

# Public Document Pack



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To: Cllr Rita Johnson (Chair)

Councillors: Glyn Banks, Marion Bateman, Chris Bithell, Clive Carver, Bob Connah, Jean Davies, Rob Davies, Ian Dunbar, David Healey, Joe Johnson, Ted Palmer, Mike Peers, Michelle Perfect, Neville Phillips, Paul Shotton, Ian Smith, David Williams, David Wisinger and Arnold Woolley

5 April 2019

Dear Councillor

You are invited to attend a meeting of the Constitution and Democratic Services Committee which will be held at 2.00 pm on Thursday, 11th April, 2019 in the Delyn Committee Room, County Hall, Mold CH7 6NA to consider the following items

## A G E N D A

### 1 APOLOGIES

**Purpose:** To receive any apologies.

### 2 DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

**Purpose:** To receive any Declarations and advise Members accordingly.

### 3 MINUTES (Pages 3 - 8)

**Purpose:** To confirm as a correct record the minutes of the meeting held on the 29<sup>th</sup> November 2018.

### 4 REVIEW OF THE COUNCIL'S PLANNING CODE OF PRACTICE (Pages 9 - 30)

**Purpose:** As part of the rolling review of the Constitution, the Standards Committee has recommended updates to the Planning Code of Practice.

5 **OFFICERS CODE OF CONDUCT** (Pages 31 - 46)

**Purpose:** As part of the rolling review of the Constitution, the Standards Committee has recommended updates to the Officers Code of Conduct.

6 **MEMBER DEVELOPMENT & ENGAGEMENT** (Pages 47 - 50)

**Purpose:** To provide the Committee with an update

Yours sincerely

A handwritten signature in black ink, appearing to read 'Robert Robins', with a horizontal line extending to the right.

Robert Robins  
Democratic Services Manager

## **CONSTITUTION AND DEMOCRATIC SERVICES COMMITTEE** **29 NOVEMBER 2018**

Minutes of the meeting of the Constitution and Democratic Services Committee of Flintshire County Council held in the Council Chamber, County Hall, Mold on Thursday, 29 November 2018.

### **PRESENT: Councillor Rita Johnson (Chair)**

Glyn Banks, Marion Bateman, Chris Bithell, Clive Carver, Bob Connah, Jean Davies, Rob Davies, Ian Dunbar, David Healey, Joe Johnson, Mike Peers, Neville Phillips, Paul Shotton, Ian Smith, David Wisinger and Arnold Woolley

**SUBSTITUTES:** Councillor Vicky Perfect (for Michelle Perfect), Councillor Patrick Heesom (for David Williams) and Councillor Paul Johnson (for Paul Shotton)

**APOLOGIES:** Councillors Ian Dunbar and Ted Palmer

**ALSO PRESENT:** Councillor Christine Jones (as an observer)

**IN ATTENDANCE:** Chief Officer (Governance), Internal Audit Manager, Democratic Services Manager and Democratic Services Support Officer

### **15. DECLARATIONS OF INTEREST**

None were received.

### **16. MINUTES**

The minutes of the meeting held on 17 October 2018 were submitted. Members made a number of suggestions for typographical errors to be remedied. These were accepted.

### **RESOLVED:**

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

### **17. AUDIT COMMITTEE TERMS OF REFERENCE AND CHARTER**

The Internal Audit Manager presented the Terms of Reference and Charter for the Audit Committee. These had been updated following a workshop for Audit Committee members and to bring them in line with CIPFA guidance. She referred members to the two copies of the Terms of Reference attached one with the tracked changes and outlined the changes to the document and the only additional responsibility was to produce an Annual Report to Full Council.

When referring to the Charter she confirmed this was new for the Authority and included more detail on the terms of reference, the roles and responsibilities of Audit

and Scrutiny committees and the links with the Chairs and Vice Chairs liaison group. These were presented for the committee's consideration and afterwards it would then go to Full Council for approval.

Councillor Patrick Heesom referred to the Measure and the membership of the Audit Committee. He commented on the extensive workload of the Committee and suggested it be increased in line with the other Committees. In response the Chief Officer (Governance) confirmed that any changes to the size of Committees could be considered at the Annual Meeting where this would be discussed. With regard to the 2011 Measure the proposals within the report were in line with the requirements and guidance from CIPFA. Councillor Heesom suggested that the Audit Committee be asked if they were satisfied with the composition of the committee.

Councillor Mike Peers referred the section 8 (financial affairs) and asked if Members should be considering the year-end viability of the council. He added Budget meetings were held but it was up to members to review and comment on the information provided to them. He felt it would be useful if the Audit committee could produce a report from the information they received. He also referred to Appendix A on page 55 the arrow from the Audit committee to Annual Governance Statement and Statement of Accounts and asked if it should be a two way arrow.

In response the Chief Officer (Governance) outlined the areas covered by treasury management and their responsibilities with regard to prudential borrowing. The financial health of the council was provided in the budget monitoring reports, and at Corporate Resources Overview & Scrutiny Committee and at Council when setting the budget. The Section 151 Officer provided advice to members when setting the budget. With regard to the diagram in Appendix A the Chief Officer felt that the Audit Committee would not refer the Statement of Accounts back to Council but recommend its approval to Council

Councillor Peers understood how the process worked but felt the Audit Committee could do a second check and provide assurance. He added in the diagram it looked as though the Statement of Accounts and Annual Governance Statement were not passed to the Audit Committee and yet they were asked to comment. The Chief Officer explained that both these documents originated from the Audit Committee and that this year Members of Audit had more involvement in the preparation of the Annual Governance Statement. With regard to financial viability Cabinet proposed the budget, it would then scrutinised by the relevant Scrutiny Committees and with the advice of the Section 151 Officer Council approved the budget.

The Internal Audit Manager added assurances were provided through the committee's forward work programmes, external auditors' reports and various workstreams. Also advisory work fed through into the budget process and contributed greatly to the assurances Cllrs Peers referred to.

Councillor Clive Carver referred to the tracked changes document and could not see what had been changed or added. He asked why this had been produced this way. The Internal Audit Manager apologised saying it should have shown tracked changes and did not understand why they were not there. She clarified nothing had been

removed. It was agreed that a tracked version of the document would be circulated to Members.

Councillor Bithell raised a number of questions about cuts to funding, the reduction in staffing levels, composition of the Audit Committee and Audit training.

The Internal Audit Manager referred to the self-awareness questionnaire the Committee were required to complete and explained that a workshop was held in September which identified areas where the committee could improve and where additional training of individuals or committee as a whole was required. She referred to the statutory requirements such as statement of accounts and explained how internal audit provided a risk assessment for each area, annual assurance and brought all information together in the action plan.

In response to a question from Councillor Bithell the Internal Audit Manager explained that an audit was identified as being required through a combination of performance, committee reports and quarterly meetings held with Chief Officers and Service Managers to discuss areas where they had concerns. The Chief Officer clarified not every report provided as much detail when it went to Audit Committee. Red Reports went into more detail but green reports did not. Meetings were held with the Chairs of the Scrutiny Committees and the Chair of the Audit Committee to discuss and co-ordinate their work. Scrutiny looked at performance and budget and Audit looked at process. He then provided information on the work officers had carried regarding the strategic risks in the Council plan.

Councillor Bithell referred to Value for Money and the impact on performance because of lack of funding and asked was this taken into consideration by audit. The Chief Officer responded that when internal Audit carried out an audit within their findings were highlighted issues which the management of the service would need to provide a response. Auditors had options to escalate if they were not satisfied with the response received. The Auditor would then monitor to ensure the commitments were kept. Managers made the assessments and were able to judge if resources were available to do it.

Councillor Bithell referred to the report and asked if the Term of Office should be changed to 5 years to reflect the term of the council. The Chief Officer agreed with this.

Councillor Glyn Banks suggested that the Audit Committee should meet six times a year to deal with their increased workload. The Internal Audit Manager responded saying there had only been one occasion when added resources had been brought in whilst the audit team was involved with an investigation.

Councillor Heesom referred to the management and running of the audit function which he felt was very good. He said he had attended every Audit Committee and felt there needed to be greater co-ordination between the elected Members and the internal audit function. The work the committee covered was immense and Members needed to understand the process, but raised concerns about the time Members had to read the papers prior to the meeting and felt that the System needed adjusting to allow more time. He felt the process was valued, necessary and had to have a greater merit.

Councillor Heesom referred to the Workshop in January and encouraged members to attend to develop a better understanding of the paperwork provided to them. He referred to the general monitoring reports and the item at the end of the reports referred to as loan facilities under Corporate Finances and asked what department this was accountable to. The Chief Officer advised that members of Audit Committee received their agendas 5 working days before a committee meeting.

**RESOLVED:**

- a) The Committee approve the changes agreed by the Audit Committee for the Audit Committee's Terms of Reference.
- b) The Committee approve the changes agreed by the Audit Committee for the Audit Committee's Charter

**17. WEBCASTING PROVISION**

The Democratic Services Manager presented the report and provided background to the Committee on the funding for the webcasting provision, with Planning and Full Council meetings identified for webcasting.

The committee was directed to page 15 which outlined the viewing figures. Members were able to link their blogs to webcasts at County Council or Planning. The Officer then dealt with the funding arrangements.

Councillor Clive Carver referred to the viewing figures which were encouraging and to the statement on page 4 from the Wales Audit Office saying webcasting improved access to Council business. The indefinite archiving of webcast meetings was very useful but asked for clarification on the 60 hours of hosted content. He supported this as an "invest to save" for the future and suggest the council go for 5 years. In response the Democratic Services Manager reported that the 60 hours of hosted content referred to broadcasts within a year and did not refer to maintaining the archive.

Councillor Carver referred to the proposal for the Corporate Resources Overview & Scrutiny Committee budget meeting to be webcast and hoped this would go ahead. The Democratic Services Manager confirmed it would be the meeting held in the Council Chamber. Councillor Mike Peers suggested that other Overview & Scrutiny budget meetings should also be webcast, as he was sure there would be public interest for this. He was mindful that if the Welsh Government funding did not continue this could become a budget pressure and sought assurances on how this pressure would be funded and asked whether this decision should be made by County Council

Councillor Heesom stated not having a written record especially with Planning was difficult when applications go to appeal. He endorsed and supported it but added that a written record was indispensable. In response the Chief Officer stated that the quality of minute takers was excellent but a recording was better in many cases because it gave more information as not all of the meeting could be captured by the minute taker.

Councillor Glyn Banks asked if Welsh Government stated this was a mandatory service and if this was still the case would funding not be provided for this. It was

confirmed Flintshire was collaborating with our five neighbours to get the same service from the same provider.

Councillor Banks also asked if the webcast could be highlighted better on the website to assist the public to find it and that felt it would be better to go for the 5 year contract. The Chief Officer confirmed the link was on the front page under Council and Democracy but that this could be looked at as part of the work within digital strategy.

**RESOLVED:**

That the Committee support the continuation of Webcasting provision, with a contract length of 5 years

**18. OVERVIEW & SCRUTINY ANNUAL REPORT 2017/18**

The Democratic Services Manager reminded the Committee that the Overview & Scrutiny Annual Report was presented annually. This year more of the Council Plan Priorities had been highlighted in the Chairs' comments.

Councillor Mike Peers suggested that the title on page 65 "how call in works" be changed to "the call in process". The Committee supported this suggestion.

Councillor Patrick Heesom thanked the Democratic Services Manager and his team for the report but raised concerns around Cabinet meetings taking place in the mornings and Full Council in the afternoon as he felt there needed to be a greater gap between the Cabinet meetings and full council to enable call in to be facilitated.

**RESOLVED:**

- a) That the committee considers and comments on the draft Overview & Scrutiny Annual Report for 2017/18: those comments will be used to provide the foreword to the Annual Report.
- b) That if the committee approve the report to enable it to be submitted to Council at the next meeting.

**20. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE**

There were no members of the public or press present.

(The meeting started at 2pm and ended at 3.40 pm)

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**Chair**

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## CONSTITUTION AND DEMOCRATIC SERVICES COMMITTEE

<b>Date of Meeting</b>	Thursday 11 <sup>th</sup> April 2019
<b>Report Subject</b>	The Council's Planning Code of Practice
<b>Report Author</b>	Deputy Monitoring Officer

### EXECUTIVE SUMMARY

The Council's Planning Code of Practice (PCP) forms part of the Council's Constitution and covers a wide range of matters relating to the Council's planning functions. As part of the Standard Committee's role to review the operation of the Members' Code of Conduct and to promote and maintain high standards of conduct by Councillors, the PCP was taken to that Committee to ensure that it provides appropriate and clear advice to Members in respect of their conduct as it relates to planning matters, and to recommend revision to the PCP where it can be improved in this regard. The Standard's Committee recommended some amendments to the PCP as detailed in this report and as shown in tracked changes to the PCP in the appendix to this report.

### RECOMMENDATIONS

1	That the PCP is fit for purpose regarding the advice relating to the Members' Code of Conduct, the Protocol on Officer/Member relations, and the procedural advice relating to planning matters, subject to the proposed amendments referred to in paragraph 1.05 of this report and the other amendments shown in tracked changes in the appendix to this report.
2	That the PCP be reported to full Council with advice from this Committee that it be amended in accordance with recommendation 1 above.

### REPORT DETAILS

<b>1.00</b>	<b>BACKGROUND</b>
1.01	The PCP covers a wide range of matters relating to planning applications and other planning issues, including providing advice to Councillors on how to best ensure that their involvement in such matters is in accordance with

	the Members' Code of Conduct and the Protocol on Officer/Member relations.
1.02	As set out at paragraph 1.2 of the PCP, the PCP is supplementary to the Members' and Officers' respective Codes of Conduct and the Protocol on Officer/Member relations, and these aspects of the PCP were reviewed by the Standards Committee to make sure it is fit for purpose in this regard. The PCP should provide clear advice to Members on how to deal with planning issues in accordance with the Members' Code of Conduct and the Protocol on Officer/Member relations.
1.03	The main areas of the PCP that relate to these matters are Part 2 (Role of Members and Officers), Part 4 (Registration and Declaration of Interests), Part 5 (Lobbying) and Part 6 (Applications Submitted by Members and Officers). However, the advice relating to the Members' Code of Conduct also pervade the PCP. For example, Part 9 of the PCP relates to Site Visits and at paragraph 9.3.2 the PCP states "Any Member with a personal and prejudicial interest must not take part in the site visit".
1.04	The PCP is a clear document which gives detailed advice on personal and prejudicial interests and other rules contained in the Members' Code of Conduct, such as avoiding the perception of predetermination in respect of planning applications, including how to deal with both representations received directly from applicants or objectors to a development proposal. In terms of the Protocol on Officer/Member relations the PCP provides clear advice in this regard, including advice on the respective roles of Officers and Members. For example, at paragraph 2.4.4 it is made clear that Members should never put Officers under pressure to make a particular recommendation and this advice accords with paragraph 4(d) of the Members' Code of Conduct.
1.05	The Chief Officer of Planning, Environment and Economy, the Executive Member for Planning, Environment and Economy and the Chair of the Council's Planning Committee were asked to provide comments on how, if at all, the PCP may be improved in their view. The main concern that has been raised is that it is not sufficiently clear in the PCP whether or not applications that have some connection with Members' Portfolio as Cabinet Members may give rise to personal or personal and prejudicial interests in respect of planning decisions. As a potential conflict of interests for County Councillors only arise where their interests as a County Councillor coincide with their interests outside of the Council, there would not be a personal interest arising by virtue of a Members' Cabinet position. However, this situation may, in certain circumstances, give rise to a perception of predetermination. In the circumstances, it may be appropriate to add a new paragraph to the PCP to make the position clear in this regard. A proposed additional paragraph for the PCP is shown in tracked changes as a new paragraph 4.7 to the PCP in the appendix to this report. The Standards Committee agreed that this paragraph should be added and resolved to recommend the same to this Committee.
1.06	In addition to this amendment the Standards Committee also recommended some additional corrections be made, as shown in tracked changes to the

	PCP in the appendix to this report. Perhaps the most substantive additional proposed change is that where Members were previously advised, under the PCP, that they “should” or “should not” engage in certain conduct, the Standards Committee considered that this advice should be altered to state that Members “must” or “must not” engage in such conduct. The Standards Committee considered that this change emphasises the importance of this advice.
1.07	Subject to the above addition and amendments, the PCP appears fit for purpose in respect of the advice to Members regarding the Members’ Code of Conduct, the Protocol on Officer/Member relations and the general procedural advice in respect of how planning matters are dealt with by the council.

<b>2.00</b>	<b>RESOURCE IMPLICATIONS</b>
2.01	N/A

<b>3.00</b>	<b>CONSULTATIONS REQUIRED / CARRIED OUT</b>
3.01	The Chief Officer (Planning, Environment and Economy), Executive Member for Planning Environment and Economy, the Chair of the Planning Committee and the Standards Committee have been consulted on the PCP.

<b>4.00</b>	<b>RISK MANAGEMENT</b>
4.01	N/A

<b>5.00</b>	<b>APPENDICES</b>
5.01	App 1 - The PCP with proposed amendment shown in tracked changes.

<b>6.00</b>	<b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>
6.01	Members’ Code of Conduct and the Protocol on Officer/Member relations.
6.02	<b>Contact Officer:</b> Matthew Georgiou, Deputy Monitoring Officer <b>Telephone:</b> 01352 702330 <b>E-mail:</b> <a href="mailto:matthew.georgiou@flintshire.gov.uk">matthew.georgiou@flintshire.gov.uk</a>

<b>7.00</b>	<b>GLOSSARY OF TERMS</b>
7.01	N/A

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## **SECTION 23**

### **23. PLANNING CODE OF PRACTICE**

#### **HOW WE DEAL WITH PLANNING APPLICATIONS AND OTHER PLANNING ISSUES**

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## 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 must** not only be fair but it **should must** 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 must** 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 applications and, deciding whether or not to take enforcement action for breaches of planning control. officers **should must**:-

- 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 based on the above requirements.
- 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.

### 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.

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 if not already done so.
- 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.

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 their overriding duty is to the whole County and therefore need to consider proposed developments in the interests of the wider community.

2.3.4 Members ~~should~~must not decide how to vote on any application at any formal political group meeting. Political group meetings ~~should~~must never dictate how Members ~~should~~must vote on a planning issue.

### 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 in the first instance seek information from the Case Officer. Information can be sought and provided by e-mail.

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.

2.4.4 It is acknowledged that Members and officers may well have differing views on a proposal but Members ~~should~~**must** 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.

### 4. **REGISTRATION AND DECLARATION OF INTERESTS**

#### 4.1 **Code of Conduct**

4.1.1 Members ~~should~~must 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~~must 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 ideally in advance of the meeting.

#### 4.2 **Personal Interests**

4.2.1 The principles about the disclosure of interests ~~should~~must 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 to represent constituents views. 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 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 (e.g. in local press) 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.

#### 4.6 **Dual Community / Town and County 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.

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

#### 4.7 **Cabinet Members who also sit as members of the Planning Committee**

Where a Member of the Planning Committee is also a Cabinet Member, there are likely to be occasions where an application for planning permission is being considered by the Planning Committee that also relates to a Cabinet Members' Portfolio. For example, there may be a planning application for a new school and the Cabinet Member responsible for Education may also sit as a Member of the Planning Committee. This does not give rise to a personal and prejudicial interest, as the Councillor is acting as a County Councillor both as a Cabinet Member and as a Planning Committee Member. However, it may be the case

[that if the planning application is very closely related to a specific decision made by a Cabinet Member they may be perceived to have predetermined their stance. If a Member is unsure of their position in this regard they should contact the Monitoring Officer or a Senior Officer of Legal Services for advice on their position, ideally in advance of the meeting.](#)

## 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. Officers should be made aware of any lobbying correspondence Members receive.

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:-

- > **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.

5.3 Members should declare at the appropriate part of the committee meeting significant contact with applicants and objectors. Significant contact is where a Member has been contacted on four or more 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 (are) 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 ~~not sit as a member of 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 ideally in advance of the meeting.

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 personal and prejudicial 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. 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:-

- > **It will be made clear** prior to and 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.

### 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 which will appear on the agenda for site visits. 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. All local Members will be advised when a site visit has been arranged.

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 should not convene the site visit.

### 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

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. Any Member with a personal and prejudicial interest must not take part 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 then 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~~must 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.

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.
- 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

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.
- 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.
- 11.3 In the case of conditions which the committee has resolved to add or amend the precise wording is delegated to the Chief Officer, Planning & Environment and, if appropriate, in consultation with the Chair of committee.
- 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.
- 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 at the committee meeting the Chief Officer, Planning and Environment indicated the proposed decision represents a significant departure from planning policy and the legal officer subsequently agreed.

## **12. PLANNING APPEALS**

- 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 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 raised with 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**

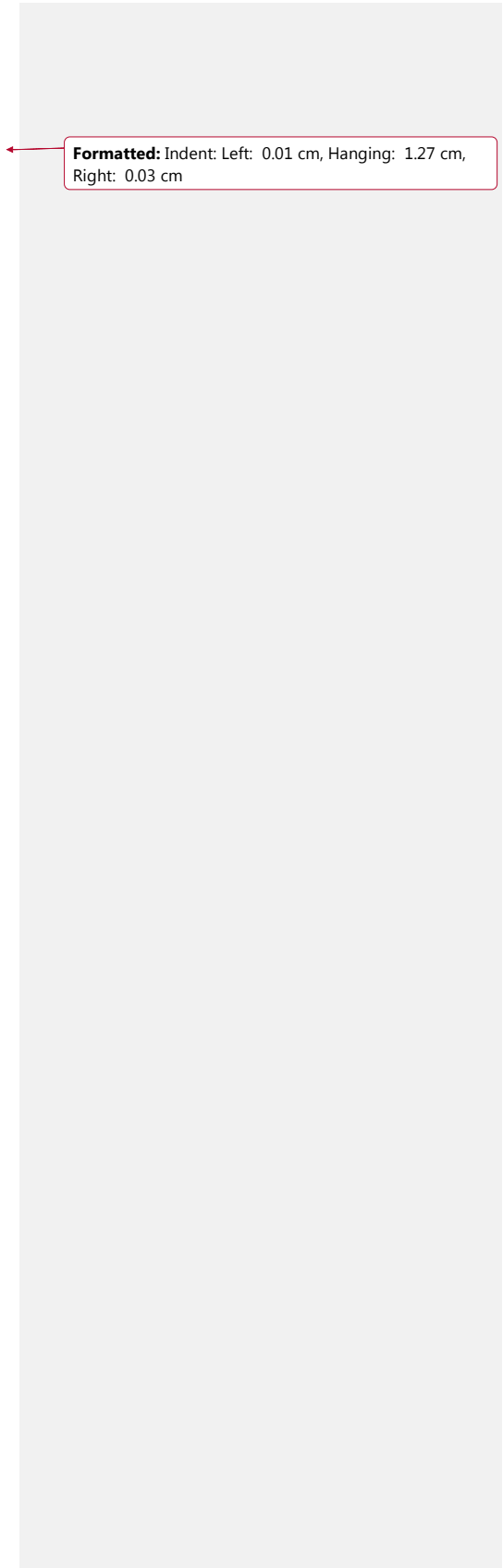
14.1 As part of the aim to continually improve the quality of planning decisions Members will have the opportunity to revisit a sample of implemented planning decisions. Such reviews will be a positive step to improve the quality and consistency of decision-making, not only strengthening public confidence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

### 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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## CONSTITUTION AND DEMOCRATIC SERVICES COMMITTEE

<b>Date of Meeting</b>	Thursday 11 <sup>th</sup> April 2019
<b>Report Subject</b>	Officers' Code of Conduct
<b>Report Author</b>	Chief Officer Governance

### EXECUTIVE SUMMARY

The Standards Committee is responsible for reviewing all the Codes and Protocols in the Constitution once every Council term. The purpose is to ensure that each remains pertinent and up to date. It has reviewed the Officers' Code of Conduct and has made recommendations for updating it.

The Officers' Code of Conduct is based on the prescribed national model issued by Welsh Government under the Local Government Act 2000. The parts of the Code that are in bold text are drawn from the national model and are mandatory. These cannot be changed. The remaining text is supplementary guidance added by way of further explanation. The supplementary guidance can be changed.

A number of changes are suggested to the document in order to -

1. Expand the guidance on when it is necessary to declare an interest;
2. Refer to newly created standardised forms for recording interests and gifts;
3. Expand the guidance on outside employment; and
4. Update posts and service references where these have changed.

### RECOMMENDATIONS

1	Approve the proposed changes to the explanatory guidance in the Officers' Code of Conduct
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## REPORT DETAILS

1.00	EXPLAINING THE CODE OF CONDUCT AND PROPOSED CHANGES
1.01	This report is part of the ongoing rolling review of the Constitution. The Standards Committee is reviewing all Codes and Protocols (relating to behaviour) in the Constitution once per Council term to ensure that they remain pertinent and up to date.
1.02	The Local Government Act 2000 contains powers for ministers to prepare a mandatory model Code of Conduct for officers. The Code of Conduct (Qualifying Local Government Employees) (Wales) Order 2001 lays down a national model code that must be adopted. The Code can be supplemented but may not be made less onerous.
1.03	The Council adopted the prescribed national model code. It has supplemented the Code's requirements with further explanatory text or more detailed instructions e.g. on how to record interests. The mandatory text is in bold and cannot be changed. The supplementary text is in normal font and can be changed.
1.04	The Council has recently improved its processes for officer declarations of interest. It has produced new forms and guidance for the task which have been rolled out across all portfolios. As a result the supplementary guidance within the Code has been changed to match the guidance in the forms and to more clearly explain what is required.
1.05	<p>In addition, it has become apparent that clearer guidance is required on when an employee should declare an interest because of a role they hold outside the Council. All employees need the consent of their manager to undertake any extra paid work because:</p> <ul style="list-style-type: none"> <li>• the additional role may be incompatible with their Council duties;</li> <li>• it is possible that running a family business or working in a voluntary capacity might lead to a perception of a conflict of interest e.g. a licensing officer running a pub which she/he might need to inspect or might be inspected by his/her colleagues; or</li> <li>• the employee may end up working extremely long hours or being distracted by the outside job to the detriment of their Council duties; or</li> <li>• the employee might breach statutory limits e.g. maximum driving hours, or working time limits.</li> </ul> <p>I have therefore proposed amendments to the Code to clarify this possibility.</p>
1.06	Finally, there have been a number of organisational restructures since the Code was last reviewed. There are references to posts and services within the Code that need to be updated to reflect new titles.



<b>2.00</b>	<b>RESOURCE IMPLICATIONS</b>
2.01	Assuming the amendments are approved, then the Code will need to be brought to the attention of all officers. This can be accommodated within existing resources.

<b>3.00</b>	<b>CONSULTATIONS REQUIRED / CARRIED OUT</b>
3.01	The Head of Paid Service and the Human Resources and Organisational Development Manager have been consulted on whether amendments are needed in light of any management issues they have encountered.
3.02	The Standards Committee wanted the Unions to be consulted on the proposed changes and, subject to their comments, recommended the changes be adopted.
3.03	The Unions welcomed the improvements in the process for reporting interests and fully supported the changes to the code.

<b>4.00</b>	<b>RISK MANAGEMENT</b>
4.01	The process of keeping codes and protocols up to date is a form of risk mitigation. These proposed amendments to the Code of Conduct, along with the improvements to the process for declaring interests, strengthen the integrity of council decision making, thereby reducing the risk of dissatisfaction and challenge.

<b>5.00</b>	<b>APPENDICES</b>
5.01	Appendix 1 - Proposed amendments to the Code in tracked changes.

<b>6.00</b>	<b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>
6.01	Forms and guidance for declaring interests and gifts  <b>Contact Officer:</b> Gareth Owens, Chief Officer Governance <b>Telephone:</b> 01352 70344 <b>E-mail:</b> <a href="mailto:Gareth.Legal@flintshire.gov.uk">Gareth.Legal@flintshire.gov.uk</a>

<b>7.00</b>	<b>GLOSSARY OF TERMS</b>
7.01	None.

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The words in italics comprise the statutory Officers' Code of Conduct which is automatically incorporated into Officers' Contracts of Employment and will prevail in circumstances where there is any contradictory provision elsewhere in the Code.

### **General Principles**

1. ***The public is entitled to expect the highest standards of conduct from all qualifying employees of relevant authorities. The role of such employees is to serve their employing Authority in providing advice, implementing its policies, and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.***
- 1.1 Local government employees are expected to give the highest possible standard of service to the public and, where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality. Flintshire employees are expected to show respect and courtesy in their dealings with the public, Councillors and fellow employees providing them with impartial and appropriate advice.

### **Accountability**

2. ***Qualifying employees of relevant authorities work for their employing Authority and serve the whole of that Authority. Qualifying employees are defined as all employees of a relevant Authority unless exempted by statutory regulation, e.g. Teachers and Officers of Fire Authorities. They are accountable to, and owe a duty to that Authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.***
- 2.1 Employees must report any impropriety or breach of procedure to their immediate manager, except where that relates to the conduct of the manager when it must be reported to the manager's manager. Managers should, in turn, report breaches to their manager. The Chief Officer shall notify the Head of Legal & Democratic Services of the occurrence.
- 2.2 All employees are required to familiarise themselves with and comply with the Council's Financial Procedure Rules. Any employee who fails to observe Financial Procedure Rules may be subject to disciplinary action.
- 2.3 Orders and contracts must be awarded on merit and no special favour

should be shown in the procurement process to businesses run by, for example, friends, partners or relatives. No part of the local community should be discriminated against.

- 2.4 Employees involved in the procurement process and dealing with Contractors should be clear on the separation of client and Contractor roles within the Authority. Senior employees who have both a client and Contractor responsibility must be aware of the need for accountability.
- 2.5 Employees in Contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other Contractors and sub-Contractors.
- 2.6 Employees who are privy to confidential information on Tenders or costs for either internal or external Contractors must not disclose that information to any unauthorised party or organisation.
- 2.7 Employees contemplating a management buyout must, as soon as they have formed a definite intent, inform their manager and withdraw from the contract awarding processes.
- 2.8 Employees must ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.
- 2.9 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.
- 2.10 Local Government Act 1972 117 - Pecuniary Interests - provides that if officers know that a contract in which they have a pecuniary interest is before the local Authority, they must give notice of their interest to the Authority. This does not, of course, apply to a contract with them in their own name because the Authority will then know of their interest. Section 117(2) forbids any officer "under colour of' their office or employment to accept "any fee or reward" whatsoever other than proper remuneration.
- 2.11 *The Bribery Act 2010*

The Bribery Act 2010 creates criminal offences for any individual who either offers or receives a financial or other advantage intending the advantage to be rewarded by the improper performance of a function or activity. The Act also creates an offence of directly or indirectly offering, promising or giving a bribe to a foreign public official so as to

influence the actions of the foreign public official. Any individual found guilty of any of these offences is liable to imprisonment for up to a maximum period of 10 years.

- 2.12 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, Tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Any offer of sponsorship should only be accepted if the appropriate Chief Officer has so decided. Particular care must be taken when dealing with Contractors or potential Contractors.
- 2.13 Any offers of sponsorship received by employees should be referred to their Chief Officer for decision
- 2.14 Where the Authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the Authority through sponsorship, grant aid, financial or other means, gives support in the community, employees must ensure that impartial advice is given and that there is no conflict of interest involved.

#### **Political Neutrality**

3. ***Qualifying employees of relevant authorities, whether or not politically restricted, must follow every lawfully expressed policy of the Authority and must not allow their own personal or political opinions to interfere with their work. Where qualifying 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.***
- 3.1 Employees serve the Authority as a whole. It follows they must serve all Councillors and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected.
- 3.2 Subject to the Authority's conventions, employees may be required to advise political groups. They must do so in ways which do not compromise their political neutrality.
- 3.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the Authority and must not allow their own personal or political opinions to interfere with their work.
- 3.4 Political assistants appointed on fixed term contracts in accordance with the local Government and Housing Act 1989 are exempt from the standards set in paragraphs 3.1 to 3.3.
- 3.5 The Local Government and Housing Act 1989, Pt 1 contains provisions

to stop 'twin-tracking' (where a senior local Authority employee is also an elected Member of another local Authority) and to restrict the political activity of senior employees. Local Authority employees holding politically restricted posts are disqualified from membership of any local Authority, other than a parish or community Council (sl(1)), from being an MP, AM or MEP and are subject to prescribed restrictions on their political activity (sl(5),(6)).

3.6 The Local Government & Housing Act 1989 requires each Council to maintain a list of its politically restricted posts. These are posts which are:-

- (a) specified in the legislation, such as the Head of Paid Service, Chief Officers and their Deputies.
- (b) those posts which have delegated powers to make decisions on behalf of the Council.
- (c) those posts that regularly provide advice at Council, Cabinet or formal Committee or sub Committee meetings.
- (d) those posts that speak on behalf of the authority on a regular basis to journalists and broadcasters.

3.7 The political restrictions are deemed to be incorporated in the contract of employment of every local Authority employee who holds a politically restricted post. If you are uncertain as to whether your post is politically restricted you should seek clarification from your immediate manager and, if uncertainty remains, contact the Democracy and Governance Manager.

#### ***Relations with members, the public and other employees***

- 4. Mutual respect between qualifying employees and members is essential to good local government, and working relationships should be kept on a professional basis.***
- 5. Qualifying employees of relevant authorities should deal with the public, members and other employees sympathetically, efficiently, and without bias.***

#### 5.1 Councillors

Employees are responsible to the Authority through its senior managers. For some their role is to give advice to Councillors and senior managers, and all are there to carry out the Authority's work. Mutual respect between employees and Councillors 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.

## 5.2 The Local Community and Service Users

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Authority.

## 5.3 Contractors

Orders and contracts must be awarded on merit, by fair competition and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the procurement process. No part of the local community should be discriminated against.

If during the course of your work you are dealing with an external Contractor with whom you have, or have had within the last 12 months, a business or private relationship you must immediately make your manager aware of that relationship.

### **Equality**

#### **6. *Qualifying employees of relevant authorities must comply with policies relating to equality issues, as agreed by the Authority, in addition to the requirements of the law.***

- 6.1 All local government employees must ensure that policies relating to equality issues as agreed by the Authority are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

### **Stewardship**

#### **7. *Qualifying employees of relevant authorities must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the Authority for personal use unless authorised to do so.***

- 7.1 All employees are required to familiarise themselves with the Council's Financial Procedure Rules and Contract Procedure Rules and know where they can inspect a copy of them. Any doubt concerning Financial Procedure Rules and Contract Procedure Rules should be raised with your immediate manager and, if the doubt continues, with the Finance Department
- 7.2 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value

for money to the local community and to avoid legal challenge to the Authority.

### **Personal Interests**

**8. Whilst qualifying employees' private lives are their own concern, they must not allow their private interests to conflict with their 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:**

- (1) any rules of their relevant Authority on the registration and declaration by employees of financial and non - financial interests,**
- (2) any rules of their relevant Authority 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 Authority. Qualifying employees must not accept benefits from a third party unless authorised to do so by their relevant Authority.**

8.1 In addition to the criminal offence under Section 117 of the Local Government Act 1972 concerning pecuniary interests (see paragraph 2.10 above) there are the following rules concerning personal interests.

8.2 Employees have a personal interest whenever a reasonable person would perceive a conflict between the employee's private interests affairs and the work the employee does for the authority. A personal interest can arise in a range of different circumstances as set out in the following paragraphs, including (but not limited to) the matters listed below:

- Dealing with friends, family or an organisation with which the employee is associated
- Gifts or hospitality
- Outside work including paid and non-paid roles

8.3 -There would be a personal interest under 8.2 if in the course of the employee's Council work he/she would normally deal with a matter that would affect him/her, their family, a close personal associate, their property, or an organisation they are associated with. For instance, if in the course of the employee's work they would normally deal with a planning application affecting a relative's property or where the employee is involved in processing a payment to an organisation with which the employee is associated.

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8.4 Wherever the employee has such a personal interest they should immediately draw it to the attention of their Line Manager who would normally decide that the employee should not be involved in dealing with that matter. This does not mean that the employee can not be trusted but is to protect both the Council's reputation and the employee's reputation against allegations of favouritism. In exceptional circumstances where the employee's skills can not be replicated the Manager may allow the employee to undertake the work but put in place other controls such as being copied into all communications.

8.5 The arrangements must be recorded in writing and communicated to all other employees who need to know what the arrangements are. Each Chief Officer should have a register to record all such declarations of interest and any consequential working arrangements promptly in it. It is the employee's responsibility to ensure their declaration of interest is recorded.

8.6 The Council has approved forms which may be used for the reporting and recording of interests, and which give guidance on when to declare an interest and how managers should handle such interests once declared.

#### 8.67 Intellectual property

Intellectual property is a generic term that includes inventions, creative writings and drawings. If these are created by the employee during the course of employment then, as a general rule, they belong to the employer. However, various Acts of Parliament cover different types of intellectual property.

#### 8.78 Inventions and Patents

Inventions made before 1st June 1978 are the property of the employer if made in the course of that employer's employment. However, the Patents Act 1977 states that after the 1st June 1978 inventions are only the property of the employer if:-

- \* they have been made in the course of the employee's normal duties; or
- \* they have been made in the course of duties specifically assigned to the employee and where invention might be reasonably expected; or
- \* it was made in the course of the employee's duties and at the time the employee had (because of the nature of his or her duties and particular responsibilities arising from them) a special obligation to further the interests of the employer.

8.89 Chief Officers, those Managers reporting directly to them and employees with delegated powers will be asked to voluntarily register their membership of all clubs, societies and organisations.

### Section 9 – Gifts & Hospitality

- 9.1 In addition to the criminal offences covered by the Bribery Act 2010 referred to in paragraph 2.11 above there are the following rules concerning gifts and hospitality.
- 9.2 Employees must not retain personal gifts obtained, whether directly or indirectly, as a result of their work for the authority. The only gifts that employees are entitled to retain are insignificant items of token value such as pens and diaries. With any other gifts the employee should draw this to the attention of their Line Manager who may decide that rather than the gift being returned it should be forwarded to the ~~civic office~~ Member Support Office as a donation to the Chair's charity. All offers of gifts should be recorded in the register maintained by the Chief Officers.
- 9.3 Offers of hospitality can only be accepted when authorised by Chief Officers or where covered by paragraph 9.4 below.
- 9.4 Unless specifically authorised by the Chief Officer hospitality can only be accepted when an employee is attending conferences or courses, launch events, award ceremonies and other events/functions organised by Council, partners or other public bodies at which the Council needs to be represented where it is clear the hospitality is being offered indiscriminately and the value of any such hospitality does not exceed £10.
- 9.5 When gifts or hospitality are declined those making the offer should be courteous but firmly informed of the procedures and standards operating within the authority that require it to be declined.
- 9.6 It is the employee's responsibility to ensure that offers of gifts and hospitality are recorded in the appropriate departmental register.

## Section 10 – Employees' Outside Work

- 10.1 All employees have conditions of service which require them to obtain written consent before they take on any outside employment. This includes:
- running a business that is related to an employee's work for the council e.g. a lawyer running a private law firm-; or
  - having any other work or employment outside of the Council that is related to the work carried out for the Council e.g. a food safety officer running a food production business
- 10.2 Employees must not undertake outside work if their official work for the authority overlaps in any way with such outside work. It is irrelevant whether or not the outside work is paid for or not.
- 10.3 No outside work of any sort can be undertaken on Council premises or

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use Council facilities such as telephones or IT. Incoming ~~ec~~correspondence or telephone calls relating to outside work are also not allowed.

10.4 Whilst an employee's right to a private life is respected that does not justify conduct which could reasonably be regarded as bringing the authority into disrepute or significantly and fundamentally affect the employee's ability to work for the Council.

10.5 There would be a breach of paragraph 10.4, for example:

- ~~if an employee were to act~~ in such a way that when other employees or service users became aware of it they reasonably refuse to work or communicate with the employee ~~concerned~~;
- or
- the employee works extremely long hours across both jobs to the detriment of their work for the Council; or
- the employee is distracted in the performance of Council duties by the outside job.

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## Section 11 – Disclosure of Information

11.1 Flintshire supports the principles of open government and encourages employees to assist the public in obtaining public documentation in accordance with the rights contained in the Local Government Act 1972, the Freedom of Information Act 2000 and Environmental Information Regulations 2004.

11.2 The Council's Constitution, available on the Infonet, contains Access to Information Procedure Rules explaining the legislation relating to these information rights. If an employee is uncertain as to whether information being sought should be disclosed the employee must seek advice from his/her Manager and, if uncertainty remains, the Manager can seek guidance from the ~~Democracy & Governance~~Information Governance Manager.

11.3 Only employees with specific delegated authority may disclose to members of the public any information arising, documentation considered or events occurring at a time when a Council, Cabinet, Committee or sub-Committee meeting has decided to exclude the press and public from that part of its meeting.

11.4 Employees must not disclose personal ~~information data~~ where this is not permitted under the ~~Data Protection Act 1998~~General Data Protection Regulation. If in doubt seek advice from your Manager and explain to the person requesting the information the importance of complying with the ~~Data Protection Act~~data protection legislation. If the Manager is uncertain, advice is available from the appropriate member of the Council's ~~Data Protection~~Information Governance Team.

- 11.5 These rules apply not only to the press and public but also to requests ~~from Councillors and~~ from partner agencies or external bodies. Requests for information from councillors must be handled in accordance with the Council's Information Sharing Rules that are in the Constitution.
- 11.6 Where enforcing authorities such as the Police, Wales Audit Office or Health & Safety Executive are seeking information they may be doing so pursuant to statutory powers which they would quote. It is important to ensure that the request is being made by the regulatory body not an impostor. Legitimate bodies accept the need to produce written authority. If in doubt advice is available from the Council's Legal Department. Where such bodies are not using their statutory powers to obtain information then personal information should not be disclosed without ensuring it would not breach the ~~Data Protection Act~~General Data Protection Regulation.
- 11.7 Employees must not use any information obtained in the course of their employment for personal gain or benefit, nor pass it on to others who might use it in such a way. Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Authority must not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

### **Whistleblowing**

12. ***In the event that a qualifying employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the relevant Authority's confidential reporting procedure, or any other procedure designed for this purpose.***

### **Appointment of Employees**

13. ***Qualifying employees of relevant authorities involved in the recruitment and appointment of employees must ensure that appointments are made on the basis of merit. In order to avoid any possible accusation of bias, such employees must not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related, or with whom they have a close personal relationship outside work.***
- 13.1 Employees involved in appointments must ensure that these 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 must not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.

- 13.2 Similarly, employees must not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close personal friend.
- 13.3 All candidates for any appointment under Flintshire County Council shall, when making an application, disclose in writing to the Authority whether to their knowledge they are related to any Member of the Authority or to a holder of any senior office under the Authority. Deliberate omission to make such a disclosure will disqualify the candidate and, if the omission is discovered after appointment, he/she shall be liable to dismissal. Every senior officer of the Authority shall similarly disclose to the Authority any relationship known to him/her to exist between himself/herself and a candidate for an appointment of which he/she is aware. The Chief Executive's office will keep a record of any such disclosure made.

#### ***Investigations by Monitoring Officers***

14. Where a Monitoring Officer is undertaking an investigation in accordance with regulations made under section 73(1) of the Local Government Act 2000 a qualifying employee must comply with any requirement made by that Monitoring Officer in connection with such an investigation.

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## CONSTITUTION & DEMOCRATIC SERVICES COMMITTEE

<b>Date of Meeting</b>	Thursday, 11 April 2019
<b>Report Subject</b>	Member Development & Engagement
<b>Report Author</b>	Democratic Services Manager

### EXECUTIVE SUMMARY

It is the practice for this committee to receive a progress report on the Member Development and Engagement events which had been organised. This report details events which have been held since the last report on this topic, on 17<sup>th</sup> October 2018.

### RECOMMENDATIONS

1	That the Committee notes the progress with Member Development and Engagement events since the last report.
2	That if Members have any suggestions for future Member Development and Engagement they are invited to contact the Democratic Services Manager to discuss them.

### REPORT DETAILS

<b>1.00</b>	<b>EXPLAINING OUR APPROACH TO MEMBER DEVELOPMENT AND ENGAGEMENT</b>
1.01	This committee has previously agreed that regular progress reports on the Member Development and Engagement events which had been organised should be submitted to it.

1.02	<p>Since the last report, which was to the October meeting, we have held eleven events, some of which have been very well attended:-</p> <ul style="list-style-type: none"> <li>• Thursday, 6th December, 2018 10.00 am - 1.00 pm All Member Workshop on Local Democracy &amp; Boundary Commission Flintshire Electoral Wards Review (26 Members attendees)</li> <li>• Wednesday, 9th January, 2019 4.00 pm - 7.00 pm 2<sup>nd</sup> Electoral Ward Review Workshop (21 attendees)</li> <li>• Friday 11<sup>th</sup> January 2019 2.30 pm – 5.00 pm AM and MP Budget Briefing (34 attendees)</li> <li>• Monday, 14th January, 2019 10.00 am - 12.00 Housing Strategy Workshop (26 attendees)</li> <li>• Wednesday, 16th January, 2019 10.00 am - 12.30 pm Digital Strategy Workshop (17 attendees)</li> <li>• Friday, 25th January, 2019 1.30 pm - 4.30 pm Welsh Language Awareness Session (7 attendees)</li> <li>• Tuesday, 29th January, 2019 9.30 am - 12.00 pm Treasury Management briefing for Members (15 attendees)</li> <li>• Monday, 11th February, 2019 2.00 pm - 4.00 pm All Member Workshop - Post 16 Education Provision and Consultation on Post 16 Transport (26 attendees)</li> <li>• Thursday, 14th February, 2019 1.00 pm - 4.00 pm All Member Briefing (28 attendees)</li> <li>• Wednesday, 20th March, 2019 10.00 am - 12.30 pm Member Complaints and Case Management Workshop ( 20 attendees)</li> <li>• Thursday, 4<sup>th</sup> April 2019 10am – 12.30pm Chairing Skills (16 attendees)</li> </ul>
1.03	<p>Due to the low level of response which we received, we had to cancel two of the three Welsh language Awareness sessions in January. A similar low level of response (only three Members had indicated that they would attend) meant that the Understanding Performance workshop which was to have been held on 27<sup>th</sup> March was also postponed.</p>

<b>2.00</b>	<b>RESOURCE IMPLICATIONS</b>
2.01	There is a small training budget which can be accessed if necessary: most development sessions are provided using the Council's own officers.



<b>3.00</b>	<b>CONSULTATIONS REQUIRED / CARRIED OUT</b>
3.01	None

<b>4.00</b>	<b>RISK MANAGEMENT</b>
4.01	The provision of information through workshops and briefings contributes to effective risk management.

<b>5.00</b>	<b>APPENDICES</b>
5.01	None.

<b>6.00</b>	<b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>
6.01	None  <b>Contact Officer:</b> Robert Robins, Democratic Services Manager <b>Telephone:</b> 01352 702320 <b>E-mail:</b> <a href="mailto:robert.robins@flintshire.gov.uk">robert.robins@flintshire.gov.uk</a>

<b>7.00</b>	<b>GLOSSARY OF TERMS</b>
7.01	None

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