the Local Standards Hearing Panel which is a Sub Committee of the Council's Standards Committee to which the Standards Committee has delegated the conduct of the hearing.
- (e) "The Committee Support Officer" means an officer of the authority responsible for supporting the Panel's discharge of its functions and recording the decisions of the Panel.
- (f) "Legal Advisor" means the officer responsible for providing legal advice to the Panel. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.
- (g) "The Chairman" refers to the person presiding at the hearing.
- (h) "The Independent Person" is the person appointed by the Council under Section 28 of the Localism Act 2012, who is invited to attend all meetings of the Hearings Panel and whose views are to be sought, and taken into account, by the Panel before a decision is made on whether the member's conduct amounts to a failure to comply with the Code of Conduct and as to any action to be taken.

2. Modification of Procedure

The Chairman may agree to vary this procedure in any particular instance where he/she is of the opinion that such a variation is necessary in the interests of fairness, or expediency in circumstances where fairness is not compromised.

3. Representation

The Councillor may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Standards Committee, another person.

4. Pre-Hearing Process (Local Investigation)

Where the Monitoring Officer has considered the Investigating Officer's report and decided to refer the report to the Hearings Panel the Monitoring Officer shall:

- (a) Arrange a date for the Panel hearing;
- (b) Send a copy of the report to the Councillor, advise the Councillor of his decision to refer the report to the Hearings Panel, and advise the Councillor of the date, time and place for the hearing;
- (c) Send a copy of the report to the Complainant, advise the Complainant of his decision to refer the report to the Hearings Panel, and of the date, time and place for the hearing;

- (d) Notify the Parish or Town Council (as appropriate) of the Panel's initial decision and of the date, time and place of the hearing;
- (e) Request the Councillor to complete and return the model Pre-Hearing Forms A, B, D and E within 14 days of receipt;
- (f) In the light of any Pre-Hearing Forms returned by the Councillor, determine whether the Panel will require the attendance of the Investigating Officer and any additional witnesses at the hearing to enable it to come to a properly considered conclusion at the hearing, and arrange for their attendance;
- (g) Prepare a Pre-Hearing Summary Report setting out the course of the allegation, investigation and Pre-Hearing Process and high-lighting the issues which the Panel will need to address, and
- (h) Arrange that the agenda for the hearing, together with the Pre-Hearing Summary Report and copies of any relevant documents are sent to:
 - (i) All members of the Panel who will conduct the hearing;
 - (ii) The Councillor;
 - (iii) The Complainant and
 - (iv) The Investigating Officer.

Where reasonably practicable, the agenda, Pre-Hearing Summary Report and other documents referred to above will be sent to those persons at least 14 days in advance of the hearing date. Failing this 5 clear days' notice will be given as provided by Access to Information Legislation unless the matter is genuinely urgent and permitted to be notified later under the relevant legislation.

5. **Legal Advice**

The Panel may take advice from its legal advisor at any time during the hearing or while they are deliberating on any aspect of the outcome. The substance of any legal advice given to the Panel should be shared with the member and the Investigating Officer if they are present, whether that advice is given in the hearing room or the separate room where the Panel are deliberating on any aspect of the outcome.

6. **Setting the Scene**

At the start of the hearing, the Chairman shall introduce each of the members of the Panel, the Councillor (if present), the Investigating Officer (if present), the Independent Person and any other officers present, and shall then explain the procedure which the Panel will follow in the conduct of the hearing.

7. **Preliminary Procedural issues**

The Panel shall then deal with the following preliminary' procedural matters in the following order:

(a) **Disclosures of interest**

The Chairman shall ask members of the Panel to disclose the existence and nature of any disclosable pecuniary interests which they have in the matter, and to withdraw from consideration of the matter if so required.

(b) **Quorum**

The Chairman shall confirm that the Panel is quorate (3 members).

(c) **Hearing procedure**

The Chairman shall confirm that all present know the procedure which the Panel will follow in determining the matter.

(d) **Proceeding in the absence of the member**

If the Councillor is not present at the start of the hearing:

- (i) The Chairman shall ask the Monitoring Officer whether the Councillor has indicated his/ her intention not to attend the hearing;
- (ii) The Panel shall then consider any reasons which the Councillor has provided for not attending the hearing. If the Panel is satisfied with such reasons, it shall adjourn the hearing to another date;
- (iii) If the Panel is not satisfied with such reasons, or if the Councillor has not given any such reasons, the Panel shall decide whether to consider the matter and make a determination in the absence of the Councillor or to adjourn the hearing to another date. If the Panel decides to proceed in the absence of the Councillor, references in subsequent paragraphs of this Procedure to the Councillor's participation in the hearing shall be construed accordingly.

(e) **Exclusion of Press and Public**

The Panel may exclude the press and public from its consideration of this matter where it appears likely that confidential or exempt information will be disclosed in the course of this consideration.

The Chairman shall ask the Councillor (if present) the Investigating Officer (if present) and the legal adviser to the Panel whether they wish to ask the Panel to exclude the Press and public from all or any part of the hearing. If any of them so request, the Chairman shall ask them to put forward reasons for so doing and ask for responses from the others and the Panel shall then determine whether to exclude the press and public from all or any part of the hearing.

Where the Panel does not resolve to exclude the press and public, the agenda and any documents which have been withheld from the press and public in advance of the meeting shall then be made available to the press and public.

8. A failure to comply with the Code of Conduct?

The Panel will then address the issue of whether the Councillor failed to comply with the Code of Conduct in the manner set out in the Investigating Officer's report.

- (a) The Chairman shall ask the Councillor to confirm that he/ she maintains the position as set out in the Pre-Hearing summary report.

(b) **The Pre-Hearing Summary Report**

The Chairman will ask the legal advisor to present his/ her report, highlighting any points of difference in respect of which the Councillor has stated that he/ she disagrees with any finding of fact in the Investigating Officer's report. The Chairman will then ask the Councillor to confirm that this is an accurate summary of the issues and ask the Councillor to identify any additional points upon which he/ she disagrees with any finding of fact in the Investigating Officer's report.

- (i) If the Councillor admits that he/ she has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report, the

Panel may then make a determination that the Councillor has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report and proceed directly to consider whether any action should be taken (Paragraph 11).

- (ii) If the Councillor identifies additional points of difference, the Chairman shall ask the Councillor to explain why he/ she did not identify these points as part of the pre-hearing process. He/ she shall then ask the Investigating Officer (if present) whether he/ she is in a position to deal with those additional points of difference directly or through any witnesses who are in attendance or whose attendance at the hearing can conveniently be arranged. Where the Panel is not satisfied with the Councillor's reasons for failing to identify each additional point of difference as part of the pre-hearing process, it may decide that it will continue the hearing but without allowing the Councillor to challenge the veracity of those findings of fact which are set out in the Investigating Officer's report but in respect of which the Councillor did not identify a point of difference as part of the pre-hearing process, or it may decide to adjourn the hearing to allow the Investigating Officer and/or any additional witnesses to attend the hearing.

(c) Presenting the Investigating Officer's report

- (i) If the Investigating Officer is present, the Chairman will then ask the Investigating Officer to present his/ her report, having particular regard to any points of difference identified by the Councillor and why he/ she concluded, on the basis of his/ her findings of fact that the Councillor had failed to comply with the Code of Conduct. The Investigating Officer may call witnesses as necessary to address any points of difference.
- (ii) If the Investigating Officer is not present, the Panel shall only conduct a hearing if they are satisfied that there are no substantial points of difference or that any points of difference can be satisfactorily resolved in the absence of the Investigating Officer. In the absence of the Investigating Officer, the Panel shall determine on the advice of the Monitoring Officer which witnesses, if any, to call. Where such witnesses are called, the Chairman shall draw the witnesses' attention to any relevant section of the Investigating Officer's report and ask the witness to confirm or correct the report and to provide any relevant evidence.
- (iii) No cross-examination shall be permitted but, at the conclusion of the Investigating Officer's report and/ or of the evidence of each witness, the Chairman shall ask the Councillor if there are any matters upon which the Panel should seek the advice of the Investigating Officer or the witness.

(d) The Councillor's response

- (i) The Chairman shall then invite the Councillor to respond to the Investigating Officer's report and to call any witnesses as necessary to address any points of difference.
- (ii) No cross-examination shall be permitted but, at the conclusion of the Councillor's evidence and/ or of the evidence of each witness, the Chairman shall ask the Investigating Officer if there are any matters upon which the Panel should seek the advice of the Councillor or the witness.

(e) **Witnesses**

- (i) The Panel shall be entitled to refuse to hear evidence from the Investigating Officer, the Councillor or a witness unless they are satisfied that such persons are likely to give evidence which they need to hear in order to be able to determine whether there has been a failure to comply with the Code of Conduct.
- (ii) Any member of the Panel may address questions to the Investigating Officer, to the Councillor or to any witness.

(e) **Additional Evidence**

At the conclusion of the evidence, the Chairman shall check with the members of the Panel that they are satisfied that they have sufficient evidence to come to a considered conclusion on the matter.

- (g) If the Panel at any stage prior to determining whether there was a failure to comply with the Code of Conduct are of the opinion that they require additional evidence on any point in order to be able to come to a considered conclusion on the matter, the Panel may (on not more than one occasion) adjourn the hearing and make a request to the Investigating Officer to seek and provide such additional evidence and to undertake further investigation on any point specified by the Panel.
- (h) Determination as to whether there has been a failure to comply with the Code of Conduct.
 - (i) At the conclusion of the Councillor's response, the Chairman shall ensure that each member of the Panel is satisfied that he/ she has sufficient information to enable him/ her to determine whether there has been a failure to comply with the Code of Conduct as set out in the Investigating Officer's report.
 - (ii) The Panel shall then retire to another room to consider in private whether the Councillor did fail to comply with the Code of Conduct as set out in the Investigating Officer's report.
 - (iii) The Panel shall take its decision on the balance of probability based on the evidence which it has received at the hearing.
 - (iv) Before taking its decision as to whether there has been a failure to comply with the Code of Conduct, the Panel will seek and take into consideration the views of the Independent Person.
 - (iv) The Panel's function is to make a determination on the matter. It may, at any time, return to the main hearing room in order to seek additional evidence from the Investigating Officer, the Councillor or a witness, or to seek advice from the Legal Officer and subject to paragraph 5, it may seek such advice whilst in the retirement room. If it requires any further information, it may adjourn and instruct an officer or request the Councillor to produce such further evidence to the Panel.
 - (v) At the conclusion of the Panel's consideration, the Panel shall consider whether it is minded to make any recommendations to the authority concerned with a view to promoting high standards of conduct among councillors.

- (vi) The Panel shall then return to the main hearing room and the Chairman will state the Panel's principal findings of fact and their determination as to whether the Councillor failed to comply with the Code of Conduct as set out in the Investigating Officer's report.

9. If the Councillor has not failed to follow the Code of Conduct

If the Panel determines that the Councillor has not failed to follow the Code of Conduct in the manner set out in the Investigating Officer's report:

- (a) If the Panel apprehends, from the evidence which they have received during the hearing, that a Councillor has failed to comply with the Code of Conduct (other than the matter which the Panel has just determined), the Chairman shall outline Panel's concerns and state that the Panel has referred this additional or alternative failure to the Monitoring Officer for further consideration.
- (b) The Chairman should then set out any recommendations which the Panel is minded to make to the relevant authority with a view to promoting high standards of conduct among councillors and seek the views of the Councillor, the Investigating Officer and the Legal Advisor before the Panel finalises any such recommendations.
- (c) Finally, the Chairman should ask the Councillor whether or not he/she wishes the authority to publish a statement of its finding.

10. Action consequent upon a failure to comply with the Code of Conduct

- (a) The Chairman shall ask the Investigating Officer (if present, or otherwise the Legal Advisor) whether, in his/ her opinion, the Councillor's failure to comply with the Code of Conduct is such that the Panel should take action if so, what would be the appropriate action that should be taken.
- (b) The Chairman will then ask the Councillor to respond to the Investigating Officer's advice.
- (c) The Chairman will then ensure that each member of the Panel is satisfied that he/she has sufficient information to enable him/ her to take an informed decision as to what action should be taken.
- (d) Any member of the Panel may address questions to the Investigating Officer or to the Councillor as necessary to enable him/ her to take such an informed decision.
- (e) The Chairman should then set out any recommendations which the Panel is minded to make to the authority with a view to promoting high standards of conduct among Councillors and seek the views of the Councillor, the Investigating Officer and the Legal Advisor;
- (f) The Panel will then retire to another room to consider in private whether action should be taken and if so, what action should be taken and when that action should take effect; and any recommendations which the Panel will make to the relevant authority.
- (g) The Panel will consult the Independent Person before deciding whether action should be taken and (where action is to be taken) the nature of that action.

- (h) At the completion of their consideration, the Panel will return to the main hearing room and the Chairman shall state the Panel's decisions as to whether action should be taken and (where action is to be taken) the nature of that action, and when it should take effect, together with the principal reasons for those decisions, and any recommendations which the Panel will make to the relevant authority.

11. The close of the hearing

- (a) The Panel will announce its decision on the day of the hearing and provide the Committee Support Officer with a short written statement of their decision, which the Committee Support Officer will deliver to the Councillor as soon as practicable after the close of the hearing;
- (b) The Chairman will thank all those present who have contributed to the conduct of the hearing and formally close the hearing;
- (c) Following the close of the hearing, the Committee Support Officer will agree a formal written notice of the Panel's determination and the Monitoring Officer shall arrange for the distribution and publication of that notice, or a summary of that notice

C. Member/ Officer Relationships

Wycombe District Council Member and Officer Relations Protocol

1. Introduction

This Local Protocol aims to:

- clearly describe the respective roles of Elected Members and Council Officers
- help all those concerned to understand the relationship between Members and Officers
- offer a guidance framework on the issues which most commonly arise

This Protocol takes into account the views and recommendations expressed by the Nolan Committee and reflects the principles underlying the separate Codes of Conduct which apply to Members and Officers to which it is closely linked. It should be read in association with these Codes and the Council's Standing Orders, and other guidance such as the Guidance Note on Planning Matters. The Protocol is intended to establish clear local standards and procedures which Members and Officers can agree and adhere to. All Members and Officers have been circulated with a copy, and a copy is available on the Council's website.

2. Members and Officers Respective Roles

Members Role

Members:

- are elected democratically
- set the corporate strategy and policy framework
- develop policy proposals with professional advice from officers
- determine which policy options are to be adopted
- monitor the implementation and effect of their decisions
- represent the local community
- process constituents' enquiries and complaints
- represent the Council

Officers Role

Officers:

- manage the implementation of policy
- make proposals within the overall framework set by Members
- give professional advice
- manage the organisation
- take action under delegated powers
- act impartially

They must therefore:

- serve all Members, not just those of the majority political group
- avoid close personal familiarity with Members
- be polite in their dealings with Members
- deal with Member enquiries efficiently
- report to their line manager or Head of Service any Member pressure to deal with a matter outside of Council procedure or policy - or in such a way as to give rise to unlawfulness
- maintain confidentiality where it is proper for them to do so
- perform their duties effectively and efficiently
- behave in a professional manner
- be helpful and respectful to Members

Officers must not:

- allow their own personal or political opinions to interfere with their work
- seek to influence Members prior to any appointment
- raise personal matters to do with their jobs directly with Members
- make claims or allegations about other employees directly to Members
- improperly disclose information received from an elected Member

Serving all Members of the Council

Officers serve the Council (where appropriate) through its Cabinet, Committees and Sub-Committees. They work to the instruction of their Corporate Director, Head of Service or line manager - not individual Members of the Council, whatever office a Member might hold.

Confidentiality

Although Officers will not improperly disclose information received from a Member, Officers cannot conceal, nor treat as confidential, information which it is proper for them to disclose (they may even have a duty to disclose it). An Officer will tell an elected Member when he or she is unable to respect any wish the Member may have to keep a matter confidential and the reasons why.

3. Personal relationships

The Council recognises that there may be close social or personal relationships between Members and Officers that commenced before a Member was elected to the Council or before a person was employed by the Council. In a large organisation this may be inevitable.

The Member must declare to the Chief Executive or Monitoring Officer and their Group Leader any relationship with an Officer that might be seen as influencing their work as a Member. An Officer should notify their Head of Service. This includes any family relationships. It is the individual's responsibility to see that any such notification is entered as a declaration in the corporate Registers of Member and Officer

interests. 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.

Standing Orders deal with candidates for employment with the Council who are related to Council Members as does the Code of Conduct for employees.

Members must not sit on the Appointments Panel responsible for employing anyone to whom they are:

- married
- the partner
- otherwise closely related

The Group Leaders and Directors will endeavour to ensure that neither the Member nor the Officer is placed in a position where such relationship between the two will be seen to conflict with the provisions of this Code.

4. Conduct at meetings and social events

Officers and Members should address each other formally both in correspondence and at meetings of committees, subcommittees and other formal meetings which both attend.

Officers should refer to Members by the office they hold, e.g. Leader of... Chairman of, or Councillor... according to the individual Member's preference.

Members should avoid excessive informality at meetings and refer to Officers either by their job title, e.g. Chief Executive, Director of... or by their surname and the title Mr, Mrs, Miss or Ms, as appropriate.

The same degree of formality is not required at informal meetings or social events that Members and Officers may attend. Nonetheless, Members and Officers attending an event should avoid close personal familiarity or any action that would embarrass others or damage their relationship with other Officers or Members.

At official civic events Members and Officers should dress and behave in a manner in keeping with the occasion and their position.

Members and Officers should not criticise or undermine respect for the other in any public meeting or forum. This would damage effective working relationships and the public image of the Council.

Members should not raise matters relating to the conduct or capability of an individual Council Officer or of Officers collectively at meetings held in public. This is a long-standing tradition in public service, as Officers have no means of responding to such criticisms in public.

5. Constructive criticism/ complaints

It is important that any dealings between Members and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.

If Members feel that they have not been treated with proper respect, courtesy or have any concern about the conduct or capability of a Council Officer or group of Officers they should raise the matter with the appropriate Head of Service or Corporate Director.

If the Member is not satisfied that action has been taken within a reasonable period, they should raise the matter with the Chief Executive who will look into the matter afresh.

Where an Officer feels that they have not been properly treated with respect and courtesy or is concerned about any action or statement relating to her/ himself or a colleague by a Member they should raise the matter with their line manager, Head of Service or Corporate Director as appropriate. If necessary, the matter will be referred to the Chief Executive to consider if it should be raised with the appropriate Group Leader.

6. Contact between members and officers

Contact between Members and Officers should normally be at a senior level since junior officers might feel unduly pressurised to comply with requests from Members and this can disrupt work programmes already agreed.

Members have the right to contact directly the Chief Executive, Chief Officers and senior staff whenever they feel it necessary to do so. For routine matters, such as giving apologies for absence from meetings, it is quite in order for Members to contact more junior staff directly, as it is where special formal arrangements are in place for that work area, e.g. planning applications. Any other matters should be referred to Service Managers, Heads of Service or Corporate Directors including any occasion when a Member feels that the action being taken is wrong or is not being pursued with sufficient vigour.

Members are elected to represent the interests of their constituents, but they should not seek special treatment for any individual. When dealing with Officers, they must therefore declare any special relationships they have with the constituents concerned.

Members should not put pressure on an Officer and avoid bringing undue influence to bear on matters that have been delegated for Officer decision. This might lead Officers to make decisions that:

- are not objective and cannot be accounted for
- favour unfairly one member of the public over another
- go against procedure or policy or a legal requirement
- are a breach of the code of conduct for employees
- are in conflict with Standing Orders or Financial Regulations
- are capable of being interpreted as arising from intimidation or bullying

Officers have a duty to report to their Head of Service or Corporate Director any attempt to exert improper influence who in turn will refer the matter to the Chief Executive or Monitoring Officer.

Members and officers should respect each other's free (i.e. non-Council) time.

7. Chairmen and senior officers

It is clearly important that there should be a close working relationship between the Chairman of a Committee (or Cabinet Leader) Cabinet Members and the Chief Executive, Corporate Director and other senior officers of any services which have the relevant reporting line. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal with other Members and other Party Groups.

Whilst the Cabinet Leader or Cabinet Members or Chairman of a Committee (or Sub-Committee) will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations Officers will be under a duty to submit a report on a particular matter. Similarly, the named author will always be fully responsible for the contents of any report submitted in his or her name.

This means that any such report will be amended only where the amendment reflects the professional judgment of the author of the report. Any issues arising between a Member and a Lead Officer in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

At some meetings, a resolution may be passed which authorises named Officers to take action between meetings in consultation with a Member. It must be recognised that it is the Officer who takes the action in these circumstances and it is the Officer who is accountable for it.

It must be remembered that Officers within a service are accountable to their line manager. Whilst Officers should always seek to assist a Member they must not, in so doing, go beyond the bounds of whatever authority they have been given. Members should not put Officers in a position where there would be conflict between themselves and their line manager, Head of Service or Corporate Director.

8. Political neutrality of officers

Employees serve the authority as a whole. They must serve all councillors and not just those of the controlling group, and must ensure that the individual rights of the councillors are respected.

Officer Advice to Party Groups

It is common practice for political groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Senior Officers may properly be called upon from time to time to support and contribute to such deliberations by political groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.

The support provided by Officers can take many forms, ranging from a briefing meeting to a formal meeting to a presentation to a full political group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever political group is for the time being in control of the Council, steps should be taken to ensure that such support is available equally to all political groups.

Certain ground rules must, however be followed:

- Requests for Officers to attend any political group meeting must be made through the appropriate Corporate Director. The Corporate Director will advise the Chief Executive of any requests made
- Officer support must not extend beyond providing information and advice in relation to matters of Council business
- Officers must not be involved in advising on matters of party business
- Political group meetings are not empowered to make decisions on behalf of the Council

- Conclusions reached at group meetings do not rank as Council decisions and it is essential that they are not interpreted or acted upon as such
- Any request for advice, together with the advice given to a political group or Member will be treated with strict confidentiality by the Officers concerned and will not be available to any other political group. Factual information upon which any advice is based will, if requested, be available to all political groups
- It must not be assumed by any political group or Member that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy
- Officers must respect the confidentiality of any political group discussions at which they are present and must not impart the content of any such discussion to another political group
- Unless otherwise agreed in advance with the Chief Executive, Officers will not attend political group meetings that include persons who are not Members of the Council. Where exceptionally, attendance in these circumstances has been agreed by the Chief Executive special care will need to be exercised by the Officers involved in providing information and advice as persons who are not elected Members are not bound by the Code of Local Government Conduct (in particular, the provisions concerning the declaration of interests and confidentiality). Officers may not therefore be able to provide the same level of information and advice as they would to a Members-only meeting
- Any particular cases of difficulty or uncertainty in this area must be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

9. Members' access to information and to council documents

Where a Member has a personal interest in a matter, the Member will only be entitled to the same access to documents as would be the case for a member of the public, i.e. to see the reports, minutes and background papers relating to the public part of any agenda.

In these circumstances the Member must make it clear to the Officer that he/ she is acting on his/ her own behalf and not acting as a Member. Members should take note of Standing Order 24.4 that bars any Member from inspecting or calling for copies of documents relating to matters in which they have a personal and prejudicial interest.

Requests for information and research

Members are welcome to approach any Officer to request information and advice which they may reasonably need in order to assist them in discharging their role as Members of the Council or any particular role (e.g. Councillor Representative) to which they have been appointed by the Council. This can range from a request for general information or research about some issue to a request for specific information on behalf of a constituent. Such approaches should normally be made through the appropriate Head of Service. In cases of doubt, the appropriate Corporate Director, the Head of Democratic, Legal and Policy Services or the District Solicitor should be asked for assistance.

Requests for information not readily accessible will not be acceded to where the cost of providing the information is unreasonably high or would unreasonably disrupt the work of the Council. Members may be asked to submit a written request explaining the full nature of their request and their perceived "need to know".

Access to Documents

The legal rights of Members to inspect Council documents are covered partly by statute, partly by the common law and partly by Standing Orders.

Members have a statutory right to inspect any document in the possession of the Council that contains material relating to any business that is to be transacted at a Council, Committee or Sub-Committee meeting. This right applies irrespective of whether the Member is a member of the Committee or Sub-Committee concerned and extends not only to reports that are to be submitted to the meeting, but also to any relevant background papers and minutes. This right does not extend to papers of working parties.

This right does not however, apply to documents relating to certain items including background papers which may appear on the exempt part of an agenda. Members do not have a **statutory** right to inspect exempt information e.g. that relating to employees, occupiers of Council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from Counsel and criminal investigations.

There are additional rights of access to documents for Members set out in Part IV of the Local Authorities (Executive Arrangements) (Access to Information) (England Regulations 2000 Advice on these can be obtained from the District Solicitor).

However, the **common law** right of Members, in relation to exempt information, is much broader and is based on the principle that any Member has a prima facie right to inspect Council documents so far as his/ her access to the documents is reasonably necessary to enable the Member properly to perform his/ her duties as a Member of the Council. This principle is commonly referred to as the "need to know" principle.

The exercise of this common law right depends therefore, upon the Member's ability to demonstrate that he/ she has the necessary "need to know". In this respect a Member has no right to a "roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". As the Local Code of Conduct for elected Members makes clear, the motive for requesting the information is relevant and this should be disclosed, if requested.

This question must initially be determined by the particular Corporate Director whose service holds the document in question. In the event of difficulty the matter may be referred to the District Solicitor for determination.

In some circumstances a Member's "need to know" will normally be presumed (e.g. a Committee member wishing to inspect documents relating to the business of that Committee). In other circumstances a Member will normally be expected to justify the request in specific terms (e.g. a Member wishing to inspect documents which contain personal information about third parties).

Whilst the term "Council document" is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a Member of one political group will not have a "need to know" and, therefore, a right to inspect, a document which forms part of the internal workings of another political group.

Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the District Solicitor.

Use of Council Information - Confidentiality

Standing Orders and contracts procedures require Members and Officers to maintain confidentiality in certain circumstances. Officers are bound by their contracts of employment and any breach of confidentiality will almost certainly lead to disciplinary action. Officers must distinguish between assisting an elected member in the course of the Member's Council business and dealing with the same person as a client or customer, e.g. as a Housing Benefit claimant. In the latter case, Officers will treat the Member with the same degree of helpfulness, courtesy and confidentiality as would be afforded to any other member of the public in the same situation, interpreting rules and procedures as they would with any other client or customer.

Equally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided i.e. in connection with the proper performance of the Member's duties as a Member of the Council. Confidential information provided to Members may be discussed in the exempt part of a Cabinet committee meeting or in private meetings of appropriate Members and Officers. However, it should not be discussed with, or released to, any other persons, save as provided by the Members' Code of Conduct. The Council's adopted Code of Conduct for Members paragraph 4a provides:

You must not:

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority.

Any information that is provided should be clearly marked as confidential before it is released to Members. Any request from a Member for information and the information given will be treated in the strictest confidence by Officers and will not be made known to any other Member or political group.

Officers are also under a duty not to relate any information disclosed privately by a Member unless the information disclosed relates to something that could severely damage the whole Council, which is illegal or constitutes maladministration. In this event the matter must be referred to the appropriate Corporate Director and/ or Monitoring Officer or Chief Executive for further investigation and action as appropriate.

10. Correspondence

Correspondence between an individual Member and an Officer on a matter relating to a single constituent should not normally be copied (by the Officer) to any other Member. Where, exceptionally, it is necessary to copy the correspondence to another

Member, this should be made clear to the original Member. In other words, a system of "silent or blind copies" should not be employed.

In some cases issues are raised by, or with, individual Members relating to a matter of general interest in a Council Ward or individual Parish. Recognising that it is in the best interests of the Council to ensure that all Members are properly informed of general issues in their Ward or Parish, copies of correspondence will normally be sent to all Members for the particular area unless the Member specifically requests that correspondence is not copied to other Members or, there is a political, or other reason, why this is not appropriate. Similarly, copies of correspondence may be copied to the appropriate Chairman or Group Leader. Where correspondence is copied to other Members this will be made clear to the original Member, before copies are sent.

Letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to be signed by a Member, 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 Member.

11. Involvement of Ward Councillors

Whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be informed or involved, as appropriate, not later than at the outset of the exercise.

If a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting.

12. Ceremonial events

The Chairman of the Council or in his/ her absence the Vice-Chairman of the Council is the proper person to lead Council ceremonial events which are of particular significance or are not specifically associated with a particular Committee. Similarly the Chairman of the Council, or in his/her absence the Vice-Chairman of the Council, will be the appropriate person to represent the Council at ceremonial events of other organisations which are not specifically associated with a particular Committee.

Subject to the above, the Cabinet Leader or Chairmen of Committees or, where they are not available, Deputy Leader or Vice-Chairmen respectively are the appropriate representatives for ceremonial events within the scope of their Committees. Where neither is available then another member of the Committee may be nominated by the Member concerned.

Local Members should always be informed of, and, where possible, invited to ceremonial events taking place within their own Wards, as should Parish Councillors as appropriate.

Any Member taking part in a ceremonial event must not seek disproportionate personal publicity or use the occasion for party political advantage bearing in mind that the Member is representing the Council as a whole.

13. Public relations and press releases

The Council's Corporate Communications Officers serve the Council as a whole and must operate within the limits of the Local Government Act 1986 which prohibits the Council from publishing material which appears to be designed to affect public support for a political party or individual Member.

Officers draft Council press releases. They will often contain quotations (within the limits of the Local Government Act 1986) from the Leader or Deputy Leader of the Council, the Chairman or Vice-Chairman of Council or the Chairman or Vice-Chairman of the appropriate Committee. Such press releases are issued on behalf of the Council and it is not, therefore, appropriate when providing quotations from Members to indicate their party political affiliation.

Regard should be had to the Local Authority Code of Publicity especially in relation to publicity during the period leading up to an election.

Officers should not issue personal press releases or seek publicity.

If political groups wish to issue press releases or to respond to correspondence in the press, care must be taken to ensure that the group or individual Member is clearly identified and that the information is sent out on individual Member headed paper so as to avoid confusion with official Council Press Releases.

D. Members' Planning Code of Good Practice

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Background

This Code is based on the model adopted by the Association of Council Secretaries and Solicitors (ACSeS). The drafting of the model code was subject to consultation and comment from a number of other local authorities through the machinery of ACSeS, the Local Government Ombudsman and from firms of solicitors or Counsel acting on their behalf. This Code of Good Practice takes into account the new interests Disclosable Pecuniary Interests (DPI's) and Other Interests adopted by this Council on 31 July 2012. The DPI's and Other Interests have replaced the personal and prejudicial interests.

The Localism Act 2011 abolished the Standards for England, the standards committees of local authorities and the power of the First-tier Tribunal (Local Government Standards in England) relating to local government standards for England. The Local Authorities (Model Code of Conduct) Order 2007 was revoked on 1 July 2012.

Although the ten general principles of conduct were revoked in England on 1 July 2012, the Localism Act 2011 requires a relevant authority's code of conduct to be consistent with the Seven Principles of Public Life set out in the First Report of the Nolan Committee on Standards in Public Life. These are Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

Introduction

The aim of this code of good practice: to ensure that in the planning process decisions are seen to be well founded and not biased or partial in any way.

The key purpose of Planning: to manage development in the public interest.

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

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

The role of Members of the Planning Committee is: to make decisions openly, impartially, with sound judgement, for justifiable reasons in accordance with the provisions of the development plan, unless material considerations indicate otherwise. This will involve balancing:

- competing needs and interests of individual constituents and the community, with
- the need to maintain consistency of approach and an ethic of impartial decision-making on what can be highly controversial proposals.

Application of this Code of Good Practice to members who do not sit on Planning Committee: The rules on declarations of interest, gifts and hospitality, site visits, relations with officers, negotiations with applicants/ developers and requests for applications to go to Committee apply to all members of the Council, whether or not they sit on these decision-making committees. But otherwise this Code does not apply to them, for example when carrying out their role as local member representing their constituents' views at Planning Committee.

If you have any doubts about the application of this Code of Good Practice to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.

1. Relationship to the Members' Code of Conduct

- 1.1 **Do** apply the rules in the Members' Code of Conduct first, which must be always be complied with.
- 1.2 **Do** then apply the code in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put:
 - the Council at risk of proceedings on the legality or maladministration of the related decision; and
 - **yourself at risk either of being prosecuted for failure to comply with the Disclosable Pecuniary Interests rules, or being subject to a complaint for failure to comply with the Council's Code of Conduct.**

2. Development Proposals and Disclosable Pecuniary Interests under the Code of Conduct

- 2.1 The Disclosable Pecuniary Interests which members are required to register are now defined by the Disclosable Pecuniary Interests Regulations 2012, and the list of definitions is appended to the Code of Conduct.
- 2.2 You should regard yourself as having a Disclosable Pecuniary Interest in an item of business which relates to the matter in which you have a Disclosable Pecuniary Interest.
- 2.3 **Do** disclose a Disclosable Pecuniary Interest in an item of business, to the meeting before or at the start of the consideration on that matter, or as soon as it is apparent, and you should not participate in the discussion of, or vote, on the item of business. Failure to comply with these requirements may constitute a criminal offence. The Council's Procedural Standing Orders also require you to withdraw from the room in which the meeting is being held for the duration of consideration of the item of business.
- 2.4 **Do** register a Disclosable Pecuniary Interest in the matter, where you have not previously done so. You are now required to do so within 28 days of becoming aware of the interest, or of the date when the agenda for the meeting was sent out to members, whichever is the earlier.

3. Other Interests under the Code of Conduct

- 3.1 The Council has adopted a Members' Code of Conduct which requires members to declare a 'Non-Disclosable Pecuniary Interests and Non-Pecuniary Interests as defined in that Code (the full requirements of the Members' Code of Conduct are set out in Part 5 of the Council's Constitution). For ease of reference, these interests are referred to as "Other Interests" in this Guidance Note.
- 3.2 A member will have an "Other Interest" in an item of business where:
 - a decision in relation to that business might reasonably be regarded as affecting the wellbeing or financial standing of the member, or of a member of your family or a person with whom you have a close

association to a greater extent than it would have on the majority if 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

- it relates to or is likely to affect any of the interests listed in the Appendix to the Code of Conduct, but in respect of a member of your family or a person with whom you have a close association, and that interest is not a Disclosable Pecuniary Interest.

3.3 **Do** make a verbal declaration of the existence and nature of that interest where you attend a meeting at which you have an "Other Interest" in an item of business, at or before the consideration of the item of business or as soon as the interest becomes apparent.

Interests in relation to Planning Applications

3.4 **Do** contact the case officer urgently as soon as you realise after you have submitted comments as a Ward Member or taken some other action that you have a Disclosable Pecuniary Interest or Other Interests.

3.5 **Don't** exercise the powers of call-in in respect of an application where you have a Disclosable Pecuniary Interest or Other Interests. The Ombudsman has previously advised that the Council is at risk of a finding of maladministration if a Member who has an interest in an application exercises any of the powers or privileges accorded to Members in respect of that application. There may be a general perception that calling-in a delegated item to Planning Committee ensures that the public will conclude that everything is 'above board'. The Ombudsman does not share that view.

3.6 If you do find yourself having to disassociate yourself from an application, you may well feel that your constituents have been disenfranchised. This does not entitle you to set aside this advice. In these cases it is the Ombudsman's view that:

- you should invite a Member from the same ward or from a neighbouring ward to take an interest in the matter
- constituents who approach you should be invited to contact that other Member or any other Member of the deciding body
- you should avoid expressing any view about the application to other Members (save as set out below) and you must never communicate to other Members of the deciding meeting what you would have said had you been able to do so

3.7 Having said this, in some circumstances it may be appropriate to comment on a planning application in your private capacity. You should avoid doing this if at all possible but in some circumstances it is unavoidable. If this is the case your comments can be reported simply, as third party comments rather than as Ward Member comments, but to ensure that your comments are treated properly only write on plain notepaper, never headed Councillor notepaper, and try to avoid contact with the case officer. If you do need to contact the case officer, please remember to advise him/her that you do have an interest and are calling/visiting purely as an ordinary resident.

4. Predetermination and Bias

- 4.1 Section 25 of the Localism Act 2011 clarifies the rule on predetermination, which has been developed by the Courts to ensure that councillors participated in meetings with an open mind. Section 25(1) applies if there is an issue about the validity of a decision, as a result of an “allegation of bias or predetermination, or otherwise” and “it is relevant to that issue whether the decision maker (or any of the decision makers) had or appeared to have had a closed mind (to any extent) when making the decision”.
- 4.2 An elected or co-opted member is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because:
- The decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took or would or might take, in relation to a matter, and
 - The matter was relevant to the decision (Section 25(2))
- 4.3 This makes it clear that councillors are entitled to campaign on issues and express views etc. without disqualifying themselves from decision-making PROVIDED they can demonstrate absence of "bias" or "predetermination". The test for bias is “to a fair minded observer, who is suitably informed, and who having considered the facts would conclude that there was a real possibility of bias”.
- 4.4 Predisposition is having a tendency towards, or likelihood of, deciding a matter in a particular way (i.e. I’ve got an opinion on this....) but with the mind left completely open to the possibility of deciding otherwise in the course of the decision process e.g. by being influenced by the debate. Having an open mind or a pre-disposition is lawful.
- 4.5 **Do** withdraw and not participate further in the planning application where you have an Other Interest mentioned above in Paragraph 3 and you have predetermined the application or there is a perceived appearance of bias.
- 4.6 **Don’t** prevent your ability to participate in planning decision making at this Council by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer’s presentation and evidence and arguments on both sides.
- Otherwise** taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- 4.7 **Do** be aware that you should not participate where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the Cabinet and the Planning Committee, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)

- 4.8 **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a district and county councillor), provided:
- 4.7.1 you make it clear to the consultee body that:
- your views are expressed on the limited information before you only;
 - you must reserve judgement and the independence to make up your own mind on each separate proposal when it comes before the Planning Committee, based on your overriding duty to the whole community and the role of making decisions in accordance with the development plan unless material planning considerations indicate otherwise and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
 - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
- 4.7.2 you disclose the Other Interest regarding your membership or role when the Committee comes to consider the proposal.
- 4.9 **Don't** speak and vote on a proposal where there is a danger of predetermination or bias. You should withdraw yourself before the application is considered at the Planning Committee.
- 4.10 **Do** explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
- 4.11 Provided that you do not have a Disclosable Pecuniary Interest, you may attend as a Ward Member any meeting to make a statement on behalf of the Member's constituents in the case of any item under discussion which directly affects the Member's ward, with prior consent of the Chairman of the Committee. The Member (unless attending as a Standing Deputy) may not vote on the matter in accordance with the Council's Procedural Standing Orders.

5. **Contact with Applicants, Developers and Objectors**

- 5.1 **Do** refer those who approach you for planning, procedural or technical advice to officers.
- 5.2 **Do** draw attention to the Council's agreed Statement of Community Involvement and protocol for engagement with applicants' developers and the public.
- 5.3 **Do** discuss any requests for meetings with the Development Manager/ Head of Planning and Sustainability who can advise on appropriate steps. Any meetings should have a record made.
- 5.4 **Do** otherwise:
- follow the rules on lobbying in paragraph 8 below;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and

- report to the Manager of Development/ Head of Planning and Sustainability any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition in respect of presentations by applicants/ developers:

- 5.5 **Don't** attend a planning presentation unless an officer is present and/ or it has been organised by officers and/ or it is open to the public as referred to in the Statement of Community Involvement.
- 5.6 **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- 5.7 **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out under delegated powers or by the appropriate Committee planning authority.
- 5.8 **Do** be aware that a presentation is a form of lobbying and you must not express any strong view on a proposal which indicates a closed mind or state how you or other Members might vote.

6. Guidelines on Pre-Decision Discussions

- 6.1 **Do** become involved in the pre-application process as set out in the adopted Statement of Community Involvement. However members **must not**:
 - Be drawn into, or actively promote, direct negotiations with a developer to seek to amend/influence the development proposal (unless specifically authorised to do so by the Planning Committee – see Appendix 1 Members and Officer Involvement in the pre planning application process: Guidance Note).
 - Put pressure directly or indirectly on any Officer to follow a particular course of action with regard to a development proposal, planning (or other) application or to disclose any pre-application requests or responses (unless agreed with all parties that it can be released).
 - Put pressure directly or indirectly on members of the decision-making body to follow a particular course of action with regard to a development proposal
- 6.2 Members on the decision making body (Planning Committee, Regulatory and Appeal Committee including standing deputies) should take extreme care:
 - When speaking to developers or objectors not to express views about the acceptability or otherwise of a proposal, which indicates a closed mind.
 - To remain open minded about the development proposal and only reach a view at the time of the decision-making on the application having read and considered the planning officer's report and all representations.
 - To avoid organising support for or against a planning application.
 - To avoid any public statements on applications.

7. Lobbying of Members

- 7.1 **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, the Council has an agreed protocol for involvement of members and stakeholders in the planning process (see Appendix 1) and it may prejudice your impartiality and therefore your ability to participate in the Committee's decision making to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
- 7.2 **Do** remember that your overriding duty is to the whole community not just to the people in your ward, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 7.3 **Do** copy or pass on any lobbying correspondence you receive to the Development Manager/Head of Planning and Sustainability at the earliest opportunity.
- 7.4 **Do** promptly refer to the Development Manager/ Head of Planning and Sustainability any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- 7.5 **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- 7.6 **Do** note that, unless you have a Disclosable Pecuniary Interest, you will not have predetermined or breached this Planning Code of Good Practice through:
- listening to or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.
- 7.7 **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and remember to register the gift or hospitality where its value is over £50 (in accordance with the Council's Code of Conduct).

8. Lobbying by Members

- 8.1 As a general rule, party politics should have no place in the consideration of individual planning applications. The views of your party may be a material consideration, but should never dictate the outcome or replace your personal judgment on an application.

- 8.2 **Do** feel free to join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society.
- 8.3 **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby, to promote or oppose planning proposals. If you do, you will have predetermined your position and have to withdraw.
- 8.4 **Don't** apply pressure by lobbying fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken. Making Members aware of views and concerns can be done without applying pressure.
- 8.5 **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

9. Site Visits

- 9.1 **Do** try to attend site visits organised by the Council where possible.
- 9.2 **Do** ensure that any information which you gained from the site visit is reported back to **the** Committee, so that all Members have the same information.
- 9.3 **Do** ensure that you treat the site visit only as an opportunity to seek information and to **observe** the site circumstances relative to the proposal.
- 9.4 **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- 9.5 **Don't** request a **Committee** site visit unless you feel it is strictly necessary because:
- particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- 9.6 **Don't** hear representations from any other party, with the exception of the Ward Member(s) whose comments must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- 9.7 **Don't** express **opinions** or views to anyone whilst on the site visit.
- 9.8 **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
- you feel it is essential for you to visit the site other than through attending the official site visit;
 - you have first spoken to the Development Manager/ Head of Planning and Sustainability about your intention to do so and why (which will be recorded on the file); and
 - you can ensure you will comply with these good practice rules on site visits.

10. Public Speaking at Meetings

- 10.1 Public speaking as currently constituted at this Council allows an objector to an application which is recommended for approval the opportunity to address the Planning Committee. The Ombudsman has made it clear that if you have declared an interest as a Member it is highly inappropriate for you to attempt to exercise your right as an objector to address the Committee as this completely defeats the object of the declaration of interest.
- 10.2 Even more so, under no circumstances should you exercise a right of reply if you are an applicant. Instead request that a third party acts on your behalf (professionally or as a friend). Do not act professionally or as a friend on behalf of your applicant.
- 10.3 **Do** ensure that you comply with the Council's procedures in respect of public speaking.
- 10.4 As a Member of Planning Committee/ Regulatory & Appeals Committee **don't** allow members of the public or Ward Members to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.

11. Officers

- 11.1 **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Head of Planning and Sustainability/ Development Manager, which may be incorporated into any committee report).
- 11.2 **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- 11.3 **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with views, opinions of the Committee or its Members

12. Decision Making

- 12.1 **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, your planning reasons are explained (which will be referred to in the report to the Committee).
- 12.2 **Do** come to meetings **with** an open mind and demonstrate that you are open minded.
- 12.3 **Do** comply with section 54A of the Town and Country Planning Act 1990 which **requires** decisions to be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 12.4 **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.

- 12.5 **Do** clearly state all the reasons for requesting a Committee's decision to defer or refuse any proposal.
- 12.6 **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/ motion. These reasons must be given prior to the vote and be recorded. Be aware that the Council will have to justify the resulting decision by giving evidence in the event of any challenge/ planning appeal and you may be requested to contribute.

13. Applications by Members and Officers

- 13.1 Nothing in this Practice Note should be taken to prevent a member or an officer of the Council from making an application for planning permission in their personal capacity. Where a member or an officer does make such a planning application, it will be dealt with in accordance with these provisions, which follow the recommendations of the Local Government Association.
- 13.2 **Do** make it clear in the application if you or your spouse is making an application, or that a close relative is making one. Equally, if you act professionally as an agent for an applicant or objector this should be declared in the same way.
- 13.3 If the application is one which would normally be dealt with under delegated powers the Head of Planning and Sustainability may decline the delegation and the matter submitted to Planning Committee for determination.
- 13.4 Officers will submit a draft report and the file to the Monitoring Officer prior to the matter being included on the Planning Committee agenda. The Monitoring Officer will certify that the application has been properly dealt with and the report will show this. If it cannot be so certified, the matter may be the subject of a Monitoring Officer's report to full Council prior to any decision being made. You will be asked to consent to the eight week determination period being extended to allow for this extra procedure to take place.
- 13.5 This Good Practice Note equally applies to applications submitted through or which affect companies which are owned by a Councillor or Officer. This includes companies in which a Member or Officer has a controlling or significant interest. You are reminded of the rules regarding interests as well. Nothing in this guidance overrides or alters that.
- 13.6 Applications which affect an Officer (as opposed to a Member) will be dealt with in the usual manner. Any letter of representation should identify you as an Officer of the Council or, if submitted by a close family member or on behalf of a company in which you or your family have significant interests, identify that relationship. The file may be referred to the Monitoring Officer before a decision is made if there is a real potential for an allegation of improper influence. In such cases the Monitoring Officer will be asked to certify that the correct procedures have been followed and that all other matters have been dealt with properly. If the Monitoring Officer considers it appropriate, an otherwise delegated item may be submitted to Planning Committee for decision. This will be the norm when applications affect any Officer whose duties include direct involvement in the planning process.
- 13.7 Applications by or which affect Directors or the Monitoring Officer may be the subject of external review if the Chief Executive (after consultation with the Chairman of Council and all Group Leaders) considers it appropriate.

14. Training

- 14.1 **Do** only participate in decision making at meetings dealing with planning matters if you have attended the mandatory planning training prescribed by the Council.
- 14.2 **Do** endeavour to attend any other specialised training sessions and planning events provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- 14.3 **Do** participate in the annual review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

15. Conclusion

At all times you must appreciate that as a Member of the Council in general and as a Member of the Planning Committee that you take on a heavy duty. As the Members' Planning Code of Good Practice points out, your duty is to the whole community and not to any section of it. By the same token, the whole community has a right to look to you and to the Council as a whole to consider matters dispassionately, having regard only to the relevant factors and disregarding irrelevant ones.

Appendix

Member and Officer Involvement in the pre planning application process

Introduction

This guidance sets out some general rules for Member and Officer involvement at the pre-application stage and builds on the Council's (updated) Statement of Community Involvement Document (SCI), adopted in December 2012. This provides a framework for promoting community involvement in development proposals. Further specific guidance is attached in the form of:

- [Annex 1: Members, stakeholders and the public: pre-application](#): this sets out the types of consultation that can take place at the pre-application stage.
- [Annex 2: Pre-application Developer presentations to Members and Stakeholders](#): this provides guidance on the form and content of such meetings.
- [Annex 3: Direct decision-making member involvement in negotiation](#): this sets out when it may be appropriate for a Member to take part in negotiations on a planning application.

Codes of Conduct

Officers and Members' role in the pre-application process has to be guided by the published Codes of Conduct for Officers and Members.

Administration of pre-application process

Prospective developers are encouraged to enter into pre-application discussions with Officers and Members particularly for Tier 1 (District- wide significance) and Tier 2 (Neighbourhood significance) proposals.

There is a charging system for pre-application advice and a standard application form and information is available on the WDC web site. Pre-application enquiries that are received are validated, given a case number and allocated to an Officer to deal. The cases are considered as confidential matters and the pre-application request and response are not publicised or made available to Members or the public (unless the developer gives agreement). This is because at this stage the developer will often be exploring commercially sensitive ideas, sometimes on land not yet in their ownership.

The Planning Officer's response will draw attention to the need for the developer to engage in wider community involvement as part of the pre-application process under the terms of the SCI. The SCI includes the opportunity to involve Members in the process.

Some general rules on Member involvement

Members are encouraged to become involved in the pre-application process, but following the advice which is set out in the main text of the Member's Planning Code of Good Practice.

Developers Responsibilities

It is the developer's decision when to publicise their development proposal. The Council encourages the developer to carry out community consultation prior to the submission of an application – appropriate to the scale/ 'Tier' of the proposal (please refer to the Statement of Community Involvement). It is in a developers' interest to seek wider views at an early stage.

Developers are advised to:

- Follow the practice/ format set out in Appendix 2 for 'presentation' consultation events on Tier 1 and 2 proposals.
- Advise the planning case officer at least 2 weeks in advance of any consultation events for Tier 1 or 2 proposals so the case officer is able to publicise these through the WDC Weekly Planning Bulletin.
- Not make any special arrangements to exclusively target decision-making members directly or indirectly.
- Not seek to apply any pressure directly or indirectly or incentive on decision-making members to reach a particular conclusion.

If Officers consider that a developer is targeting members e.g. with an exclusive viewing of a development proposal in the absence of stakeholders, the public and officers, the officers will advise members not to attend the event.

Planning Officer's involvement

Advice given by planning officers to developers and applicants with regards to their proposals shall not bind the Council to a decision. Officers may express a professional opinion but must not bind the Council to a decision until the final determination of the application.

Annex 1: Members, stakeholders and the public: pre-application

The SCI sets out the methods of involvement as shown in the left hand column of the following table. Also set out is the role of developers, members and officers in this process. The involvement of Members at the pre-application stage can be of great benefit to the overall process and Members should feel confident to take part where appropriate.

Further advice can be sought from Officers on a case by case basis if Members have any doubts about participating.

	Developers role	Members role	Officers role
Public meeting	The developer should invite officers, members, stakeholders and the public. Should agree the form of the public meeting with officers.	Can attend.	Can attend. Assist developer with information about relevant stakeholder groups where known.
Focus group	The developer should invite officers, members, stakeholders and the public.	Can attend. But not acceptable if targeted just at Members.	As above
Workshop	The developer should invite officers, members, stakeholders and the public.	Can attend. But not acceptable if targeted just at Members.	As above
Exhibition	The developer should invite officers, members, stakeholders and the public.	Can attend. But not acceptable if targeted just at Members.	As above
Local meeting	The developer should invite officers, members, stakeholders and the public.	Can attend. But not acceptable if targeted just at Members.	As above
Drop in session	The developer should invite officers, members, stakeholders and the public.	Can attend. But not acceptable if targeted just at Members.	As above
One to one meeting	Useful for hard to reach groups.	'Decision making' members should not attend unless authorised to do so by the Planning Committee.	Meetings with Officers encouraged under the pre-application charged service.
Questionnaire survey	Should be targeted at residents/occupiers.	Not appropriate for 'decision making' members to take part.1	Not appropriate to take part. Responses to proposals are via formal pre-application letters.

	Developers role	Members role	Officers role
Consultation document	The developer should make this available to officers, members, stakeholders and the public.	Can read - but should not be an author of any part of the document and 'decision making' members should avoid responding (as above, for questionnaires).	Assist developer with information about relevant stakeholder groups where known, for their circulation. Can read this, though responses to proposals are via formal pre-application letters.
Flyers/ letters/email shots	The developer should make this available to officers, members, stakeholders and the public. If targeting members, the developer should agree wording with officers to avoid prejudicing the process.	Can read these. 'Decision making' members should avoid responding (as above, for questionnaires).	Can read these.
WDC Weekly Planning Bulletin	Developers should provide information (in good time) for Officers to adapt for Weekly Bulletin to publicise consultation events for Tier 1 and 2 proposals.	A useful source of information.	Produce the text for the Weekly Bulletin.
Website	Developers can set up a web site where information is available and should publicise this with other pre-application information.	Can access this. Be careful on feedback, as above.	Can access this.

¹ Even if anonymised, if evidence was later produced of the Member's response to the questionnaire and it became clear that the Member had predetermined, that would not be acceptable.

Annex 2: Pre-application Developer Presentations to Members and Stakeholders

The Planning Committee has time already set aside for pre-application and other planning matters. This is between 6.00pm and 6.50 pm before the Planning Committee's main meeting.

This is a useful time period for developer presentation to members and stakeholders. Such presentations will normally relate to Tier 1 proposals but may exceptionally (at the Officers and the Committee Chairman's discretion) relate to Tier 2 proposals.

An alternative time can be arranged for Member and Stakeholder presentations if the pre-committee time slot is not convenient.

Stage in Process

A developer presentation to members and stakeholders should be part of the wider Statement of Community Involvement process involving other consultation as set out in the SCI and in this note.

It is an opportunity for the developer to explain his proposals and to be asked questions by Members and stakeholders.

It is important that presentations take place at an early pre-application stage in the development process so that developers may address certain aspects of their proposals as a result of questions asked during the presentation.

Presentations by developers will not be appropriate after a planning application is submitted to the authority. This is because at that stage there may be third party interest (e.g. objecting to the proposal) and third parties will not have the same opportunity to be able to present their ideas to members.

Arrangements for the pre application presentation

The presentation arrangements will be confirmed by the Planning Officers. Presentations will normally take place in Committee Rooms 1 and 2. The developer should be made aware that it can take a while (e.g. possibly up to twelve weeks) to find a time for the presentation.

The invitees should include:

- All Members of Wycombe District Council (ward members to receive a letter or email other members to be advised by member update)
- The Planning Case Officer and any other Officers who will have a significant role in the case.
- A representative of the Highway Authority
- The Chairman of the relevant Parish/ Town Council and a deputy (or their substitutes).
- A member of the Wycombe Society, Chiltern Society or Marlow Society (as appropriate).
- A spokesperson for any local residents group registered with WDC Planning / their deputy.
- A spokesperson for any identified group registered with WDC Planning where the activities of the group are related to the proposal.

Form of the pre-application presentation

The meeting is introduced by a Chairman (in the first instance the Chairman of Planning Committee, or in his/ her absence the Vice Chairman, or if he/ she is not available, then the Cabinet Member for Planning and Sustainability).

The presentation will normally comprise:

- (a) Chairman's introduction, including advising the meeting of the rules to ensure that no issues of pre-determination can arise (2 minutes)
- (b) Planning Officer to provide a planning policy context for the development (5 minutes)
- (c) The developer to outline their proposals (roughly 10 to 15 minutes)
- (d) Questions and answers (roughly 30 minutes)

Standard information

When introducing a Developer Presentation to Members and stakeholders the following information should be presented.

This is a Developer Presentation to Members and Stakeholders and is being conducted under our guidance for such meetings.

The following stakeholders have been invited [names]

Planning Committee members should remain open minded about development proposals and should not reach a firm view of the merits or otherwise of a proposal as a result of this presentation.

There will be a question and answer session at the end of the meeting.

All Members are requested to not make statements that indicate a closed mind about the development proposals and are advised to restrict themselves to questions. It would be helpful for stakeholders to do the same.

Other issues

Formal minutes will not be taken of the meeting. Developers are required to submit a Statement of Community Involvement with their planning application. Developers should note in this that a developer presentation took place.

Developers should not by themselves arrange a Developer Presentation for Members and stakeholders. This can only be done by officers. If developers do want to arrange a meeting where they can present their ideas to members and stakeholders, this should, in accordance with the SCI take the form of a public meeting (see table above). The key differences are:

- (a) The public meeting should be held local to the development site
- (b) The general public should be invited
- (c) Planning Committee members should not be specifically targeted as the invitees (rather it would be the local ward Members who would be invited or all Members).

A behind closed doors meeting between a Developer and Members of the Planning Committee would not be acceptable.

Post Application Presentation

Applicants may wish to make a developer presentation to members and stakeholders after their planning application has been received by the Local Planning Authority. This type of meeting is not acceptable because third parties have no right to make such presentations. Instead, the Planning Case Officer may arrange to make a presentation on the planning application.

The key features of the presentation are:

- (a) The invitees will be the same as with developer presentation except that the applicant and his advisers will not be allowed to be present.
- (b) The meeting will operate in the same way as the developer presentation, except that the Case Officer will outline the proposal
- (c) Formal minutes will not be taken of the meeting. The Case Officer can provide some feedback to the applicant following the meeting. For instance, this could be the case if questions have been asked on technical subjects and the answers are not apparent from the scheme submission.

Annex 3: Direct decision-making Member involvement in negotiation

In exceptional cases the Planning Committee can nominate decision-making Members to participate in negotiations with a developer with an Officer present. The Officer should keep a minute of the meeting.

An exceptional situation where this may be the case would be a development proposal that has been supported by Officers but has been refused on more than one occasion on points of detail rather than principle by the Planning Committee. In such cases it may be difficult for Officers to advise the developer how to amend the scheme in order to obtain Members support. The involvement of members in the negotiation may be the most effective way of resolving the matter.

Members taking part in such negotiation will be doing so without prejudice to the final outcome of the application. Members will still be required to consider and weigh any consultation responses and representations received on the proposal and the advice of their officers.

If the revised application is subsequently the subject of a report (either delegated or a report to the Planning Committee) the involvement of Members in the negotiation in accordance with the Council's procedures should be referred to in the report.

E. Anti-Fraud and Corruption Policy and Procedure

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E. Anti-Fraud and Corruption Policy and Procedure

1. Introduction

1.1 Fraud and corruption pose a risk to all local councils and there is an increasing awareness of the impact of fraud and corruption on the finances and reputation of a council.

1.2 Fraud is defined as:

'the intentional distortion of financial statements or other records, which is carried out to conceal or effect the theft of assets or money, or to mislead or misrepresent'.

The Fraud Act 2006 created a statutory offence of Fraud for the first time.

1.3 Corruption is defined as:

'the seeking or acceptance of a gift or reward (i.e. payment) which may influence the action of any person'. Offences of bribery under the Bribery Act 2010 also provides a new consolidated scheme of bribery offences including:-

Making a bribe - "offering, promising or giving a financial or other advantage with the intention of inducing or rewarding the improper performance of a relevant function or activity or as a reward for such improper action".

Accepting a bribe - "requesting, agreeing to receive or accept financial or other advantage for the improper performance of a relevant function or activity or as a reward for such improper activity".

1.4 This policy sets out the Council's commitment to tackling fraud and corruption. The Council is committed to taking appropriate and decisive action against those committing, or attempting to commit, fraudulent or corrupt acts against the authority.

1.5 The Council's Anti-Fraud and Corruption Policy is based on a series of comprehensive and inter-related procedures and actions designed to deter, frustrate, or take effective action against any attempted fraudulent or corrupt acts affecting the Council. The following have been taken into account when drawing up the policy:

- Proportionate procedures
- Top level commitment
- Risk Assessment
- Due diligence
- Communication
- Monitoring and review

Any perceived gaps in policies and procedures have been identified and addressed. This will be monitored annually as part of the Annual Governance Statement (AGS) process.

The Council is committed to proportional implementation of these principles

1.6 High standards of probity in public life and in the systems operated within local government are an essential expectation of the electorate, tax-payers and members of the public and are vital in maintaining public confidence and a fundamental cornerstone of governance. The minimisation of losses through fraud and corruption are essential in ensuring that resources are used for their intended purpose that of providing services to the residents of the district.

- 1.7 The Council also expects that stakeholders, individuals and organisations such as residents, suppliers, contractors and service providers will act towards the Council with integrity and without thoughts or actions involving fraud and corruption.
- 1.8 The Council is also aware of the high degree of external scrutiny of its affairs by a variety of bodies including:
- Local Government Ombudsman
 - External Auditor
 - Audit Commission
 - The Public/ Service users – through the Councils complaints procedure
 - Central Government Departments and Parliamentary Committees
 - HM Revenues and Customs
 - Department for Work and Pensions
 - Other Commissioners
- 1.9 The External Auditor has a statutory duty to check that the Council has in place adequate arrangements for the prevention and detection of fraud and corruption.
- 1.10 Wycombe District Council's Anti-Fraud and Corruption Policy covers:
- Culture and stance against fraud and corruption (section 2);
 - Corporate framework (Section 3);
 - Procedures in place that help prevent fraud & corruption (section 4);
 - Detection and investigation (section 5);
 - Deterrence (section 6);
 - Training (section 7);
 - Conclusion (section 8).

2. Culture and Stance against Fraud and Corruption

- 2.1 Wycombe District Council is determined that the culture and tone of the organisation is one of honesty and opposition to fraud and corruption. The Council is committed to the highest possible standards of openness, probity and accountability and adopts a zero tolerance approach to fraud, irrespective of the value of fraud committed.
- 2.2 The Council's expectation on propriety and accountability is that members and officers at all levels will lead by example in ensuring adherence to legal requirements, standing orders, financial regulations, codes of conduct, procedure and practices.
- 2.3 As part of the culture of the Council, it will provide clear routes by which concerns can be raised by both members and officers, and those outside who are providing, using or paying for public services.
- 2.4 The Council will do its best to protect the identity of anyone who raises a concern and does not want their name to be disclosed. However, it must be appreciated that the investigation process may reveal the source of the information and a statement may be required as part of the evidence.

- 2.5 Following the passing of the Public Interest Disclosure Act 1998, the Council has adopted a Disclosure (“Whistle Blowing”) Policy. This allows concerns to be raised by employees, in the certainty that they will be treated seriously and be properly investigated. However, there is a need to ensure that any investigation process is not misused and therefore any abuse, such as raising malicious or vexatious allegations may be dealt with as a disciplinary matter.
- 2.6 Where sufficient evidence exists in any fraud or corruption case, it is the policy of Wycombe District Council to refer the matter to the Police or the Legal Department of the Council for prosecution.
- 2.7 Senior Management (Chief Executive, Corporate Director, and Heads of Service) is responsible for following up any allegation of fraud or corruption received and is expected to deal swiftly and firmly with those who defraud the Council or who are corrupt. The Council, including members, directors and senior management, will be robust in dealing with financial and non-financial malpractice.

3. Corporate Framework

- 3.1 Documents and systems are already in place within Wycombe District Council that provides a well-defined prevention, detection and investigation process. These include:
- Member support;
 - Codes of Conduct for Members and Officers;
 - “Whistle Blowing” Policy,
 - Complaints procedures;
 - Standing Orders and Financial Regulations;
 - Sound internal control systems, procedures and reliable records;
 - Effective internal audit;
 - Effective recruitment and employee vetting procedures;
 - The Council’s disciplinary procedures;
 - Clear responsibilities, accountabilities and standards;
 - Induction and training.
 - The Regulation of Investigatory Powers (RIPA) Procedure.

4. Detailed procedures in place which help prevent fraud and corruption

- 4.1 Our key anti-fraud arrangements include:

Employees

- 4.2 The Council recognises that a key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential employees, in terms of their propriety and integrity.
- 4.3 In particular written references will be obtained regarding the known honesty and integrity of potential employees before employment offers are made. Proper written evidence of all qualifications claimed will also be obtained. In this regard temporary and contract employees should be treated in the same manner as permanent employees. Criminal records bureau checks will be carried out on all relevant employees and subject to regular repeat.

- 4.4 Employees of the Council are expected to abide by the Council's Standards of Conduct (as set out in Terms and Conditions of Service) and any other relevant policy which sets out the Council's requirement on personal conduct. Employees are also expected to follow any Code of Conduct related to any personal Professional Institute.
- 4.5 The Council has in place disciplinary procedures and rules for all categories of employee. Any breach of conduct will be dealt with under these procedures and could result in dismissal.
- 4.6 Officers are reminded under the Officers Code of Conduct that they must operate in accordance with Section 117 of the Local Government Act 1972, regarding the disclosure of pecuniary interests in contracts relating to the Council or the non-acceptance of any fees or rewards whatsoever other than their proper remuneration.
- 4.7 The Code of Conduct requires officers to maintain conduct of the highest standards such that public confidence in their integrity is sustained. The Codes include guidance on declaring any conflicts of interests, accepting gifts and hospitality. The definition of fraud does not relate solely to cases where the person committing the fraud receives a benefit from the act, but also cases where it is a third party who receives the benefit.

Members

- 4.8 The adoption of a local Code of Conduct for Members is a statutory requirement. Such a code regulates the conduct of Members and co-opted Members. The Council adopted the current, revised code in 2012.
- 4.9 Generally, this code is divided into three parts; namely General Interests (Scope and General Obligations), Interests (Personal Interests, Disclosure of Personal Interests, Prejudicial Interests, Overview and Scrutiny Committees, Participation in relation to Disclosed Interests), and the Register of Members' Interests (Registration of Financial and Other Interests).
- 4.10 These matters and other guidance are specifically brought to the attention of Members at the induction course for new Members and are in documentation supplied to each Member.
- 4.11 After approving an Anti-Fraud and Corruption Policy and the Strategy, Members can play an important role by leading by example and being seen to support it.

Internal Control Systems

- 4.12 The Council has Standing Orders/ Constitution, Financial Regulations and various rules and codes of conduct in place that provide a requirement on officers, when dealing with the Council's affairs, to act in accordance with best practice. These include the Planning Matters Guidance Note and additional protocol (approved by Members) dealing with the involvement of Members in the Planning process.
- 4.13 The Chief Financial Officer has a statutory responsibility under Section 151 of the Local Government Act 1972 to ensure that proper arrangements are made for the Council's financial affairs. In addition, under the Accounts & Audit Regulations 2006 as the "responsible financial officer", he is required to determine the accounting control systems which shall include:
- "measures to enable the prevention and detection of inaccuracies and fraud,"

- "Identification of the duties of officers dealing with financial transactions and the division of responsibilities of those officers in relation to significant transactions."

The latter requirement is a key control in the prevention of impropriety.

- 4.14 The Council's aim is to have sound financial systems and procedures that incorporate efficient and effective internal controls. As part of the Strategy, the "separation of duties" should be considered as a fundamental control in systems, especially when involving significant transactions.
- 4.15 Under the Council's Financial Regulations, the Corporate Director is responsible for ensuring that adequate controls are in place. The existence, appropriateness, and effectiveness of these internal controls is independently monitored and reported upon by the Council's Internal Audit, Risk and Fraud Section and the External Auditor.
- 4.16 The Council develops and is committed to maintaining systems and procedures that incorporate efficient and effective internal controls including adequate separation of duties. These controls help prevent and detect irregularities occurring. Corporate Directors and their Managers are required to ensure that controls are properly maintained and documented within their areas of responsibility.

Complaints Procedure

- 4.17 The Council has established procedures for dealing with and monitoring complaints from the public. Members of the public may refer complaints to the Local Government Ombudsman for investigation where they are not happy or satisfied with the Council's handling of the complaint. Where a complaint indicates possible fraud or corruption, it is referred to the Audit, Risk and Fraud Manager for investigation.

Partnerships with others

- 4.18 The Council has a variety of arrangements in place with other agencies to encourage and facilitate the exchange of information and investigation in relation to the detection and prevention of fraud and corruption. These include arrangements with the following:
- Audit Commission
 - External Auditor
 - Department for Work and Pensions
 - The Police
 - National Anti-Fraud Network
 - Social Housing Landlords

The Council expects all its partners to operate to the same high standards as itself with relation to Anti-Fraud and Corruption.

- 4.19 The Council operates the Housing Benefit Verification Framework in line with Central Government initiatives to reduce fraud and error.
- 4.20 The Council has a Benefit Fraud Hotline, an on-line fraud referral form and a dedicated e-mail address in order to allow members of the public to report individuals suspected of abusing the benefits system.

Standards Complaints

- 4.21 Any complaint of alleged Member misconduct or fraud that constitutes a breach of the Council's adopted Code of Conduct for Members should be made to the Council's Monitoring Officer for local assessment and determination.

Data Matching

- 4.22 Data matching is the comparison of personal data held in different systems. One important use of data matching is the identification of potential fraud, but it can also be used to ensure that clients receive all their entitlements and are a useful tool in ensuring that data is held in standardised format.
- 4.23 Examples of data matching on a large scale are the Audit Commission's National Fraud Initiative (NFI) and the Department for Work and Pensions Housing Benefit Matching Service (HBMS). This Council subscribes to both of these initiatives.
- 4.24 The stated purpose of the NFI is to assist auditors in their assessments of the arrangements that have been put in place by management to prevent and detect fraud and corruption and to enable management to detect fraud. It now includes the matching of data provided on a voluntary basis by a number of organisations, including some bodies that are not audited under the auspices of the Audit Commission (e.g. some Housing Associations).
- 4.25 At a local level, auditors can examine or compare records and data from different sources to test controls in financial systems and to carry out substantive tests on the validity of individual transactions and financial statements as a whole. This includes the use of computer assisted audit techniques (CAAT's) to compare or match data within individual computer files or between different data sets.
- 4.26 All auditors have a responsibility to plan their audits to have a reasonable expectation of detecting material misstatements resulting from error, fraud or irregularity. However, the Statement of Auditing Standards (specifically SAS 110) issued by the Auditing Practices Board clearly establishes that the primary responsibility for the prevention and detection of fraud rests with the management of audited bodies, not the auditor.

Housing Benefit and Council Tax Reduction Scheme Fraud

- 4.27 Fraud against the Benefit and Reduction Schemes is the single most common occurrence of fraud within a local authority. In view of this, a dedicated Housing Benefit and Council Tax Reduction Scheme Anti-Fraud Protocol has been designed for this service area.
- 4.28 There are dedicated officers whose role it is to investigate allegedly fraudulent Housing Benefit claims and Council Tax Reduction Scheme claims. The identification of fraud arises from several different areas which include:
- referrals from benefit assessment officers
 - information from other sources – such as the public
 - data matching within the Council and with other organisations
 - pro-active investigations into specific areas

Risk Management

- 4.29 Effective Risk Management is a key dimension of the Councils corporate governance arrangements and the Council, via its Risk Management Policy, has defined Risk management as a systematic and iterative approach to assessing and addressing risk. Risk mitigation measures will be put in place in areas where the unacceptable exposure to risk has been highlighted.

- 4.30 Each service function should be assessed on a regular basis to identify areas of particular operational risk, including where appropriate an assessment of susceptibility to fraud or corruption. This will highlight any operational areas where the environment is more prone to abuse, and thereby identify areas worthy of specific fraud or corruption preventative initiatives for prioritisation purposes. Managers have a responsibility to act to manage identified risks.
- 4.31 The identification of the risks in these areas allows the implementation of control measures to reduce both the likelihood and impact of fraud and corruption.

Money Laundering

- 4.32 The effect of the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003 is that the Council is required to report to the National Crime Agency (NCA) any circumstances about clients' business that tends to make them "know or suspect or have reasonable grounds for knowing or suspecting that a crime has been committed [by a client]". If the Council fails to do so, then the Council would have committed a criminal offence and consequently senior officers will face the sanction of fines and/or imprisonment.
- 4.33 This will impact on the way the Council operates and any crimes, however small, shall have to be reported. All reports must be made in the strictest confidence and the Council cannot inform its customers or clients, either directly or indirectly, that a report has been made. Consequently, Council staff may not enter into any correspondence or discussions with clients regarding any issue that might arise in this context.
- 4.34 In responding to the possibility that a client may deliberately or inadvertently be involved in money laundering, the Council will be focusing on the following key areas:
- Assigning officers to manage the anti-money laundering processes within the Council;
 - Ensuring key staff are familiar with the requirements of the regulations and the Council's procedures;
 - Ensuring key staff have an understanding or expectation of how clients behave so that they proactively identify unusual activities; and
 - Satisfying itself as to the identity of clients where appropriate. To this end the Council has introduced rigorous procedures with respect to establishing identity where necessary and will keep a copy of the confirmatory evidence.

5. Detection and Investigation

- 5.1 It is the responsibility of Senior Management to prevent and detect fraud and corruption.
- 5.2 In addition, Internal Audit and External Audit will liaise closely and implement a cyclical programme of audits which will test for fraud and corruption.
- 5.3 However, despite the best efforts of managers and auditors, many frauds are discovered by chance or "tip-off" (reported via a dedicated phone line – 0800 0158995, a dedicated e-mail address: fraud.investigations@wycombe.gcsx.gov.uk). It is often the alertness of employees and the public that enables detection to occur.

- 5.4 The Anti-Fraud and Corruption Policy Statement provides a clear path for raising concerns and facilitating "tip-offs", and the fraud-response arrangements, outlined in the Strategy, enable such information or allegations to be properly dealt with (apart from Whistle Blowing concerns). The Council's "Whistle blowing" Policy also gives advice on how to raise a concern and the safeguards and support that are available to those that raise concerns.
- 5.5 Financial Regulations require officers to report all suspected irregularities to the relevant Corporate Director, the Chief Executive, Head of Service or the Audit, Risk and Fraud Manager.
- 5.6 Senior Management is responsible for following up any allegation of fraud or corruption that they receive; this they can do by immediately informing the Audit, Risk & Fraud Manager. The investigating officer will:
- deal promptly with the matter;
 - record all evidence that has been received;
 - ensure that evidence is sound and adequately supported;
 - make secure all of the evidence that has been collected;
 - where appropriate, contact other agencies, e.g. Police;
 - when appropriate, arrange for the notification of the Council's insurers;
 - report to senior management, and where appropriate, recommend that management take disciplinary action in accordance with the Council's Disciplinary Procedures.
- 5.7 Reporting suspected irregularities is essential to the Anti-Fraud and Corruption Strategy and ensures:
- consistent treatment of information regarding fraud and corruption;
 - proper investigation by an independent and experienced audit team;
 - the proper implementation of a fraud response investigation plan;
 - the optimum protection of the Council's interests.
- 5.8 Depending on the nature and anticipated extent of the allegations, Internal Audit will normally work closely with management, personnel, legal etc., and other agencies, such as the Police. This is to ensure that all allegations and evidence are properly investigated and reported upon, and where appropriate, maximum recoveries are made for the Council.
- 5.9 The Council's disciplinary procedures will be used where the outcome of the Audit investigation indicates improper behaviour; "reasonable belief" is sufficient ground for dismissal, rather than absolute proof as in a court of law.
- 5.10 Where financial impropriety is discovered, the Council's presumption is that the Police will be called in. The Crown Prosecution Service determines whether or not a prosecution will be pursued. Referral to the Police is a matter for the Chief Executive; in practice, these duties are delegated to the Section 151 Officer. Various officers will be consulted during investigations and the Chief Executive must be kept informed of referrals to the Police. Referral to the Police will not inhibit action under the disciplinary procedure.
- 5.11 The Council's External Auditor also has powers to independently investigate fraud and corruption. This may or may not be done in conjunction with the Internal Auditors.

- 5.12 To protect privacy and comply with the Human Rights Act, all criminal investigation agencies will need to demonstrate that any intrusion into an individual's privacy is essential to an investigation. Where surveillance is considered appropriate it will be necessary for it to be approved by an Authorising Officer (Corporate Director or Head of Service) and then authorised by a Magistrate or Justice of The Peace before it can commence.
- 5.13 To ensure good practice, any surveillance carried out on the Council's behalf must be authorised to ensure necessity and proportionality, which are guiding principles under the Regulation of Investigatory Powers Act 2000 (as amended). To ensure compliance with the above act any hire of a private company for this area of work must be agreed with Internal Audit first.

6. Deterrence

- 6.1 There are a number of ways to deter potential fraudsters from committing or attempting fraudulent or corrupt acts, whether they are inside and/or outside of the Council, and these include:
- Publicising the fact that the Council is firmly set against fraud and corruption and states this at every appropriate opportunity – e.g., clause in contracts, statements on benefits claim forms, publications etc.;
 - Acting robustly and decisively when fraud and corruption are suspected and proven – e.g. the termination of contracts, dismissal, prosecution etc.;
 - Taking action to effect the maximum recoveries for the Council – e.g. through agreement, Court action, penalties, insurance etc.;
 - Having sound internal control systems, that still allow for innovation, but at the same time do not provide the opportunity for fraud and corruption.

7. Training

- 7.1 It is recognised that well trained employees and members will contribute to the success of the Council's anti-fraud and corruption policy.
- 7.2 To facilitate this, induction will be used, particularly for employees involved in internal control systems, to ensure that responsibilities in this area are highlighted.
- 7.3 Investigation of suspected fraud and corruption is primarily carried out by auditors and fraud officers in the Internal Audit, Fraud and Risk team. Fraud officers will have responsibility for the investigation of benefit fraud. All of these officers will be adequately and regularly trained.

8. Conclusion

- 8.1 The Council has in place a clear network of systems and procedures to assist it in the fight against fraud and corruption. It is determined that these arrangements will keep pace with any future developments, in both prevention and detection techniques, regarding fraudulent or corrupt activity that may affect its operation or related responsibilities.
- 8.2 To this end, the Council will maintain a continuous overview of these arrangements.
- 8.3 In response to the Bribery Act 2010, the Council has undertaken a review of its existing policies and procedures and has determined that a separate policy on the Bribery Act is not required as existing policies and procedures outlined in this Policy are considered sufficient and proportionate to the risks and activities undertaken by the Council.

F. Whistleblowing Policy and Procedure



Whistleblowing Policy and Procedure

Version 2
June 2017

Lead Officer (Policy)	John McMillan
Lead Officer (Monitoring)	Mike Howard
Policy Approved by:	Personnel and Development Committee
Policy Monitored by:	Audit Committee
Date Policy Approved:	July 2013
Date Policy Revisions Approved:	4 October 3017
Date Equality Impact Assessment reviewed:	August 2017



place people pounds

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1. Introduction

- 1.1 The Council is committed to the highest possible standards of openness, honesty and accountability. In line with this commitment, we expect employees and other workers with serious concerns about any aspect of the Council's work to come forward and voice those concerns.
- 1.2 A Whistleblower is generally a term used for 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. The Council wants individuals to feel that it is safe and acceptable to raise concerns so that they can be investigated and action taken as soon as possible. It is recognised that some cases will have to be investigated on a confidential basis and arrangements are in place to allow for this to happen.
- 1.3 UK law protects employees from dismissal, harassment or victimisation if such treatment occurs as a result of having made a whistleblowing disclosure considered to be **in the public interest**. In addition to the employer's liability, the individual who subjects the employee to such treatment may also be held personally liable.
- 1.4 This policy does not replace our existing Grievance policy which should be used if an employee has a personal grievance or is unhappy with the way they are being treated. The Whistleblowing arrangements are not intended to provide a further opportunity to pursue a grievance or complaint once relevant employment procedures have been exhausted.
- 1.5 Neither does this policy replace the Council's Complaints Procedure which is for public use. In addition, the Council's Financial Regulations require that the Head of Finance and Commercial, as Section 151 Officer, shall be notified of any financial or accounting irregularities or suspected irregularities. This policy does not supersede this requirement; it does in fact provide the opportunity to raise concerns directly in confidence, if required, with the Head of Finance and Commercial in their capacity as the Section 151 Officer.
- 1.6 The Council welcomes all genuine concerns and will treat issues raised seriously, this policy explains how to raise a concern, the types of activity that should be reported, the protection the Council can provide, confidentiality, the response and how an individual can take matters further, if necessary.
- 1.7 This policy does not form part of the employee's contract of employment and may be amended at any time.

2. Scope

- 2.1 This policy applies to all employees (including casual workers), contractors, consultants, authorised volunteers and agency staff working for the Council.

3. Principles

- This policy provides a framework to enable employees of the Council to make known, personally, any genuine concerns about both the services the Council provides directly or those that are commissioned from another provider, that are felt to be in the public interest, to an appropriate manager and to seek independent advice.

- Employees will be fully supported to voice their concerns, with requests for confidentiality and anonymity being respected.

4. **Purpose of the Policy is to:**

- Ensure a clear understanding of what constitutes a relevant concern
- Encourage concerns to be raised at an early stage and in the right way
- Put in place sufficient support and explanation in order to minimise difficulties an individual may experience as a result of raising a concern, e.g. assistance if the individual is requested to give evidence in criminal or disciplinary proceedings, dealing with unwanted pressure.

5. **Intended Outcomes**

- All employees will understand and have confidence in the process of raising a concern, if the need arises.
- All employees will have a clear understanding of their roles and responsibilities with regard to raising a concern.
- Managers will have a clear understanding of their roles and responsibilities when dealing with an employee's concern.
- All employees will have a clear understanding that if they raise a concern, in the reasonable belief that it is in the public interest, they will be protected under this policy and that the Council has a zero tolerance to individual employees being harassed or victimised if they raise a concern.
- All employees will have a clear understanding that the Council takes seriously any concerns that are malicious, vexatious or knowingly untrue and the Council will take the appropriate disciplinary action against that individual employee.
- All employees need to understand that the Whistleblowing Policy is not intended to replace or circumvent existing procedures.
- All employees will be provided with and have a clear understanding of the routes available to them for raising a concern both internally and externally.

6. **Why blow the whistle?**

6.1 Whistle blowers should be welcomed as an important source of information that may highlight serious risks, potential fraud or corruption, potential environmental problems, cover-ups, care of vulnerable people. Council employees are the eyes and ears of the Council and their value and importance cannot be overstated.

7. **The difference between a Whistleblower and a Complainant**

7.1 The best way to determine if an employee is a whistleblower or a complainant is to consider the nature of the concern and as a general rule, the following should be considered:

- Does the matter refer to a concern you have for others, e.g. the Council, other staff, clients, wider public – if so, it's a whistleblowing concern, however;
- Does the matter refer a concern you have for yourself e.g. a personal grievance, about terms of employment, pay, unfair treatment – then it's a grievance.

8. What should be reported

- 8.1 Employees are encouraged to use the whistleblowing arrangement for issues such as:
- a criminal offence has been committed, is being committed or is likely to be committed, e.g. fraud, corruption or financial irregularity
 - a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject (e.g. failure to safeguard personal and/ or sensitive information),
 - a miscarriage of justice has occurred, is occurring or is likely to occur,
 - the health or safety of any individual has been, is being or is likely to be endangered,
 - the environment has been, is being or is likely to be damaged, or
 - information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

NB: this is not an exhaustive list.

9. Procedure for raising a concern internally

- 9.1 If employees wish to raise a concern(s), such as those set out in paragraph 8.1, they should normally contact their line manager. Similarly other workers should raise a concern in the first instance with their contact within the Council i.e., usually the person to whom they directly report. This person will, insofar as is possible, treat the matter in confidence. It is likely that an investigation will be necessary and the employee who has made the disclosure may be required to attend an investigatory hearing and/or a disciplinary hearing as a witness.
- 9.2 In some cases the nature, seriousness and sensitivity of the issues, for instance if the employee believes that a manager is involved, means the employee should approach a more senior level of manager within their service or one of the following **designated officers**: the Corporate Director, the Head of HR, Head of Democratic, Legal and Policy, District Solicitor/ Monitoring Officer or Head of Finance and Commercial. Alternatively, an employee may also contact Internal Audit by e-mail [Internal Audit@wycombe.gov.uk](mailto:InternalAudit@wycombe.gov.uk) or Whistleblowing@wycombe.gov.uk
- 9.3 In the event of the concern being of an extreme and potentially serious nature the matter may be raised directly with the Chief Executive.
- 9.4 In considering whether a concern should be raised, consider the issue and standards against which the practice could be judged. For example:
- Is it legal
 - Does it contravene professional codes of conduct
 - Is it against Government or Council guidelines
 - Is it about one individual's behaviour or general working practices
 - Did you or others witness an incident or practice

Once it has been decided that a concern should be raised:

- 9.5 These may be raised verbally or in writing. If an employee wishes to make a written report, they should give the background, provide names and dates and reasons why you are particularly concerned about the situation. The earlier concerns are expressed, the easier it is to take action.
- 9.6 It is not for the employee to prove that the breach or failure that they are alleging has occurred or is likely to occur; a reasonable suspicion will suffice i.e. where the employee reasonably believes that the information disclosed is substantially true.
- 9.7 An employee may ask for a confidential meeting with the person to whom he/ she is making the complaint. In these circumstances the employee may bring a colleague or trade union representative with them for support. Notes of the meeting may be taken.

Appendix 1 provides an explanation as regards the range of outcomes that could be applied in responding to a whistleblowing concern. The appendix also contains some useful good practice tips when managing a whistleblowing concern.

10. **Safeguards**

- 10.1 **Harassment or Victimisation:** The Council will not tolerate harassment or victimisation and will take action to protect employees who make a protected disclosure from being harassed by a co-worker.

11. **Confidentiality**

- 11.1 Employees are encouraged to put their name to any allegations. Anonymous complaints are much more difficult to investigate, but they will be considered at the discretion of the Council. In exercising the discretion the following factors will be taken into account:
- Seriousness of the issues
 - Credibility of the concern
 - Likelihood of confirming the allegation from an attributable source
 - Provision of any supporting information that can be used to substantiate the concern.
- 11.2 The Council will do its best to protect the individual's identity when they do not want their name to be disclosed. It must be appreciated that the investigation process may reveal the source of the information and a statement by the individual raising the concern may be required as part of the evidence.

12. **Untrue Allegations**

- 12.1 Employees should be aware that this policy will apply where they reasonably believe that the facts disclosed and any allegation(s) contained within tend to show one of the relevant failures. If the employee makes malicious or vexatious allegations or if the disclosure is made for personal gain then this may result in disciplinary action being taken against the employee; in the case of agency workers or volunteers, working arrangements/ agreements may be terminated.

13. **How the Council will respond**

- 13.1 The Head of HR, ICT and Shared Support Services will, as soon as possible, and normally within 10 working days of a concern being raised, write to the individual

raising the concern, acknowledging the concern and indicating as far as possible how it will be dealt with. The individual will be kept informed of progress and will receive a final response subject to any legal constraints.

13.2 If the complaint has been raised with a manager or a designated officer, he/ she will notify the Head of HR, ICT and Shared Support Services, that the Council has received a whistleblowing concern e.g. date of concern service area, brief explanation as to the basis of the concern and, as appropriate, who has been assigned as the investigating officer. The purpose of an investigation is to establish a fair and balanced view of the facts in a timely manner. The amount of investigation required will depend on the nature of the concerns and will vary from case to case. An Investigating Officer will be appointed, the choice of which is at the discretion of the Council, to carry out the investigation, and may include an independent Head of Service, HR, Internal Audit or a referral to the Police (subject to the agreement of the District Solicitor and the Chief Executive).

13.3 Actions taken will depend on the nature of the concerns and may include:

- Resolved by agreed action without the need for investigation
- Internal investigation
- Allegations of unlawfulness or maladministration will be referred to the Monitoring Officer
- Referral to the Police
- Referral to the External Auditor

13.4 The Council will take reasonable steps to minimise any difficulties to employees or others raising concerns. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.

14. **Monitoring and Review**

14.1 The Line Manager or Investigating officer (dependent on “Level” of response) will provide an update to the Head of HR, ICT and Shared Support Services as regards the outcome e.g. was the concern valid or invalid, resolution/management action, whether the employee was satisfied with the outcome or not and the date the concern was closed .

14.2 The Head of HR, ICT and Shared Support Services will on an annual basis provide the Business Assurance Manager with an annual return that sets out the number, nature, outcome of any concerns raised, length of time taken to resolve the concern, and this will be provided by the Business Assurance Manager to the Council’s Audit Committee which has responsibilities for overseeing the effectiveness of the Council’s Governance arrangements.

15. **How the matter can be taken further?**

15.1 This policy is intended to provide individuals with an avenue to raise concerns within the Council. The Council hopes that those using this process will be satisfied with the way their concerns are treated and any investigation that may be carried out.

15.2 However, if they are not satisfied and feel it is right to take the matter outside the Council the following are possible contact points:

- The External Auditor
- Relevant professional bodies or regulatory organisations
- Chair or any member of Audit Committee
- The Police
- A Solicitor
- Public Concern for Work (a not for profit organisation)
- Local Government Ombudsman

15.3 The Government has also produced a list of relevant **prescribed persons** an individual can contact if they felt their employer would cover up their concerns, or would treat them unfairly or had not resolved the issue they had previously raised. Some examples include:

The Health and Safety Executive about health or safety at work or the health and safety of the public.

Health and Safety Executive
 Rose Court
 2 Southwark Bridge
 London
 SE1 9HS

Online form: www.hse.gov.uk/contact/workplace-complaint.htm
 Tel: 0300 0031647
www.hse.gov.uk

The Comptroller and Auditor General about the proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services.

The Comptroller and Auditor General
 National Audit Office
 157-197 Buckingham Palace Road
 London SW1W 9SP

Tel: 020 7798 7999
www.nao.org.uk/contact-us

More information on Whistleblowing can be found on the GOV.UK website
www.gov.uk/whistleblowing.

For independent advice an employee can contact the Public Concern at Work:

Public Concern at Work
 3rd Floor, Bank Chambers
 6-10 Borough High Street
 London SE1 9QQ






Tel 020 7404 6609 (helpline)
www.pcaaw.org.uk

15.4 If an employee takes the matter outside the Council the employee will need to ensure that they can clearly demonstrate that they have adhered to the guidance within the policy and the legislation, and do not disclose confidential information in contravention of this policy.

NB: For disclosures to be protected in law for the purposes of whistleblowing claims, the whistleblower must have a reasonable belief that the disclosure is in the public interest (s.17 Enterprise and Regulatory Reform Act 2013).

Appendix 1

The table provides an indication as to the “LEVELS” of response when dealing with a whistleblowing concern.

	<p>Line Manager - by explaining the context of the issue to the officer may be sufficient to alleviate the concern.</p>
	<p>Line Manager requests changes to internal control processes e.g. changes to working procedures, additional supervisory checks, reporting process to and these are explained to the officer in order to alleviate their concern.</p>
	<p>A review by Internal Audit as part of a planned programme of work may be sufficient to address the issue.</p>
	<p>Involvement of External Audit in addressing the concern. By providing a level of independent assurance or recommending changes to the internal control environment.</p>
	<p>Clear need for an investigation by independent party. This can be internally resourced through combination of Internal Audit and Corporate Investigations or given the significant nature of the concern the matter will be referred to the Police.</p>

Good practice tips

❖	All concerns raised must be treated seriously.
❖	Be discrete about meeting with the employee
❖	Record as much detail as possible about the conversation e.g. incident date(s), who was present, what was said and done, what evidence does the employee have (take a copy, all parties sign and date and return original(s).
❖	Explain the process to the employee in order they know what to expect, timescales, defined level of response, feedback.
❖	Assure the employee that their confidentiality will be protected as far as possible.
❖	Make no promises as regards an outcome and manage the officer's expectations.
❖	Confirm with the employee that the Council will not tolerate harassment of any sort of an officer who has raised a genuine whistleblowing concern and further inform the officer if they experience any forms of harassment or are threatened then this should be reported immediately to the Head of HR, ICT and Shared Support Serve.
❖	Refer the employee to available sources of support including PAM Employee Assistance Programme, Unison, Public Concern at Work
❖	Provide a report to the Head of HR, ICT and Shared Support Services outlining the outcome that has been reached, including a summary of the initial whistleblowing concern.
❖	Ensure that paper files are properly classified as confidential and that electronic files are password protected.
❖	Ensure that only the minimum number of officers have access to case files (need to know basis)
❖	Confidentiality should be assured if requested, however the Manager should clarify the potential risks in that colleagues may try and guess the employee's identity if they become aware that a concern has been raised. Additionally, if an investigation progresses, there may be a legal requirement to disclose the employee's identity e.g. under court disclosure rules.
❖	Any investigations will be undertaken against a clear set of terms of reference, setting out the scope of the review, including a detailed investigations plan

G. Employees' Code of Conduct



Employees' Code of Conduct

Lead officer:	John McMillan
Policy Approved by:	Council
Date Policy Approved:	2 July 2012
Implementation date:	23 July 2012
Policy Reviewed and Approved:	December 2015
Date Equality Impact Assessment reviewed:	September 2015
Next review date:	December 2018

1. Introduction

1.1 Purpose of the Code

To provide guidance for all employees of Wycombe District Council (the Council) on the standards expected of them in the performance of their duties.

The Code also reflects the Council's values by which it operates and which underpin, in the broadest sense, what the employer, employees and the public can expect in terms of delivery of services and standards of conduct. These are:

- **Collaboration** We work together as one Council Team
- **Accountability** We take ownership and responsibility
- **Respect** We value others and treat them with respect
- **Value for money** We use our resources effectively and responsibly
- **Adaptability** We are flexible in how we work and deliver services
- **Challenge** We challenge ourselves and find better way of doing things

1.2 Status of the Code

The Code has been developed to take account of the Council's corporate policies and encompasses the recommendations of the Nolan Committee's report on the Standards in Public Life which includes the "The Seven Principles of Public Life"; namely, selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Where the Council has a policy or protocol that provides more detail on specific issues, the name of the policy or protocol is in *italics* at the end of a section.

1.3 Scope of the Code

The Code applies to all Council employees. However, some of the issues covered by the Code will affect senior, managerial and professional employees more than it will others.

In addition, whilst the Code is primarily aimed at employees, the Council expects that any consultant, contractor, partner, temporary, casual and agency worker, who is engaged to carry out work or provide services on the Council's behalf, will abide by the principles of the Code. In the event that the Code is breached, the Council will give consideration to terminating the contract/arrangement between the consultant/ contractor/outside organisation etc and may seek compensation and, as appropriate, refer the matter to the police or other regulatory body.

1.4 Key Points

There are three key points to remember in all that you do. Ensure that your conduct:

- Is never influenced by personal gain
- Could not give anyone reason to question your motives
- Is always in line with Council policies and procedures

2. **Standards**

The public is entitled to expect the highest standards of conduct from all Council employees. The role of employees is to serve the Council in providing advice, implementing policies and delivering services to the local community. Employees must perform their duties to the best of their abilities with honesty, integrity, impartiality and objectivity and contribute to the maintenance of high standards in public service.

An employee's off-duty hours are his/her personal concern but the employee should not put himself/herself in a position where duty and private interests conflict or where public confidence in the Council's business would be weakened. The Council will only take account of an employee's conduct outside of work (including presence on social media) in exceptional cases where it causes objective, significant, and direct harm to his/her ability to undertake the duties of their employment.

An example of such behaviour relates to employees facing criminal charges where the nature of the charges is directly relevant to his/her employment, for instance: where arrest or conviction may result in a professional licence being taken away or driving offences if their job involves the use of a car / Council vehicle. Circumstances such as these may result in disciplinary action being taken.

During the course of their work, employees should at all times be aware of and comply with relevant legislation, have read and understood the conditions of service under which they are employed and comply with any other specific guidelines issued by their service. If an employee is a member of any professional institute or association they are obliged to comply with any code and/or standards of practice pertaining to that organisation.

In addition, whilst the Council does not apply a strict dress code, employees should be suitably dressed for their duties and responsibilities, including wearing council work clothes, if issued.

Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of their manager, Head of Service or Head of HR, as appropriate, any deficiency in the provision of service. Employees must report to the appropriate level of manager any impropriety or breach of procedure. A separate whistle blowing policy has been developed to enable staff and others to voice any concerns.

- Disciplinary Policy and Procedure
- Whistleblowing Policy and Procedure

3. **Accountability**

Employees are accountable to, and owe a duty to the Council, as a whole, and must act in accordance with the principles set out in this Code and Council policies and procedures, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

4. **Political Neutrality and Restrictions**

Employees serve the authority as a whole. It follows, therefore, that they must serve all councillors and not just those of any controlling group.

Some senior officers may be expected, within the Council's guidelines to advise political groups. They must do so in ways which do not compromise their political neutrality.

All employees, whether or not politically restricted, must follow all lawful policies of the Council and must not let their own personal or political opinions interfere with their work.

Where employees are politically restricted by reason of the post they hold or the nature of the work they do, they must comply with any statutory restrictions on their political activities.

- Constitution: Member/ Officer Relationships

5. **Use of the Council's Financial and other Resources**

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner and in line with the Council's Financial Regulations. They must not utilise property, vehicles or other facilities of the Council for personal use unless authorised to do so. At one level this means that equipment and stationery should not be used for personal use. At a higher level this means that in carrying out one's job care must be taken to protect the Council's interests, money and property and faults in equipment or potential fraud by others should be reported.

- Constitution: Financial Regulations

6. **Intellectual Property**

Intellectual property is a generic term that includes inventions and patents, creative writings and drawings and records, documents and other papers relating to the finance and administration of the Council. If these are created or acquired by the employee during the course of their employment then they will remain the property of the Council.

Knowledge and information held by the Council is equally the property of the Council and must not be used for the purposes of "outside" employment.

7. **Personal Interest**

Employees' private lives are their own concern but they must not allow their private interests or beliefs to conflict with their professional, public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests or the interests of others. In particular they must comply with:

- a. the Council's rules in relation to the registration and declaration by employees of financial and non-financial interests,
- b. the Council's rules on the declaration by employees of hospitality or gifts offered to or received by them, from any person or organisation doing or seeking to do business, or otherwise benefiting or seeking to benefit from a relationship with the Council. Employees must not accept benefits from a third party unless authorised to do so by the Council, and
- c. any service specific declarations e.g. Planning; in relation to making or commenting on planning applications or declarations in relation to Revenues and Benefits etc.

In line with the Council's guidance on registration of interests, gifts and hospitality, employees are required to formally notify their line manager of any personal interests by completing a standard form which will be passed to the Head of Democratic, Legal and Policy to be held on a "Register of Interests".

- Constitution – Planning Matters Guidance Note
- Registration of Interests, Gifts and Hospitality

8. **Corruption**

Employees must be aware that it is a serious offence for them to corruptly receive or give any gift, loan, fee or reward or advantage for doing, or not doing anything or showing favour or disfavour to any person in their official capacity. In the event that any such allegation should be made it will be investigated and may be subject to disciplinary action.

In addition, all employees and associated persons acting on behalf of the Council, are prohibited from offering, promising, giving or accepting any bribe either within the Council or from or to a third party organisation, in accordance with sections 1 and 2 of the Bribery Act 2010. Such bribes may relate to the improper performance of duties to gain advantage for the Council or personal advantage, financial or otherwise, for the individual, or anyone connected with the individual.

- Anti-Fraud and Corruption Policy

9. **Appointment of Staff and other Employment Matters**

Employees involved in appointments should ensure that they are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant or have a close personal relationship outside work.

Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close friend.

10. **Outside Commitments**

Those employees whose post is graded 5 or above, shall not engage in any other employment (paid or unpaid) without the prior approval of their Head of Service, in line with individual contracts of employment. This restriction is not intended to prevent employees from participating in social or charitable activities provided the involvement does not affect their ability to carry out their duties or present a potential conflict of interest.

11. **Relationships with Members, contractors, the public and other employees**

The Council is committed to creating an environment in which employees can work together in harmony and expect employees to behave in accordance with the Council's values.

Council employees are expected to deal with the public, Members, contractors and other employees courteously, sympathetically, efficiently, with respect and without bias.

Mutual respect between Council employees and Members is essential to good local government. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors, and should therefore be avoided.

Employees who have or enter into a personal relationship with a Councillor or have a relationship or “interest” with a contractor or potential contractor of the Council, should declare this to their Line Manager and ensure that the declaration is included on the corporate ‘Register of Interests’.

Finally, with the public interest in mind, the Council will take appropriate and commensurate action when close personal relationships at work (such as relatives or partners) with Members, contractors or employees have an actual or potential impact on service provision or where there is an actual or potential conflict of interest. Such action may include: re-arranging the work, re-arranging the reporting relationship, moving one of the parties to another office or voluntary redeployment to another service. In such circumstances, employees have a responsibility to disclose this relationship to their Head of Service who will consider the implications and any action that may need to be taken.

- Protocol on Member/ Officer Relationships

12. **Private Transactions**

Those employees who have private dealings with contractors and other suppliers of goods or services should avoid transacting any kind of private business with them by any means other than normal commercial channels. No favour or preference as regards price or otherwise which is not generally available should be sought or accepted.

13. **Treatment of Information/ Confidentiality**

Openness in the dissemination of information and decision making is the norm in the way the Council functions. However, certain information may be confidential or sensitive and therefore not appropriate to a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a Member, relevant council employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory and common law obligations to keep certain information confidential, or to divulge certain information. If in doubt as to whether someone is entitled to certain information, please seek advice from the District Solicitor.

14. **ICT Security and Usage and Data Protection**

Use of the Council’s equipment, systems and network is provided as part of an individual’s role. It is essential that the data that is processed and stored and the systems used are adequately secured against risks such as operator errors, theft of equipment, unauthorised access to or copying of programmes or use of unauthorised software on Council systems.

The Council does allow for personal use of email and the internet providing it does not interfere with work commitments, normally takes place during breaks or outside of working hours, does not make unreasonable use of limited council resources and is legal and ethical.

It is important when using ICT systems for example social media sites, whether in a personal or professional capacity that you do not submit content that is derogatory, inappropriate or have the potential to bring the Council into disrepute and/or causes objective, significant or direct harm to an individual’s ability to undertake the duties of their employment, as this may result in disciplinary action being taken against you.

- Information Security Acceptable User Guidelines
- Data Protection Protocol
- Social Media: guidelines for staff

15. **Whistleblowing**

In the event that a Council employee becomes aware of activities which he/she believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, in the first instance to an appropriate senior manager; acting in accordance with their rights under the Public Interest Disclosure Act 1998.

- Whistleblowing Policy and Procedure

16. **Equality**

All employees have a duty to comply with the Council's Equal Opportunities policy and to promote equal opportunities within their own spheres of responsibility

- Equality Framework

17. **Health and Safety**

The Council is committed to promoting a healthy and safe working environment. Each employee is expected to know and to follow all appropriate health and safety requirements and has an obligation to take reasonable care for his/her own safety and for the safety of others who may be affected by his/her acts/omissions

- WDC health and Safety Organisation and Responsibilities

18. **Breaches of the Code**

Failure to comply with this Code and associated Council policies may result in disciplinary action being taken

- Disciplinary Policy and Procedure

H. Scheme for the Enrolment of Honorary Aldermen

1. Procedure

- (a) Elections to the Roll of Honorary Aldermen will not take place every year, and nominations will only be accepted in exceptional circumstances and in accordance with the Council's agreed scheme.
- (b) Any name put forward must be proposed by a serving Member of Wycombe District Council and seconded by at least one other Member of the Council.
- (c) Any proposal must be submitted to the Chief Executive in writing, in order to enable informal discussion to take place with both Council Members and the proposed recipient.
- (d) If, following informal consultations, it appears to the Chief Executive in consultation with the Leader of the Council that there is majority support for the nomination he/she shall submit a report to the next Council meeting in order that the Council may indicate whether or not it wishes to offer election to the Roll of Honorary Aldermen to the proposed recipient.
- (e) Any election to the Roll of Honorary Aldermen will usually take place at a special Council meeting to be held immediately prior to the Annual Council meeting in May. However, if at least 5 Members of Council so request, an Extraordinary meeting of the Council may be called for the purpose of enrolment of an Honorary Alderman immediately prior to any Council meeting, following the Council signifying its agreement to such an offer, and the proposed recipient signifying his consent, as set out in (e) above.
- (f) That there shall be a maximum of 10 Honorary Aldermen at any one time.

2. Qualifications Required for Enrolment

- (a) The Council may, in accordance with Section 249 of the Local Government Act 1972, and the provisions of this scheme, elect a person to the position of "Honorary Alderman".
- (b) An Honorary Alderman shall enjoy only those rights or privileges conferred by Section 249 of the Act and this scheme.
- (c) The Head of Democratic, Legal and Policy Services shall keep a list to be called "The Roll of Honorary Aldermen" of those who have been elected to the position of Honorary Aldermen. Such list shall be printed in the Year Book and Diary issued by the Council.
- (d) A person shall be deemed eligible to be enrolled as an Honorary Alderman provided that the person:
 - is not a serving Member of Wycombe District Council
 - has served as a Member of the District Council for at least 15 years in total
 - has given exceptional service during that period.

3. Method of Enrolment

- (a) No person who has one or more of the above qualifications shall be enrolled automatically as an Honorary Alderman but only in accordance with the procedure set out above.

- (b) Formal election to the Roll of Honorary Alderman shall be by a resolution of the District Council passed by not less than two thirds of the Members present and voting thereon at a meeting of the Council specially convened for the purpose with notice of the object.

4. Withdrawal of the title and its privileges

- (a) The position of Honorary Alderman is awarded for exceptional service and is a non-political role. As such the Council considers that it is inconsistent for an Honorary Alderman to be politically active. In the event of an Honorary Alderman seeking election to the District Council, or any other Council within the area, he or she shall, from the time this scheme is adopted, cease to hold the position of Honorary Alderman if he or she is still standing as a candidate immediately following the deadline for withdrawal of candidature. At that time the entitlement to such rights and privileges attached to the position of Honorary Alderman shall cease automatically. The Chief Executive shall delete the name of the person concerned from the Roll of Honorary Aldermen and advise that person accordingly.
- (b) It shall be competent for the Council in any other particular case to withdraw the title of Honorary Alderman and the attached rights and privileges. Such withdrawal of the title shall be by way of formal motion to a meeting of the full Council, (the summons to which contains special notice that such withdrawal is proposed and the reason therefor) and subsequent resolution of the Council passed by not less than two thirds of the Members present and voting thereon at the meeting of the Council. On the passing of such resolution, the Chief Executive shall delete the name of the person concerned from the Roll of Honorary Aldermen and advise that person accordingly.

5. Privileges

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

- To enjoy the courtesy title of Alderman and to be so addressed.
- In the event of the Council deciding to give some badge or emblem to Honorary Aldermen, to wear such badge or emblem on civic occasions.
- At each meeting of the Council to have seats reserved in the public gallery for the use of Honorary Aldermen.
- To receive a copy of each Council summons.
- To receive invitations to all civic and social events to which Members of the Council are invited.
- To walk in civic procession in a position immediately senior to serving Members.
- To enjoy such other privileges as the Council may confer upon them from time to time.

I. The Public Sector Equality Duty of the Equalities Act 2010

The Public Sector Equality Duty part of the Equality Act 2010 (Section 149) came into force on 5 April 2011 and covers the 'protected characteristics' of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation. Local authorities are subject to the Public Sector Equality Duty (PSED) and under Part 1 of this are required to demonstrate 'due regard' to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard to the needs to:
 - Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low. Foster good relations between persons who share a protected characteristic and those who do not share it. This includes having due regard to the need to tackle prejudice and to promote understanding.

(In relation to the protected characteristic or marriage and civil partnership a public authority subject to the PSED only needs comply with the first strand of the duty).

Compliance with the PSED may involve treating some people more favourably than others, but that is not to be taken as permitting conduct that would otherwise be prohibited by or under the Equality Act 2010.