

Public Document Pack

Gareth Owens LL.B Barrister/Bargyfreithiwr
Head of Legal and Democratic Services
Pennaeth Gwasanaethau Cyfreithiol a Democraidd



To:

Councillors: David Cox, Hilary McGuill and
Arnold Woolley

CS/MP

26 August 2014

Co-opted Members

Robert Dewey, Jonathan Duggan-Keen, Phillipa
Ann Earlam, Edward Michael Hughes and Kenneth
Harry Molyneux

Maureen Potter 01352 702322

Dear Sir / Madam

A meeting of the **STANDARDS COMMITTEE** will be held in the **CLWYD COMMITTEE ROOM, COUNTY HALL, MOLD CH7 6NA** on **MONDAY, 1ST SEPTEMBER, 2014** at **6.30 PM** to consider the following items.

Please note that a training session for the Standards Committee members will be held from 6.00pm until 6.30pm.

Yours faithfully

Democracy & Governance Manager

A G E N D A

- 1 **APOLOGIES**
- 2 **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**

County Hall, Mold. CH7 6NA
Tel. 01352 702400 DX 708591 Mold 4
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Neuadd y Sir, Yr Wyddgrug. CH7 6NR
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The Council welcomes correspondence in Welsh or English
Mae'r Cyngor yn croesawau gohebiaeth yn y Cymraeg neu'r Saesneg

3 **APPOINTMENT OF CHAIRMAN**

Nominations will be sought for a Chairman for the Committee.

4 **APPOINTMENT OF VICE-CHAIRMAN**

Nominations will be sought for a Vice-Chairman for the Committee.

5 **MINUTES** (Pages 1 - 6)

To confirm as a correct record the minutes of the meeting held on 7 July 2014.

6 **DISPENSATIONS** (Pages 7 - 14)

To consider the enclosed applications for dispensation.

7 **REVIEW OF THE FLINTSHIRE PLANNING CODE OF PRACTICE** (Pages 15 - 34)

To consider the attached report of the Monitoring Officer.

8 **MEMBER TRAINING** (Pages 35 - 50)

To consider the attached report of the Monitoring Officer.

9 **FORWARD WORK PROGRAMME** (Pages 51 - 52)

For the Committee to consider topics to be included on the attached Forward Work Programme.

STANDARDS COMMITTEE **7 JULY 2014**

Minutes of the meeting of the Standards Committee of Flintshire County Council held in the Clwyd Committee Room, County Hall, Mold CH7 6NA on Monday, 7 July 2014

PRESENT: Mrs Patricia Jones (Chair)

Councillors: Hilary McGuill and Arnold Woolley

Co-opted members: Jonathan Duggan-Keen, Phillipa Earlam, Edward Hughes and Kenneth Molyneux

APOLOGIES:

Councillor David Cox

Robert Dewey

IN ATTENDANCE:

Head of Legal and Democratic Services, Democracy & Governance Manager and Committee Officer

1. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

No declarations of interest were made.

2. MINUTES

The minutes of the meeting of the Committee held on 12 May, 2014 were submitted.

RESOLVED:

That the minutes be approved as a correct record and signed by the Chair.

3. DISPENSATIONS

The Head of Legal and Democratic Services detailed the reason for the request for dispensation by Councillor Mike Peers to allow him to be able to participate at Buckley Town Council meetings when it debated issues affecting Hawkesbury Community Council. He explained that the request was similar to that made by Councillors Carol Ellis, Dennis Hutchinson and David Ellis to the March 2014 meeting of the Standards Committee, which he provided details of. The Chief Officer reminded the Committee that they had granted dispensation to Councillor Carol Ellis to speak, remain in the room during the debate and vote as she had been appointed by the Town Council. However, Councillors Dennis Hutchinson and David Ellis had only been permitted to remain in the room to speak and answer questions but would then have to withdraw from the room (and thus not vote) after doing so.

Councillor Hilary McGuill proposed that dispensation be granted for Councillor Peers to contact officers in writing and remain in the room to speak and answer questions but to withdraw from the room (and thus not vote) after doing so; the proposal was carried.

RESOLVED:

That Councillor Mike Peers be granted dispensation under paragraphs (d) and (f) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to be able to participate at Buckley Town Council meetings when it debates issues affecting Hawkesbury Community Council. The dispensation would allow him to contact officers in writing, remain in the room to speak and answer questions but he must withdraw from the room (and thus not vote) after doing so.

4. PETER KEITH-LUCAS STANDARDS' COMMITTEE TRAINING

The Head of Legal and Democratic Services sought feedback from the Standards Committee members who had attended the training by Peter Keith-Lucas which was held on 1 July 2014.

The Democracy and Governance Manager explained that reference had been made during the training to four supplementary codes which it was felt could be considered at a future meeting of the Committee. The training had included a role playing session with the scenario being a Councillor who had broken the Code of Conduct. Part of the discussions had also included Town & Community Councils sharing good practices.

Several members, including the Chair and Councillor Arnold Woolley, welcomed the training but felt that it had finished suddenly. Mr. Kenneth Molyneux referred to the verdict given at the training and commented on a crib sheet which had been circulated earlier in the day but did not appear to have been used to deliver the decision of the panel.

The Head of Legal and Democratic Services detailed the three distinct areas on the delivery of sanctions and suggested that training on sanctions be undertaken at a future meeting of the Committee.

RESOLVED:

That the feedback be noted.

5. OFFICERS' CODE OF CONDUCT

The Head of Legal and Democratic Services introduced a report on a revised and updated officers' code of conduct prior to its consideration by the Council's Constitution Committee.

The Code of Conduct had been attached to the report and the Head of Legal and Democratic Services explained that the sections shown in bold were mandatory national provisions that could not be varied or changed. The document sought to simplify and clarify guidance particularly in relation to personal interests and gifts and hospitality. Consultation with Human Resources and the Unions had been undertaken on the revisions and the changes were supported by them. He explained that if the draft revised Officers' Code of Conduct was supported by the Committee, it would be submitted to the Constitution Committee meeting later in the week before being considered at a

future County Council meeting for adoption into the Constitution. The document showed the tracked changes which had also been updated to reflect the Council's new senior management structure as currently implemented. The Democracy and Governance Manager also indicated that Section 11 on Disclosure of Information had also been expanded.

In response to a comment from Councillor Arnold Woolley about section 8.7 on Inventions and Patents, the Head of Legal and Democratic Services explained that this referred to employees having ideas such as the Flintshire app as the Code would allow the Council to retain the benefits of it in perpetuity.

RESOLVED:

That the draft revised Officers' Code of Conduct be approved.

6. LOCAL RESOLUTION PROCEDURE

The Democracy and Governance Manager provided an update on the Local Resolution Procedure and explained that three issues had been dealt with since the Procedure had been set up.

He provided details of the two issues which he had resolved and the Head of Legal and Democratic Services also gave a detailed account of the issue that he had resolved. All of the issues had been dealt with within a month and had been resolved at the first stage of the process.

Councillor Hilary McGuill asked whether a record of complaints was kept of Councillors who were complained about regularly to establish if a pattern was emerging. The Democracy and Governance Manager confirmed that a record was kept. The Head of Legal and Democratic Services said that the annual report by the Ombudsman's Office and details of the issues considered under the Local Resolution Procedure could be submitted to the same future meeting of the Committee.

RESOLVED:

That the Local Resolution Procedure be received.

7. HEESOM V THE PUBLIC SERVICES OMBUDSMAN FOR WALES

The Head of Legal and Democratic Services introduced a report to brief members on the outcome of the recent High Court decision and its implications for the Council.

He detailed the background to the report and said that of the 14 breaches against the then Councillor Patrick Heesom, 11 were upheld and the disqualification period was reduced to 18 months. He referred to the scope of the appeal which was to decide whether the findings of the panel were a breach of Article 10 (1) and if so, whether they were justified by reason of Article 10 (2). The Head of Legal and Democratic Services highlighted the principles that could be derived from law as observed by Mr. Justice Hickinbottom and added that three of the breaches had been quashed as they had not been regarded as

sufficiently serious to justify the interference with Mr Heesom's right to expression that labelling them a breach of the code would constitute.

In response to a comment from a query from Councillor Arnold Woolley about some of the issues relating to comments, observations, verbal exchange and actions, the Head of Legal and Democratic Services said that the right to freedom of expression could include actions where those actions were intended to demonstrate a point of view.

Councillor Hilary McGuill said that many of the breaches had been upheld and asked whether there was any comeback on the Council for the three breaches that had not been upheld. The Head of Legal and Democratic Services said that of the 22 allegations of breach, the panel found the then Councillor Heesom to be guilty of 14 breaches on nine occasions. The judge had then not upheld three of the breaches and the disqualification had been reduced to 18 months which covered the period up to January 2015.

Councillor Woolley commented on the ability of Councillors to claim an unlimited amount of support by way of an indemnity in the event of claims of breach. In response, the Head of Legal and Democratic Services said that the process was now different and was undertaken through insurance with the limit of the indemnity being that set by the insurers. The Democracy and Governance Manager explained that Member contributions covered the cost of the insurance premium so there was no cost to the public purse. In response to a question from Mr. Edward Hughes, the Head of Legal and Democratic Services said that the cap on the indemnity was £50,000.

RESOLVED:

That the report be noted.

8. RETIREMENT FROM THE COMMITTEE

The Head of Legal and Democratic Services presented the Chair with a bouquet of flowers as she was retiring from the Committee and thanked her for her hard work and chairmanship.

He advised that a Chairman would need to be elected at the next meeting of the Committee and added that the process to recruit a new Independent member had recently been undertaken. The Head of Legal and Democratic Services said that he had contacted Wrexham and Denbighshire Councils about the possibility of sharing a member with Flintshire County Council to reduce the costs; Denbighshire County Council were interested in sharing. The member would have to be appointed to each of the Committees but the recruitment would not be made during the summer period.

The Chair thanked the Committee for their help and contribution and wished them well for the future.

RESOLVED:

That the retirement of the Chair from the Committee be noted.

9. FORWARD WORK PROGRAMME

The Democracy and Governance Manager introduced the report and indicated that the Planning Code of Practice would be submitted to the September meeting of the Committee. The Head of Legal and Democratic Services advised that a report on training would also be submitted to that meeting, following a recent Group Leader’s meeting.

During earlier discussions, it had been agreed that the following items would be submitted to future meetings of the Committee:-

- the four supplementary codes, as referred to in minute number 4
- the annual Ombudsman’s report and the issues considered under the Local Resolution Procedure

Councillor Hilary McGuill sought clarification on whether a record was kept on the training undertaken by each individual Councillor over their period of office. The Democracy and Governance Manager confirmed that a record was kept of the training offered to all Members and added that attendance at specific training for Audit and Pensions Committee Members was also recorded. He added that Attendance at Member Training was also the subject of a report being submitted to the Democratic Services Committee meeting later in the week. The Head of Legal and Democratic Services said that at the recent Group Leaders’ meeting, it had been commented that the idea of training before a meeting was welcomed.

RESOLVED:

That the Forward Work Programme be updated to:-

- move the entry for the Planning code of Practice to the September 2014 meeting of the Committee
- Submit a report on training to the September 2014 meeting of the Committee
- Submit the four supplementary codes to a future meeting of the Committee
- Submit the Annual Ombudsman’s report and details of issues considered under the Local Resolution Procedure to the same future meeting of the Committee.

10. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There was one member of the press in attendance.

(The meeting started at 6.30 pm and ended at 7.40 pm)

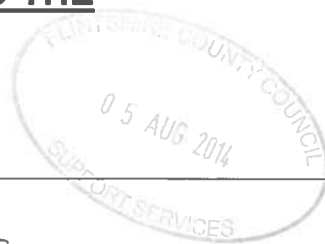
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Chair

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FLINTSHIRE COUNTY COUNCIL Agenda Item 6

APPLICATION FOR DISPENSATION TO THE
STANDARDS COMMITTEE
BY MEMBER OF THE COUNCIL



Name of Councillor	C. W. Jones.
Address	31 Welsh Rd Garden City Heeside Flintshire
Electoral Division	SEALAND
Nature of Dispensation sought	TO SPEAK AT PLANNING ON AN APPLICATION. ^{CREMATORY} ^{NOTHOP} + MEMORIA
Level of Dispensation sought (i.e. to speak only or to speak and vote)	SPEAK + VOTE
Relevant Paragraph under which Dispensation is requested (See overleaf)	d).
Details of the Prejudicial Interest	SON IN LAW IS AN UNIDENTIFIED
Details of any Position of responsibility/control held on Council (e.g. Chairman/Vice-Chairman)	CABINET MEMBER SOCIAL SERVICES

Signed: 	Date: 30/7/14
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Circumstances When A Standards Committee May Grant Dispensation

The Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 specifies that the Council's Standards Committee may grant dispensations under Section 81(4) of the Local Government Act 2000 where:

- (a) no fewer than half of the Members of the Council or of a Committee of the Council (as the case may be) by which the business is to be considered has an interest which related to that business;
- (b) no fewer than half of the Members of the Executive of the Council (i.e. Leader and Cabinet) by which the business is to be considered has an interest which relates to that business and either paragraph (d) or (e) also applies;
- (c) Members' inability to participate would upset the political balance of the Council, or any of its committees by which the business is to be considered, to such an extent that the outcome would be likely to be affected;
- (d) the nature of the Member's interest is such that the Member's participation in the business to which the interest relates would not damage public confidence in the conduct of the Council's business;
- (e) the interest is common to the Member and a significant proportion of the general public;
- (f) the participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise;
- (g) the registerable interest relates to business, which is to be considered by an Overview and Scrutiny Committee of the Council, and the Member's interest is not a pecuniary/financial interest;
- (h) the business relates to the finances of property of a voluntary organisation of whose management committee or board the Member is a member otherwise than as a representative of the Council and the Member has no other interest in that business, provided that any dispensation shall not extend to participation in any vote with respect to that business; or
- (i) it appears to the Standard Committee to be in the interest of the inhabitants of the area of the Council that the disability should be removed, provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within 7 days. Such a notification should specify the Member to whom the dispensation would apply and the Standards Committee's reasons why the disability should be removed.

FLINTSHIRE COUNTY COUNCIL

**APPLICATION FOR DISPENSATION TO THE
STANDARDS COMMITTEE
BY MEMBER OF THE COUNCIL**

Name of Councillor	CLIVE STANLEY CARVER
Address	'CARELIA' 8 OVERLEA DRIVE HAWARDEN, DEESIDE, FLINTSHIRE CH5 3HS
Electoral Division	HAWARDEN
Nature of Dispensation sought	TO TAKE PART IN THE DEBATE AT COUNTY COUNCIL AND/OR OTHER COMMITTEES RELATING TO THE OFFICERS' CODE OF CONDUCT
Level of Dispensation sought (i.e. to speak only or to speak and vote)	TO SPEAK
Relevant Paragraph under which Dispensation is requested (See overleaf)	F
Details of the Prejudicial Interest	THE DRAFT OF THE NEW OFFICERS' CODE OF CONDUCT REMOVES THE REQUIREMENT TO NOTIFY THE HEAD OF LEGAL & DEMOCRATIC SVCS OF THEIR MEMBERSHIP OF CERTAIN ORGANISATIONS INCLUDING FREEMASONRY. I AM A FREEMASON.
Details of any Position of responsibility/control held on Council (e.g. Chairman/Vice- Chairman/Cabinet Member)	LEADER OF THE CONSERVATIVE GROUP

Signed:



Date: 14 AUG 2014

Circumstances When A Standards Committee May Grant Dispensations


The Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 specifies that the Council's Standards Committee may grant dispensations under Section 81(4) of the Local Government Act 2000 where:

- (a) no fewer than half of the Members of the Council or of a committee of the Council (as the case may be) by which the business is to be considered has an interest which relates to that business;
- (b) no fewer than half of the Members of the Executive of the Council (i.e. Leader and Cabinet) by which the business is to be considered has an interest which relates to that business and either paragraph (d) or (e) also applies;
- (c) Members' inability to participate would upset the political balance of the Council, or any of its committees by which the business is to be considered, to such an extent that the outcome would be likely to be affected;
- (d) the nature of the Member's interest is such that the Member's participation in the business to which the interest relates would not damage public confidence in the conduct of the Council's business;
- (e) the interest is common to the Member and a significant proportion of the general public;
- (f) the participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise;
- (g) the registerable interest relates to business, which is to be considered by an Overview and Scrutiny Committee of the Council, and the Member's interest is not a pecuniary/financial interest;
- (h) the business relates to the finances or property of a voluntary organisation of whose management committee or board the Member is a member otherwise than as a representative of the Council and the Member has no other interest in that business, provided that any dispensation shall not extend to participation in any vote with respect to that business; or
- (i) it appears to the Standards Committee to be in the interests of the inhabitants of the area of the Council that the disability should be removed, provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within 7 days. Such a notification should specify the Member to whom the dispensation would apply and the Standards Committee's reasons why the disability should be removed.

FLINTSHIRE COUNTY COUNCIL

**APPLICATION FOR DISPENSATION TO THE
STANDARDS COMMITTEE
BY MEMBER OF THE COUNCIL**

Name of Councillor	CLIVE STANLEY CARVER
Address	'CARELIA' 8 OVERSEA DRIVE HAWARDEN DEESIDE FLINTSHIRE CH5 3HS
Electoral Division	HAWARDEN
Nature of Dispensation sought	TO DISCUSS WITH OFFICERS THE FAKED COMMUNITY CHEST GRANT APPLICATION BY 'THE HAWARDEN INSTITUTE'
Level of Dispensation sought (i.e. to speak only or to speak and vote)	TO DISCUSS VERBALLY AND/OR IN WRITING. NOT TO VOTE, BUT REMAIN IN ROOM IN ANY FUTURE HEARING.
Relevant Paragraph under which Dispensation is requested (See overleaf)	D, F, H
Details of the Prejudicial Interest	I AM THE CHAIRMAN OF THE HAWARDEN INSTITUTES MANAGEMENT COUNCIL. I AM A MEMBER OF THE 'COMMUNITY CHEST PANEL' NOTE THAT THE HAWARDEN INSTITUTE IS NOT LOCATED WITHIN MY E. DIVISION.
Details of any Position of responsibility/control held on Council (e.g. Chairman/Vice- Chairman/Cabinet Member)	LEADER OF THE CONSERVATIVE GROUP

Signed: 	Date: 14 AUG 2014
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Circumstances When A Standards Committee May Grant Dispensations

The Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 specifies that the Council's Standards Committee may grant dispensations under Section 81(4) of the Local Government Act 2000 where:

- (a) no fewer than half of the Members of the Council or of a committee of the Council (as the case may be) by which the business is to be considered has an interest which relates to that business;
- (b) no fewer than half of the Members of the Executive of the Council (i.e. Leader and Cabinet) by which the business is to be considered has an interest which relates to that business and either paragraph (d) or (e) also applies;
- (c) Members' inability to participate would upset the political balance of the Council, or any of its committees by which the business is to be considered, to such an extent that the outcome would be likely to be affected;
- (d) the nature of the Member's interest is such that the Member's participation in the business to which the interest relates would not damage public confidence in the conduct of the Council's business;
- (e) the interest is common to the Member and a significant proportion of the general public;
- (f) the participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise;
- (g) the registerable interest relates to business, which is to be considered by an Overview and Scrutiny Committee of the Council, and the Member's interest is not a pecuniary/financial interest;
- (h) the business relates to the finances or property of a voluntary organisation of whose management committee or board the Member is a member otherwise than as a representative of the Council and the Member has no other interest in that business, provided that any dispensation shall not extend to participation in any vote with respect to that business; or
- (i) it appears to the Standards Committee to be in the interests of the inhabitants of the area of the Council that the disability should be removed, provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within 7 days. Such a notification should specify the Member to whom the dispensation would apply and the Standards Committee's reasons why the disability should be removed.

FLINTSHIRE COUNTY COUNCIL

**APPLICATION FOR DISPENSATION TO THE
STANDARDS COMMITTEE
BY MEMBER OF THE COUNCIL**

Name of Councillor	VERONICA GAY
Address	39 SANDY LANE SALTNEY CH4 8UR
Electoral Division	SALTNEY STONEBRIDGE
Nature of Dispensation sought	TO SPEAK WISH TO BE INVOLVED IN DISCUSSIONS WITH C/OFFICERS OVER MORE COMMUNITY USE OF THE COMMUNITY CENTRE YOUTH CLUB.
Level of Dispensation sought (i.e. to speak only or to speak and vote)	TO DISCUSS WITH COUNCIL OFFICERS AND TO SPEAK AND VOTE AT MEETINGS
Relevant Paragraph under which Dispensation is requested (See overleaf)	D, F, H,
Details of the Prejudicial Interest	VOLUNTEER ON SALTNEY COMMUNITY CENTRE MANAGEMENT COMMITTEE
Details of any Position of responsibility/control held on Council (e.g. Chairman/Vice-Chairman/Cabinet Member)	WARD COUNCILLOR.

Signed: 	Date: 26/8/2014
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Circumstances When A Standards Committee May Grant Dispensations

The Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 specifies that the Council's Standards Committee may grant dispensations under Section 81(4) of the Local Government Act 2000 where:

- (a) no fewer than half of the Members of the Council or of a committee of the Council (as the case may be) by which the business is to be considered has an interest which relates to that business;
- (b) no fewer than half of the Members of the Executive of the Council (i.e. Leader and Cabinet) by which the business is to be considered has an interest which relates to that business and either paragraph (d) or (e) also applies;
- (c) Members' inability to participate would upset the political balance of the Council, or any of its committees by which the business is to be considered, to such an extent that the outcome would be likely to be affected;
- (d) the nature of the Member's interest is such that the Member's participation in the business to which the interest relates would not damage public confidence in the conduct of the Council's business;
- (e) the interest is common to the Member and a significant proportion of the general public;
- (f) the participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise;
- (g) the registerable interest relates to business, which is to be considered by an Overview and Scrutiny Committee of the Council, and the Member's interest is not a pecuniary/financial interest;
- (h) the business relates to the finances or property of a voluntary organisation of whose management committee or board the Member is a member otherwise than as a representative of the Council and the Member has no other interest in that business, provided that any dispensation shall not extend to participation in any vote with respect to that business; or
- (i) it appears to the Standards Committee to be in the interests of the inhabitants of the area of the Council that the disability should be removed, provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within 7 days. Such a notification should specify the Member to whom the dispensation would apply and the Standards Committee's reasons why the disability should be removed.

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **STANDARDS COMMITTEE**

DATE: **MONDAY, 1 SEPTEMBER 2014**

REPORT BY: **MONITORING OFFICER**

SUBJECT: **REVIEW OF THE FLINTSHIRE PLANNING CODE OF PRACTICE**

1.00 PURPOSE OF REPORT

1.01 For the Standards Committee to be consulted on the review of the Flintshire Planning Code of Practice.

2.00 BACKGROUND

2.01 The Nolan Committee's report on standards in public life led to the introduction of the new ethical framework for Members introduced in the Local Government Act 2000. One chapter of the Nolan Committee's report related to Member involvement in the planning process and recommended that each local planning authority should introduce its own planning code to improve practices in this area.

2.02 Early in the life of Flintshire County Council a Planning Protocol Group of members was formed to formulate Flintshire's code of practice which was subsequently agreed by County Council and incorporated into the Council's Constitution.

2.03 The Constitution Committee is currently in the third year of a 3 year programme of reviewing all parts of the Council's Constitution and this year's programme includes the Flintshire planning code. The guiding principles of this review are to ensure the various parts of the Constitution are up-to-date, unambiguous and easy to understand. Following consideration by the Standards Committee the review of the code will be considered by the Planning Strategy Group and then by the Constitution Committee.

2.04 The review of the Flintshire planning code has been led by the Democracy & Governance Manager who has consulted with the Monitoring Officer and the Chief Officer, Planning & Environment prior to consideration by Members. Attached as Appendix 1 is the Flintshire planning code with proposed alterations shown as tracked changes and comments showing the reason for the proposed alterations.

3.00 CONSIDERATIONS

- 3.01 The main proposed alterations to the planning code are detailed in the following paragraphs.
- 3.02 Section 3 of the planning code relates to Member training on planning. Paragraph 3.1 is proposing to widen the requirement for core planning training beyond members of the Planning and Development Control Committee to all members of the Council as all members of the Council are consulted on planning applications affecting their ward. For members of the committee and named substitutes it is being suggested that the 75% minimum attendance at planning training topics should be an ongoing requirement during the life of the current County Council rather than being over a period of 2 years. It is also proposed that the Planning Strategy Group should have the ability to grant an exception to this requirement where there is good reason for a Member temporarily failing to meet this requirement. This follows discussion at the last meeting of the Planning Strategy Group.
- 3.03 The issue of pre-determination has been given its own section (see section 4.4) rather than part of the paragraphs concerning personal interests so as to give more prominence to this issue.
- 3.04 Paragraph 9.3.1. concerning site visits has been expanded to make clear that the public have no right to attend the site visit itself. If the public lobby Members on their way to or way from a site visit any documentation they wish to submit should be done formally to the Planning Department and the paragraph has been expanded to include this.
- 3.05 Section 11 of the Code deals with where as part of the democratic process Members reach a decision contrary to the Officer recommendation. It is important that in such situations the reasons are clearly stated and recorded in the minutes of the meeting. Paragraphs 11.4 and 11.5 have been amended to reflect current practice in relation to this.

4.00 RECOMMENDATIONS

- 4.01 For the Standards Committee to give its observations on the proposed alterations to the Flintshire planning code prior to its consideration by the Planning Strategy Group.

5.00 FINANCIAL IMPLICATIONS

- 5.01 None as a result of this report.

6.00 ANTI POVERTY IMPACT

- 6.01 None as a result of this report.

7.00 ENVIRONMENTAL IMPACT

7.01 None as a result of this report.

8.00 EQUALITIES IMPACT

8.01 None as a result of this report.

9.00 PERSONNEL IMPLICATIONS

9.01 None as a result of this report.

10.00 CONSULTATION REQUIRED

10.01 With Chief Officer, Planning & Environment.

11.00 CONSULTATION UNDERTAKEN

11.01 With Chief Officer, Planning & Environment.

12.00 APPENDICES

12.01 Appendix 1 – Flintshire’s Planning Code of Practice

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS**

Observations of Mr Robert Dewey dated 25 June 2014.

Contact Officer: Peter Evans
Telephone: 01352 702304
Email: peter.j.evans@flintshire.gov.uk

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PLANNING CODE OF PRACTICE

HOW WE DEAL WITH PLANNING APPLICATIONS AND OTHER PLANNING ISSUES CONTENTS

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 - 4.3 Personal Interests
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14. REGULAR REVIEW OF DECISIONS

15. COMPLAINTS

1. INTRODUCTION

- 1.1 The Planning system involves taking decisions about the use and development of land in the wider public interest having regard to the Development Plan, national Planning Guidance and other material considerations. Planning can be contentious because its decisions affect the daily lives of individuals, landowners and developers.

It is important therefore that the process is open and transparent. In other words the system should not only be fair but it should be seen to be fair. The Nolan Committee's report on Standards in Public Life gave close consideration to these issues and its recommendations feature significantly in the Local Government Association's revised 2002 guidance for Members and Officers in dealing with planning matters. Members are advised to read the LGA guidance as it provides useful background to the Code of Practice.

- 1.2 This Code of Practice provides guidance to elected Members, officers and developers on the planning process. It is supplementary to the Flintshire Member and Officer Codes of Conduct and the Protocol on Member/officer relations all of which are contained in the Council Constitution.

- 1.3 Whilst the principles set out in this document apply primarily to the manner in which individual planning applications should be dealt with, they also apply to the decision-making process relating to any aspect of the planning function.

2. ROLE OF MEMBERS AND OFFICERS

2.1 General

- 2.1.1 Members and officers have different but complementary roles. Both serve the public but Members are responsible to the electorate, whilst officers are responsible to the Council as a whole. Officers advise Members and the Council and carry out the Council's work. They are employed by the Council, not individual Members, and Members instructions may only be given to officers through a decision of the Council, its Cabinet or a Committee.

- 2.1.2 It is important that a good relationship exists between Members and officers and that this is based on mutual trust and understanding of each others positions. This relationship and trust must never be abused or compromised.

2.2 Role of Officers

- 2.2.1 The officer's function is to advise and assist Members in the formulation of planning policies, in the determination of planning

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Comment: The contentiousness is not heightened as suggested in the first sentence. Delete it. The second sentence deleted is misleading in giving too much prominence to the requirements of the individual.

Deleted: This is heightened by the openness of the system and the legal nature of Development Plans and decision notices. In making planning decisions the requirements of the individual, whether the applicant or a neighbour, have to be balanced against the broader public interest.¶

Comment: This needs updating to refer to recent Welsh Government initiatives.

Comment: It is wider than indicated by the last few words and includes for instance decisions relating to TPOs or listed buildings.

Deleted: Unitary Development Plan, Supplementary Planning Guidance and associated documentation.

Comment: There needs to be consistency throughout the document referring to either Members or Councillors rather than at present, a mixture of the two.

applications and, deciding whether or not to take enforcement action for breaches of planning control. officers should:-

- Provide impartial and professional advice.
- Make sure that all accurate information necessary for the decision to be made is given.
- Provide a clear and accurate analysis of the issues.
- Set applications and enforcement issues against the broader Development Plan policies and all other material considerations.
- Give a clear recommendation.
- Carry out the decisions made by Members in committee or through the delegated authority of the Chief Officer, Planning and Environment
- Update Members on new legislation and guidance.
- Provide appropriate training and briefings for Members.

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2.3 Role of Members

2.3.1 The full Council is responsible for setting the Council's formal planning policy framework through the Development Plan(s). As a general principle there is an expectation that Members will uphold the Council's planning policies.

Deleted: Unitary Development Plan

2.3.2 When Members come to make a decision they must:-

- Be clear as to whether or not they have an interest which needs to be declared.
- Act fairly and openly.
- Approach each application with an open mind.
- Carefully weigh up all relevant issues.
- Determine each application on its own merits.
- Avoid giving the impression that the Member has made her / his mind up prior to the application being determined.
- Ensure that there are clear and substantial reasons for their decisions, and that those reasons are clearly stated.

Comment: This ignores decisions made under delegated powers.

Deleted: It falls to the Planning and Development Control Committee to determine planning and related applications within the context of these planning policies.

2.3.3 Where a planning application relates to a Member's ward the views of the local Member are important to the Chief Officer, Planning & Environment and to the Chair and Members of the Planning and Development Control Committee. Ward Members should not become too closely identified with special interest groups if they wish to vote in the Planning and Development Control Committee. Whilst Members have a responsibility to their constituents including those who did not vote for them their overriding duty is to the whole County and therefore need to consider proposed developments in the interests of the wider community.

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Comment: This is not part of the role of councillors and is better covered later in the Code.

Deleted: The local Members are likely to be approached by applicants and by objectors and where approached on three or more occasions by the applicant or by an objector the Member should disclose this to the Planning Case Officer, Planning Team Leader or the Head of Development Control and at the Planning and Development Control Committee.

2.4 Member / Officer Contact

2.4.1 The officer / Member relationship is extremely important for good decision making and an effective planning service. The mutual understanding of their respective roles and respect for each other's position is vital for good relations.

2.4.2 In making enquiries regarding individual applications Members should make contact with the Case Officer or Line Manager and make an appointment if necessary. Whilst Members may wish to seek advice or information from the Chief Officer, Planning & Environment or the Development Manager, Members should not seek advice or information from other officers who may be advising the Case Officer. This is in the interests of efficiency and to avoid duplication of effort and confusion in what is a very busy service which has to operate within very tight timescales. Information can be sought and provided by e-mail.

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2.4.3 Officers will provide every reasonable help to Members in the carrying out of their duties. Meetings between officers and Members may sometimes be helpful, but are only likely to be of value if prior arrangements have been made. This allows the officer to have all relevant documents available at the meeting. Prior arrangements may be made by telephoning the relevant Officer or the Planning Services Reception staff. Members rooms can be utilised and suitable rooms can be made available by mutual agreement if privacy is required.

Deleted: Members of the Planning & Development Control Committee shall undertake appropriate training and this training will also be offered to all Members. A Member speaking or voting at Planning and Development Control Committee should have received training in planning policies and procedures.

Comment: The 75% attendance is ongoing between ordinary County Council elections rather than being for a 2 year period. Provision is also included for the Planning Strategy Group to grant exceptions where there is good reason for a member temporarily failing to meet the requirement.

2.4.4 It is acknowledged that Members and officers may well have differing views on a proposal but Members should on no account interfere with or put pressure on officers to make a particular recommendation.

3. TRAINING

3.1 All members of the Council are required to have received core planning training covering planning policies, procedures, law and this Code.

3.2 Other training will be arranged by officers in consultation with members in the form of additional sessions, seminars and workshops on topical issues and to keep members up to date on new procedures, advice and guidance.

3.3 Members of the Planning & Development Control Committee (including substitute members) are required at all times between ordinary County Council elections to attend at least 75% of the planning training topics covered during their membership of the Committee.

3.4 Attendance at planning training will be monitored and reported to the Planning Strategy Group who may grant an exception to the requirements of paragraph 3.3 where there is good reason for a member temporarily failing to meet this requirement.

Deleted: Core training will consist of sessions covering planning procedures, the Development Plan and material planning considerations, probity and the application of this Code of Practice.¶

¶
3.3 Other training will be arranged by officers in consultation with Members in the form of additional sessions, seminars and workshops on topical issues and to keep Members up to date on new procedures, advice and guidance.¶

¶
3.4 Members of the Planning and Development Control Committee (including substitute Members) should attend a minimum of 75% of the training arranged over a period of 2 years. Attendance records will be monitored and reported to the Planning Protocol Working Group, any Member who fails to attend the stated minimum of training sessions may be removed or suspended from the committee

4. REGISTRATION AND DECLARATION OF INTERESTS

4.1 Code of Conduct

4.1.1 Members should follow scrupulously the County Council's **Members' Code of Conduct** in relation to registration and declaration of interests and, if an interest is declared, in deciding whether the Member should participate in the consideration of an application. Not only should impropriety be avoided but also any appearance or grounds for suspicion of improper conduct. If a Member considers he/she may have a personal interest they should consult the Monitoring Officer or a Senior Officer of Legal & Democratic Services for advice on their position.

4.2 Personal Interests

4.2.1 The principles about the disclosure of interests should be applied, not only to formal meetings, but also to any of a Member's dealings with Council officers, or with other Members. Where a Member has a personal interest, as defined by the Code, it must always be declared. It does not necessarily follow that the Member is debarred from participation in the discussion. The responsibility for declaring an interest lies with the Member, but the Monitoring Officer is there to advise. If there is any doubt in a Member's mind, he / she should seek early advice from the Monitoring Officer or other Senior Officer of Legal & Democratic Services on their position. Members should err on the side of declaring an interest when they are not sure.

4.2.2 Members who have substantial property, professional or other interests relating to the planning function which would prevent them from voting on a regular basis, should avoid serving on the Planning and Development Control Committee.

4.2.3 Where a Local Member has decided he / she has a personal interest making it inappropriate for that Member to be involved in the processing and determination of a planning application in his / her ward such a Member may arrange for another Member to act as local Member instead. In such a situation the local Member should inform the Monitoring Officer and the Chief Officer, Planning & Environment of the arrangement made and take no further part in the processing and determination of the planning application other than referring any representations or communications received to the Member who is acting as local Member.

4.3 Declaration

4.3.1 When declaring an interest at committee, this should be done at the beginning of the meeting. Members should be clear and specific in

Comment: Delete and replace later in the document under the heading Predetermination.

Deleted: 4.2 Relationship with Third Parties

¶
4.2.1 . If a Member of the Planning and Development Control Committee has had such a significant personal involvement with an applicant, agent, landowner or other interested party whether or not in connection with the particular matter under consideration by the Committee, which could possibly lead to the reasonable suspicion by a member of the public that there may be any possibility that the involvement could affect the Councillor's judgement in any way, then the Councillor should consider carefully whether the involvement amounts to a personal interest, which would debar him / her from participation in the decision-making process.¶

Comment: 4.3, 4.4 and 4.5 renumbered as 4.2, 4.3 and 4.4

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identifying the item on the agenda in which they have an interest, and the nature of that interest.

4.4 Predetermination

4.4.1 A Member has predetermined a planning application where the Member shows he/she has made their mind up on the merits of the application prior to it being considered at committee. A predisposition is where a Member has an inclination or preliminary view on the merits of the application.

4.4.2. A Member who has predetermined the merits of a planning application in advance of it being considered at committee should not be a Member of the committee that considers that application. A Member of the committee may have a predisposition or a preliminary view. If in doubt a Committee Member should seek advice prior to the Committee meeting from either the Monitoring Officer or the Solicitor who attends committee meetings.

4.4.3 Those Members who do not sit on the Planning & Development Control Committee may predetermine their stance on an application but should respect the fact that Planning Committee Members cannot do the same.

4.5 Register

4.5.1 A register of Members' interests is maintained by the Council's Monitoring Officer. It is available for public inspection. Each **Member** has a responsibility to provide the Monitoring Officer with up to date written details of relevant interests.

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4.6 Dual Community / Town Council Membership

4.6.1 Membership of a Town / Community Council which has expressed a view on a planning matter does not in itself mean that the **Member** cannot take part in the determination of the matter when it comes before the Planning and Development Control Committee provided that the Member has kept an open mind and not committed himself / herself to a final view on the matter until all the arguments for and against have been aired at committee. The Member can enter into discussion and ask questions, but should **make clear that** a view in favour or against the proposal **is** on the basis of knowledge and information known at that time.

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4.6.2 Where an application submitted by a Community or Town Council is being considered then a Member of that Council may not vote on the proposal to determine the application unless the Member has obtained dispensation from the Standards Committee.

5. LOBBYING

5.1 Lobbying is a part of the political process and it is quite common for applicants or other interested parties to wish to discuss a proposed development with Members before a planning application is determined. This can help Members' understanding of the issues and concerns associated with an application.

5.2 However, Members of the Planning & Development Control Committee are under an obligation to determine matters on their merits. That means that they should not take a firm view on a planning matter before receiving and reading the officer's report or receiving any new information reported to the committee. Whilst Members of the committee may form an initial view or opinion, and indicate their view that an application is contrary to policy, they should not openly declare which way they intend to vote in advance of the Planning and Development Control Committee meeting. To avoid compromising their position before they have received all the relevant information, committee Members are advised that they should:-

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- > **Refer** applicants / developers who approach them for planning or procedural advice to the appropriate Planning Officer.
- > **Avoid** making it known in advance whether they support or oppose the proposal.
- > **Avoid** campaigning actively in support of a particular outcome.
- > **Direct** lobbyists or objectors to the appropriate Planning Officer, who will include reference to their opinions where relevant in their report.

Comment: covered in 2.4.4

Deleted: Not put pressure on Officers to make a particular recommendation in their report.
>

5.3 Members should declare significant contact with applicants and objectors. Significant contact is where a Member has been contacted on more than three occasions by the applicant or the same objector (either orally or in writing).

5.4 Members must advise the Ward Member as a courtesy in cases where they are seeking to be involved in a development proposal or enforcement issue outside of their own Ward. It is accepted that where a planning application has a significant effect on another ward the Member(s) for that ward is entitled to become involved in the development proposal.

5.5 Members of the Planning & Development Control Committee must avoid organising support for or against a planning application. Where such a Member does organise support for or against a planning application then that Member must stand down from the Planning and Development Control Committee on such a planning application. Where a Member is in doubt about such issues the Member should seek advice from the Monitoring Officer or other Senior Officer in Legal & Democratic Services.

Deleted: should in general,

Deleted: Councillor should not vote at

5.6 If a Planning & Development Control Committee Member expresses

support for, or opposition to, a proposal before the matter is formally considered at the relevant meeting, whether or not there has been lobbying, he / she could have some difficulty in being able to claim to retain an open mind on the issue and to be prepared to determine the application on its merits. If such a Member does express an opinion, then it should make it clear that it is a preliminary opinion and that he / she will only be in a position to take a final decision when all the evidence and arguments have been considered.

5.7. Where a member of the committee has not complied with 5.2, 5.5 or 5.6 above and has predetermined the merits of the application, they must not participate in the decision making on that application.

6. APPLICATIONS SUBMITTED BY MEMBERS AND OFFICERS

6.1 Planning applications submitted by or on behalf of Members, or officers involved in the planning application process, or the close relatives* of Members or such officers where the officer or Member knows of the application shall be decided by the Planning and Development Control Committee and not by the Chief Officer, Planning & Environment under delegated powers.

[* Close relative is defined as spouse, partner, parent, child or sibling].

6.2 A Member affected by clause 6.1 shall declare the interest at any meeting of the Planning and Development Control Committee to determine the application, take no part in the decision and leave the meeting place unless granted a dispensation by the Standards Committee.

6.3 The affected officer shall take no part in the processing of the application and its determination.

7. APPLICATIONS SUBMITTED BY THE COUNCIL

7.1 It is important that the Council is seen to be treating applications for its own development (or a development involving the Council and another party) on an equal footing with all other applications as well as actually doing so.

7.2 Subject to any legislative restrictions, all such proposals will be subject to the same administration processes, including consultation, as private applications with consideration being made in accordance with policy and any other material planning considerations.

8. PRE-APPLICATION AND ENFORCEMENT DISCUSSIONS

8.1 Pre-application meetings between officers and potential applicants and negotiations regarding breaches of planning control are encouraged.

Comment: Failure to comply with paragraphs 5.2 to 5.6 only prevents a Member participating in the decision making process. The other 4 points referred to are not prevented. It is largely dealt with by 5.8 (now 5.7)

Deleted: 5.7 Provided that Councillors comply with 5.2, 5.3, 5.4, 5.5 and 5.6 above and do not have a personal interest in a matter they are able to:-¶
¶
> Listen and receive viewpoints from residents, constituents or other interested parties.¶
> Make comments to residents, constituents, interested parties, other Councillors or Officers.¶
> Seek information through the appropriate channels.¶
> Bring to the Committee's attention views / opinions of residents, constituents or other interested parties.¶
> Participate in the decision making process.¶

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Comment: 5.3 and 5.4 should not prevent participation in the decision making as in the current wording.

Deleted: If however a member of the Committee has not complied with 5.2, 5.3, 5.4, 5.5 and 5.6 above and has made it clear that he or she has predetermined the matter they should not speak or vote on the matter.

Comment: There is no longer a planning division

Deleted: officers employed in the Planning Division, or officers involved in the planning process

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The aim of such meetings is to ensure beneficial development and to resolve matters that might otherwise lead to the refusal of planning permission. Such discussions will normally take place at officer level and Members ~~should~~ refer requests for such advice to the officers. If Members become involved in such discussions they should make it clear that their views are personal and provisional. To avoid such meetings being misunderstood:-

Comment: Current wording considered too strong

Deleted: shall, wherever possible,

- > **It will be made clear** at such meetings that only personal and provisional views based upon the Development Plan and other material considerations can be given and no commitments can be made which would bind or otherwise compromise the Planning & Development Control Committee or any member of the committee.
- > **A note** of the discussion will be taken and placed on file and made available for public inspection once an application has been made.
- > **Where** exceptionally meetings are to involve Members the meetings will be arranged by and attended by officers.

9. **PLANNING COMMITTEE SITE VISITS**

9.1 **Purpose**

9.1.1 Planning and Development Control Committee site visits are not meetings where decisions are made and neither are they public meetings. They are essentially fact finding exercises held for the benefit of Members where a proposed development may be difficult to visualise from the plans and supporting material. They may be necessary for careful consideration of relationships to adjoining property or ~~the general character of the area due to the scale or design of the development.~~

Deleted: the general vicinity of the proposal due to its scale or effect on a listed building or conservation area.¶

9.2 **Request for a Site Visit**

9.2.1 A request for a site visit is normally made by the local Ward Member in response to being consulted on the proposed development. The request must be in writing (~~e.g. e-mail~~) and should clearly indicate the planning reasons for the visit. Site visits can be costly and cause delay so it is important that they are only held where necessary and prior to committee. Site visits are held pursuant to a decision of the Chair of the Planning and Development Control Committee or pursuant to a request from a local Member including another Ward Member consulted because the application significantly affects the other ward.

9.2.2 Examples where a site visit would not normally be appropriate include where;

- purely policy matters or issues of principle are at issue

- the Member wishes to consider boundary or neighbour disputes
- issues of competition
- loss of property values
- any other issues which are not material planning considerations
- where Members have already visited the site within the last 12 months, except in exceptional circumstances

Where no planning reason is given for the site visit or the reason for the site visit is any of the above the Chair has discretion not to convene the site visit.

Comment: To prevent unnecessary site visits

9.3 **Format and Conduct at the Site Visit**

9.3.1 Members of the Planning and Development Control Committee and the Local Ward Member(s) will be notified in advance of any visit. Such visits are not formal meetings of the Committee and there is no right of public attendance at the visit itself. If the public in lobbying Members on their way to or from a site visit seek to present documentation they should be advised to send it to the Planning Department instead

Comment: It should be made clearer that the visit itself is not open to the public. Any documentation from the public should be formally submitted to the Planning Department

9.3.2 Advance notice of the site visit will also be sent to the applicant or agent requesting that access to the site for Members/officers be provided at the specified time/date and pointing out that the applicant/agent will not be allowed to participate in the site visit.

9.3.3 The Chair will invite the Planning Officer to briefly outline the proposal and point out the key issues raised by the application and of any vantage points from which the site should be viewed. The local ward Member will be invited to speak, followed by other Members of the Committee who may ask questions and seek clarification from officers who will respond. Any statement or discussion concerning the principles and policies applicable to the development should not be allowed by the Chairman.

9.3.4 Although site visits are not part of the formal committee consideration of the application, the Code of Conduct still applies to site visits and Members should have regard to the guidance on declarations of personal interest.

9.3.5 A file record will be kept of those attending the site visit, together with a brief note of any points raised.

9.3.6 For the avoidance of doubt references in this section to Local Member(s) includes adjacent ward Members where the application significantly affects their ward.

9.3.7 Occasionally the applicant/agent/owner of the site to be visited may not permit Members and officers onto the site. There may be good reason for this, for example, if someone was injured they could have a claim against the landowner. Where access is refused to one or more of the

elected Members, the Chairman will be advised that none of the Members and officers should enter onto the land. In such circumstances the site should be viewed from the nearest public land such as the public highway.

9.3.8. In summary site visits are:-

- > **Fact** finding exercise.
- > **Not part** of the formal committee meeting and therefore public rights of attendance do not apply.
- > **To enable** officers to point out relevant features.
- > **To enable** questions to be asked on site for clarification. However, discussions on the application will only take place at the subsequent committee.

10. PROCEDURE AT PLANNING & DEVELOPMENT CONTROL COMMITTEE

10.1 The majority of planning applications are determined by the Chief Officer, Planning & Environment under the Council's delegation scheme. This is necessary to ensure that most decisions are made in a timely manner. Whilst Members have a right to request that applications, affecting their ward be determined by the Planning and Development Control Committee such requests should be justified by clearly identifying in writing why a committee decision is required. This is generally done on the return notification form sent out to Members.

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10.2 Officers will produce written reports on all planning applications reported to committee. In respect of each proposal the report will include, amongst other matters;

- description of the proposal
- description of the site
- responses to consultations and officer observations thereon.
- summary of objections and / or support received
- relevant site history
- relevant Development Plan policies
- relevant planning guidance where appropriate
- any other material planning consideration

- an appraisal by the Case Officer which will include the relevant views of other consulted officers within the Planning Division
- a clear recommendation
- brief details of the substance of any conditions to be imposed or;
- full details of reasons for refusal.

10.3 Late observations received by 5.00 p.m. the day before a committee meeting will be summarised and reported separately and circulated to Members immediately prior to the start of the meeting.

10.4 The Planning Officer will briefly introduce each item highlighting the key issues for Members consideration.

10.5 Where an application is being reported to committee, the Chair will allow oral representations to be made in accordance with the protocol on public speaking prior to the committee debating the application.

Comment: Should protocol be attached as an appendix?

10.6 Where a Member seeks and obtains a majority for a deferment for a specific purpose then there will be no further debate on that matter until such time as the proposal is re-presented.

10.7 Members who read out at committee, or refer to, communications they have received should provide an advance copy to officers

Comment: Similar to 5.2 Denbighshire Code

11. **DECISIONS CONTRARY TO OFFICER RECOMMENDATION**

11.1 From time to time members of the Planning & Development Control Committee will disagree with the professional advice given by the Chief Officer, Planning & Environment. The committee's decisions must be in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. If Members propose to make a decision contrary to the officer recommendation (whether for approval or refusal), the proposer should set out clearly the reasons for doing so. The Chairperson will ensure that the officer is given the opportunity to explain the implications of the contrary decision, before a vote is taken.

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11.2 In cases where the Planning and Development Control Committee decides for good and valid reasons to depart from the Chief Officer, Planning & Environment recommendation, the committee must always define the reasons for rejecting the officer's recommendation and those reasons must be recorded in the minutes of the meeting.

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11.3 In the case of conditions which the committee wishes to add or amend, the drafting is delegated to the Chief Officer, Planning & Environment and, if appropriate, in consultation with the Chair of committee.

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11.4 In cases of refusal the reasons shall be clearly stated and agreed by Members. There may be occasions when officers need to clarify the reasons for refusal either at the meeting itself or by a report to a subsequent meeting.

Comment: This is to reflect current practice

Comment: The reason for deletion is that the current wording is meaningless new wording reflects current practice

11.5 A legal advisor present at the committee meeting may subsequently prevent a decision notice being issued until a report by the Chief Officer Governance has been considered at the subsequent committee meeting. The reason for this report may be concerns of a legal nature or that the proposed decision represents a significant departure from planning policy.

Deleted: Where Members seek to determine a planning application contrary to officer recommendation that application may be deferred to next meeting of the Committee only upon a majority vote of the committee in favour of such deferment to enable officers to advise Members further.¶

12. PLANNING APPEALS

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- 12.1 There are a wide variety of different factual situations relating to appeals. There can be appeals against non determination or against a refusal made under officers' delegated powers or by the Planning & Development Control Committee, either in accordance with the officer recommendation or contrary to the officer recommendation. Appeals can be heard by way of written representations, informal hearing or at an inquiry. The appeal may relate to a major or a minor planning proposal, a development that has attracted a lot of interest from Members and the public or a proposal that is of limited interest. Because of the range of circumstances, the way the Council responds to an appeal will be individual to the circumstances of that appeal. The following principles will guide the Council's response to each specific appeal.
- 12.2 The Council recognises the importance of complying with the timescales within the appeal process as a failure to meet these timescales can lead to an award of costs against the Council.
- 12.3 The Council will adopt a team approach to appeals whereby Members and officers work together in the best interest of the Council, irrespective of how the decision appealed against was arrived at.
- 12.4 The decision whether an appeal is determined by way of written representations, informal hearing or public inquiry is a matter for the Planning Inspectorate but the Council is given the opportunity of making representations as to the appropriate format. The Chief Officer, Planning & Environment will make representations on behalf of the Council as to its preferred format where possible following consultation with the local Member(s).
- 12.5 In the case of Informal Hearings and inquiries, the Chief Officer, Planning & Environment will determine who shall present the case on behalf of the Council following consultation with the Chair and Vice Chair of the Planning and Development Control Committee.
- 12.6 Where the decision appealed against was made by officers under delegated powers or was pursuant to an officer recommendation, the case will normally be presented by the Council's officers.
- 12.7 Where the decision was made by Members contrary to officer recommendation, attendance by one or more Members would assist the Council's case and relevant Members will be approached by the Chief Officer, Planning & Environment to ascertain their availability. Officers will assist any such Member in preparing for the appeal.
- 12.8 External legal representation and/or consultants will be engaged where the Chief Officer, Planning & Environment, following consultation with the Local Member(s) and the Chair and Vice Chair of the Planning and

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Development Control Committee, believes this to be appropriate in all the circumstances. One relevant circumstance is the need for Planning Officers who are members of The Royal Town Planning Institute to comply with its Code of Professional Conduct and not make statements purporting to be their own which are contrary to their bona fide professional opinion.

13. **PLANNING OBLIGATIONS**

13.1 The Planning and Development Control Committee may, when considering the merits of an individual planning application, consider any planning obligation which has been offered by the applicant or agent but should form a view solely on the basis of the contents of the application and should take into account offered planning obligations only to the extent that they are necessary to make a proposal acceptable in land use planning terms.

13.2 Members should avoid becoming involved in discussions with applicants, prospective applicants, their agents, landowners or other interested parties regarding benefits, which may be offered to the Council, or benefits which the Council itself wishes to obtain.

14. **REGULAR REVIEW OF DECISIONS**

14.1 As part of the aim to continually improve the quality of planning decisions Members will have the opportunity to revisit a sample of implemented planning decisions. Such reviews will be a positive step to improve the quality and consistency of decision-making, not only strengthening public confidence in the planning system but also assist with the review of planning policy.

14.2 Such a review will take place annually and briefing notes will be prepared for each case. The Planning Strategy Group will formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

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15. **COMPLAINTS**

15.1 Any issues or concern arising from this Code of Practice can be raised with the Chairperson of the Planning and Development Control Committee, the Monitoring Officer, the Chief Officer, Planning & Environment, or the Legal Officer present at committee. (The Council also has a formal complaints system in operation, which can be used if necessary).

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **STANDARDS COMMITTEE**
DATE: **MONDAY, 1 SEPTEMBER 2014**
REPORT BY: **MONITORING OFFICER**
SUBJECT: **MEMBER TRAINING**

1.00 PURPOSE OF REPORT

1.01 To provide the committee with an update on arrangements for Member training.

2.00 BACKGROUND

2.01 During consideration of the committee's forward work programme at its meeting on the 7 July 2014 it was resolved that a report on Member training be submitted to the September meeting of the committee. This was in the context of Member training having recently been discussed at a Group Leaders meeting and a report being submitted to the Democratic Services Committee meeting on the 9 July 2014. The reason for discussion at both meetings was to explore ways in which low attendance at some Member development events could be addressed.

2.02 The following points emerged from the discussion at the Group Leaders meeting on the 3 July 2014:-

- To provide shorter training immediately prior to a scheduled meeting.
- To explore providing training electronically.

2.03 At its meeting on the 9 July 2014 the Democratic Services Committee considered the report attached as Appendix A. The committee resolved to endorse the two points arising from the Group Leaders meeting, together with the three points listed in paragraph 3.03. The Democracy & Governance Manager has since prepared the short guidance note attached as Appendix B which has been circulated to relevant officers.

3.00 CONSIDERATIONS

3.01 All new members of the Council receive extensive induction training so as to facilitate their being able to act as efficient and effective members of the Council at the earliest opportunity. In addition a

Member development programme is agreed by the Democratic Services Committee each year with each topic being offered on at least two different dates and available to all Members. Further as explained in paragraph 3.02 of Appendix A those Members who serve on the Planning, Licensing, Audit or Pensions Committees are required to attend training relating to the work of such committees.

- 3.02 For the last two years it has been the practice to hold a half hour training session for members of the Standards Committee prior to each of its meetings. It is also the practice to hold regular training sessions on the Members' Code of Conduct, not only for Flintshire members but also for members Town & Community Councils.

4.00 RECOMMENDATIONS

- 4.01 For the committee to note the various arrangements in place to provide training to Members and co-opted members of the Council.

5.00 FINANCIAL IMPLICATIONS

- 5.01 None as a result of this report.

6.00 ANTI POVERTY IMPACT

- 6.01 None as a result of this report.

7.00 ENVIRONMENTAL IMPACT

- 7.01 None as a result of this report.

8.00 EQUALITIES IMPACT

- 8.01 None as a result of this report.

9.00 PERSONNEL IMPLICATIONS

- 9.01 None as a result of this report.

10.00 CONSULTATION REQUIRED

- 10.01 With Group Leaders and Democratic Services Committee.

11.00 CONSULTATION UNDERTAKEN

- 11.01 With Group Leaders and Democratic Services Committee.

12.00 APPENDICES

- 12.01 Appendix A – Report to the Democratic Services Committee 9 July.
Appendix B – Guidance Note on Member Training

LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS

None

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **DEMOCRATIC SERVICES COMMITTEE**
DATE: **WEDNESDAY, 9 JULY 2014**
REPORT BY: **DEMOCRACY & GOVERNANCE MANAGER**
SUBJECT: **ATTENDANCE AT MEMBER TRAINING**

1.00 **PURPOSE OF REPORT**

1.01 To provide feedback on the results of the Member questionnaire on attendance at Member development events.

2.00 **BACKGROUND**

2.00 At each meeting of the committee it receives a report giving Member feedback on development events held since the previous committee meeting. At the committee's last meeting on the 26 March 2014 there was concern at the low attendance level at some Member development events. The committee resolved that a questionnaire should be sent to all Members seeking reasons for this.

2.01 Attached as Appendix 1 is a copy of the short questionnaire sent to Members and as Appendix 2 the responses received from the 19 Members who completed and returned the questionnaire.

3.00 **CONSIDERATIONS**

3.01 The number of Members completing the questionnaire represents over 25% of the Council membership and in statistical terms is a representative sample. Those Members who have not yet responded to the questionnaire are being chased and a verbal update will be given at the meeting on any further responses received by that time.

3.02 One consideration in relation to attendance at Member training is whether more such training should be made mandatory insofar as the Council can make any training mandatory. At present those Members who serve on the Planning Committee, Licensing Committee, Audit Committee or Pensions Committee are required to attend training relating to the work of such committees. Where a Member of such a committee fails to attend the training it is then drawn to the attention to that Member's Group Leader with a view to that Member's place being allocated to another group member. It is only through Group Leaders that any mandatory training can be enforced.

3.03 The answers in Appendix 2 to each question are mixed but the committee may consider the following points would assist in improving Member attendance at development events:-

1. To continue to offer training on the same topic at differing times.
2. To hold training in the evening even if fewer than 6 Members wish to attend.
3. To require at least a month's advance notice of training events.

3.04 Members answers in Appendix 2 identified the following topics for Member training:-

1. Planning training for non committee members.
2. More on finance.
3. Contact officers and management structures.
4. Value for money.
5. Use of iPads (to be provided).

These topics will be considered in preparing the Member development programme for 2014/15 which is a separate report to the meeting.

4.00 RECOMMENDATIONS

4.01 The committee is recommended to consider the results of the consultation with Members and identify improvements to the existing arrangements for Member development events.

5.00 FINANCIAL IMPLICATIONS

5.01 The budget for Member training is £21,122. This budget has been underspent in recent years and it is proposed to offer up £10K as budget savings for future years.

6.00 ANTI POVERTY IMPACT

6.01 None as a result of this report.

7.00 ENVIRONMENTAL IMPACT

7.01 None as a result of this report.

8.00 EQUALITIES IMPACT

8.01 None as a result of this report.

9.00 PERSONNEL IMPLICATIONS

9.01 None as a result of this report.

10.00 CONSULTATION REQUIRED

10.01 None as a result of this report.

11.00 CONSULTATION UNDERTAKEN

11.01 None as a result of this report.

12.00 APPENDICES

12.01 Appendix 1 – Member Development Questionnaire
Appendix 2 – Questionnaire responses

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS**

None

Contact Officer: Peter Evans
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**MEMBER DEVELOPMENT EVENTS
QUESTIONNAIRE**

1. How often do you attend Member development events?
.....
2. Would you wish to attend more Member development events?
.....
3. Are there any changes to existing arrangements that would encourage your attendance?
.....
.....
.....
4. Are there any skills or topics that you would wish to have training on?
.....
.....
.....
5. Are there any particular days or times that you would prefer for development events?
.....
.....
.....
6. Any other comments
.....
.....
.....

Name: (Optional)

MEMBER DEVELOPMENT QUESTIONNAIRE RESPONSES

1. How often do you attend Member development events?
<ul style="list-style-type: none"> ▪ Almost never ▪ As often as I can ▪ I attend every event notified to me whatever the subject. I sometimes find that another appointment clashes, say to attend an outside body meeting or a meeting within County Hall which is not in the diary of meetings e.g. the Schools Monitoring Group. ▪ As often as I can – other commitments permitting. I am a Cabinet member. ▪ As frequently as I can – approx 70% events ▪ As often as possible ▪ I attend most development events regularly ▪ Occasionally ▪ Attend what looks to help me ▪ Frequently ▪ As often as they coincide with free time ▪ Attended them all in the first four years as a Councillor, but not had as much time since then with being Vice Chair and then Chair. I believe I have attended most of them. ▪ Very rarely ▪ The events that update and inform – approx. 4 or 5 per year
2. Would you wish to attend more Member development events?
<ul style="list-style-type: none"> ▪ Yes ▪ I will always try to attend all such events ▪ Only if they are relevant and I have a free slot in my busy day to day commitments ▪ No ▪ It depends if they are useful ▪ Go to what I like ▪ I think the number is good ▪ Yes. Conditional on topic ▪ Would attend if they do not clash with other engagements and if learning something new or need to refresh.
3. Are there any changes to existing arrangements that would encourage your attendance?
<ul style="list-style-type: none"> ▪ Holding Members training/development events in the evening ▪ None ▪ No I think officers do their best to schedule & duplicate training sessions & workshops to suit most Members ▪ As I work, evening sessions are preferable but unfortunately they are infrequent.

- Due to work I cannot attend too many events but if there is an alternative date/day, it makes the opportunity more likely.
- Looking at feedback from previous events the attendance is quite poor at some events. I would suggest that is because they are less relevant to specific functions Members need to engage in. Planning training has reasonable attendance largely because it is required and directly relevant.
- Early evening meetings.
- Morning or evenings due to child care commitments.
- Better facilities for the hard of hearing.

4. Are there any skills or topics that you would wish to have training on?

- Planning
- Ask Scrutiny for their comments and views
- You seem to select useful and relevant training so I will leave it to you
- Chain of command:- who should you contact in the first instance - an overview of Council structure and protocol. Planning training for non-committee members from very simple guidance to more complicated matters.
- More on finance
- Possibly tuition with i-pad when I actually receive one
- Value for Money
- Supervisory structures
- Planning & Environment; possibly Social Services & Housing
- Anything that will make my job as a County Councillor more efficient.
- ICT
- Handling stress and frustration.

5. Are there any particular days or times that you would prefer for development events?

- I like it when you offer a selection - 5.00 pm is good
- After 4.00 pm / evening
- Morning time would be better for me and my work commitments
- Any, as long as clashes are avoided.
- Thursdays/Fridays are usually less busy for me.
- After 5.00 pm any day
- 10.00 am or 2.00 pm any working day.
- I am able to fit most events in as long as plenty of notice is given.
- Friday afternoons
- Any time will have pros and cons, although most Members appear to dislike evening events.
- Non working hours.
- Day time is best for me personally but I know some Councillors work so perhaps an option of evening training would be useful.
- Weekdays after 4.00, including Full Council meetings and Scrutiny. Possibly occasional Saturday morning.
- Morning or evening due to child care commitments.

6. Any other comments?

- As a Member who works full time I feel disadvantaged to Members who are retired.
- I have a feeling that we are providing training sessions/workshops for the sake of it. There needs to be a proven need for them if we expect Members to attend.
- I do my best to attend all that I can but sometimes I cannot rearrange work at short notice. Bad planning sometimes. Two events can be on at the same time so better communication would be welcome.
- Greatly appreciate the quality and range of training events provided. More Councillors should attend.
- I feel that current arrangements are adequate and it is up to individual Councillors to make more effort to attend the events organised.
- It has been hard recently for me to attend extra events. I like to attend planning training when I can. As for other events I think there may be an argument to consider a bit more carefully the content as attendance is not that good. Perhaps there is not as much requirement as is imagined for training events.
- Alternative time slots are appreciated.
- Busy with other commitments to attend training.
- When I was a new Councillor I found the training extremely useful. I guess a lot of the newly elected Councillors in 2012 were experienced Councillors that got re-elected and others are busy with work commitments.
- As covered on previous occasions by a variety of people, meetings tend to be arranged for times that are not really convenient for working people. If more meetings were held after 4.00, especially full Council and Scrutiny, the problem of getting off work would be lessened by being two hours later.

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Encouraging Attendance at Member Training

Organising and presenting a Member training event is time consuming and to promote good attendance at any such training the following should assist:-

1. Give Members at least a month advance notice of any training event.
2. Avoid clashing with other Member meetings by checking proposed dates with Committee Services staff.
3. Offer the training at alternative dates and times.
4. When giving advance notice to Members explain why they should attend.
5. Keep the length of a training session as short as you can.
6. Consider offering the training immediately before a committee meeting.
7. Consider whether the training can be provided remotely using modern technology.
8. To hold evening training sessions even where fewer than six Members wish to attend.

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FLINTSHIRE COUNTY COUNCIL – STANDARDS COMMITTEE – FORWARD WORK PROGRAMME

Date of Meeting	Topic	Notes/Decision/Action
October 2014	<ul style="list-style-type: none">• The Annual Report of the Committee• Peter Keith-Lucas Standards' Committee Training • Local Resolution Procedure	Actions from July meeting: <ul style="list-style-type: none">• To submit the four supplementary codes to a future meeting of the Committee when they are available• To undertake training on Sanctions at a future meeting of the Committee • Submit the Annual Ombudsman's report and Local Resolution Procedure to future meetings of the Committee
September 2014	<ul style="list-style-type: none">• Member Training • Planning Code of Practice	Action from May meeting: <ul style="list-style-type: none">• Member attendance at training events continue to be recorded by Member Services but statistics not be published on the Council's website; and a further report be submitted to the Standards Committee following consideration by the Democratic Services Committee in July 2014.

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