

Chapter 3

The Codes and Schemes



Castle Point Borough Council

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19.The Seven Principles of Public Life

The Principles are:

Selflessness

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

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

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

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

19.1 Councillor Code of Conduct

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority; or
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

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

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

Purpose of the Code of Conduct

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

General Principles of Councillor Conduct

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

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

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

In undertaking my role:

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

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

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

Standards of Councillor Conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect as a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

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

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

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

2. Bullying, harassment and discrimination as a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

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

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

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability,

gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

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

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

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

4. Confidentiality and access to information as a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless
 - i. I have received the consent of a person authorised to give it;
 - ii. I am required by law to do so;
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - iv. the disclosure is:
 1. reasonable and in the public interest; and
 2. made in good faith and in compliance with the reasonable requirements of the local authority; and
 3. I have consulted the Monitoring Officer prior to its release.

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

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

5 Disrepute as a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions.

For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute. You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6 Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

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

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local or authorising their use by others:

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones and computers
- transport
- access and use of local authority buildings and rooms.

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

8. Complying with the Code of Conduct As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

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

Protecting your reputation and the reputation of the local authority.

9 Interests as a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

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

You should note that failure to register or disclose a disclosable pecuniary interest, as set out in Table 1, is a criminal offence under the Localism Act 2011.

The Annex sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10 Gifts and hospitality as a councillor:

10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness, in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

ANNEX – Registering and Disclosing Interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories of **Disclosable Pecuniary Interests** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories of **Other Registerable Interests**.

“**Disclosable pecuniary interest**” means an interest of yourself, or of your partner if you are aware of your partner’s interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

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

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest.

Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in Table 2),

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

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which affects –

- a. your own financial interest or well-being;
- b. a financial interest or well-being of a relative or close associate; or
- c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied:

9. Where a matter (referred to in paragraph 8 above) affects the financial interest or well-being:

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

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

10. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or that is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

Table 1: Disclosable Pecuniary Interests

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

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer

Subject	Description
Corporate Tenancies	<p>Any tenancy where (to the councillor's knowledge) –</p> <ul style="list-style-type: none"> (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	<p>Any beneficial interest in securities* of a body where</p> <ul style="list-style-type: none"> (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— <ul style="list-style-type: none"> (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

* 'director' includes a member of the committee of management of an industrial and provident society.

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

Table 2: Other Registrable Interests

You must register as an Other Registerable Interest

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
 - (i) exercising functions of a public nature
 - (ii) directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management

20. Councillor Allowance Scheme – UNDER REVIEW

1. Introduction

- 1.1 This Scheme is made under the provisions of The Local Authorities (Members' Allowances) (England) Regulations 2003 ("the Regulations") and was adopted by the Council on 21 July 2008, following the receipt of a report submitted by an Independent Remuneration Panel.
- 1.2 In this Scheme, "Member" means an elected Member of Castle Point Borough Council.
- 1.3 The Scheme makes provision for the payment of the following remuneration allowances to Councillors (see 2 below):
- a Basic Allowance for each Member.
 - a Special Responsibility Allowance for Councillors who hold certain specified offices.
 - a Co-optees' Allowance for Members co-opted to committees by statutory requirement (such as the Standards Committee) who are not Members of the Council.
 - Allowances for travelling and subsistence.
- 1.4 In addition to matters coming within the scope of the Regulations, for completeness the Scheme also makes provision for:
- the payment of allowances for attending conferences and meetings under section 175 of the Local Government Act, 1972 (see 4 below).
 - the payment of annual allowances to the Mayor and Deputy Mayor, under sections 3(5) and 5(4) respectively of the Local Government Act, 1972 (see 7 below).
- 1.5 This Scheme may be reviewed by the Council as considered appropriate and as a minimum before the beginning of each financial year, in accordance with the provisions of the Regulations. Reviews must have regard to recommendations from an Independent Remuneration Panel.
- 1.6 Nothing in this Scheme can override the provisions of relevant legislation. In the event of any conflict or uncertainty of meaning, legislation will apply.

2. Basis of Remuneration Allowances

- 2.1 The Basic Allowance is calculated using an average basic allowance per Member per head of population to reflect Members' constituent and community councillor role. The special responsibility allowances are structured around this basic element.
- 2.2 A multiplier is used to calculate the special responsibility allowances which reflect the roles and responsibilities of positions within the Constitution which have special responsibilities.

3. Remuneration Allowances

3.1 Basic Allowances

3.1.1 A Basic Allowance to the value of £3,550 is payable to each Member.

Note: Basic Allowance is intended to recognise the time commitment of all councillors, including such inevitable calls on their time at meetings with officers and constituents and attendance at political group meetings. It is also intended to cover incidental costs such as the use of their homes and private telephones and the provision of a broadband connection for Council business.

3.2 Special Responsibility Allowances

3.2.1 Special responsibility allowances equivalent to the value of the multipliers shown are payable to holders of the following offices:

Office	Multiplier
Leader of the Council	4
Deputy Leader of the Council	2
Leader of the Minority Group	1
Cabinet Member	2
Chairman of Overview & Scrutiny Committee	.5
Chairman of Audit & Governance Committee	.5
Chairman of Standards Committee	.5
Chairman of Development Management Committee	1
Vice-Chairman of Development Management Committee	.25
Chairman of Licensing Committee	.5
Independent Person/Co-optee	.1

3.2.2 No more than two Special Responsibility Allowances may be paid to any Member.

3.3 Renunciation of Remuneration Allowances

A Member or Co-optee may, by notice given in writing to the Assistant

Director Finance & Procurement, elect to forgo any part of their entitlement to a Basic Allowance, Special Responsibility Allowance or Co-optee's Allowance.

Note: sometimes, Councillors who renounce their entitlements seek to have an equivalent amount paid to a charity. This does not constitute a renunciation. In these circumstances, relevant amounts are still included in the reported totals of annual payments and may be liable to deduction of tax and national insurance. If Councillors wish to do this, the Council will therefore continue to pay them direct so that they can make their own arrangements.

3.4 Part Year Entitlement to Remuneration Allowances

Entitlement to Basic Allowance, Special Responsibility Allowance and Co-optee's Allowance shall be calculated by reference to an equivalent daily rate in the following circumstances:

- if the amounts of these entitlements are affected by an amendment to this Scheme;
- where a term of office or entitlement to Special Responsibility Allowance begins and/or ends other than at the beginning or end of a year.

3.5 Suspension of Councillors

Where a Member is suspended or partially suspended from their responsibilities and duties the following allowances payable for the period of suspension or partial suspension shall be withheld by the Council:

- Basic Allowance;
- Special Responsibility Allowance (if any).

Any allowance already made for such a period shall be repayable to the Council.

4. Conference Allowances

- 4.1 Conference allowances are payable at the rates specified in Schedule 1 to Councillors who attend conferences or meetings that are duties approved, as set out in Schedule 2, for which attendance has been specifically by the Council or the Cabinet, or, as a matter of urgency, the Chief Executive.
- 4.2 Conference allowances shall only apply to approved duties that require at least one overnight stay away from the Member's usual place of residence.

5. Travelling allowances

5.1 A Member is entitled to receive payment in respect of allowances for travelling, as set out in this section.

5.2 The duties approved for the payment of travelling allowances are set out in Schedule 2.

5.3 Approved duties undertaken within the area of Castle Point

- An annual allowance for travelling in respect of approved duties undertaken within the area of Castle Point shall be paid to each Member. The allowance shall be based on the normal return travel distance from a Member's usual residence to the Council Offices, in accordance with the following scale:

Return travel distance from Council Offices	Points
Less than 5 miles	0.33
5 miles or more but less than 10	0.66
10 miles or more	1.00

- The value of one point for Travelling Allowance shall be £361 and this shall be updated in the same way as Remuneration Allowances, as set out at 2.3 above.
- The rules for part-year entitlement of the allowance for travel within Castle Point shall be the same as for remuneration allowances, as set out at 3.4 above.
- The rules for withholding payment of Remuneration Allowances for any period covered by the suspension or partial suspension of a Member, as set out at 3.5 above, shall also apply to the allowance for travel within Castle Point.
- The annual Travelling Allowance for approved duties undertaken in the area of Castle Point is intended to cover the cost of travel by all modes, including Councillors' own transport, public transport, cycling or walking.

5.4 Approved duties undertaken outside the area of Castle Point

- Councillors travelling to undertake approved duties outside the area of Castle Point shall be entitled to receive reimbursement of mileage costs or public transport fares incurred.
- Mileage costs shall be reimbursed in accordance with mileage rates paid to Officers, as determined by the Council from time to time. These

payments may be increased by the amount of any expenditure necessarily incurred on tolls, ferries or parking fees, including overnight garaging.

- The rates of payment for travel by public transport will be limited to reimbursement of fares actually and necessarily incurred, including first class fares where appropriate, together with other supplementary payments such as reservation fees.
- Payment incurred on travel by taxi or private hire vehicle will be reimbursed in cases of urgency or where convenient other alternative public transport is not reasonably available; the amount reimbursed will be the actual fare plus any reasonable gratuity paid. In other cases, the amount reimbursed will be limited to the equivalent fare for travel by appropriate other public transport.
- The rate of travel by a hired motor vehicle shall not exceed the rate which would have been applicable had the vehicle belonged to the Member who hired it.
- Travel by air may be approved by the Chief Executive where it is justified by substantial saving of time. Payment shall be limited to any fare actually paid by the Member.

5.5 Travel - approved site visits outside the area of Castle Point

In cases of approved site visits, there is no provision for the reimbursement of travelling expenses where the Council, in the interests of economy and convenience, arranges transport for Councillors, unless the Member must travel from outside the borough boundary to undertake the visit. In cases of approved site visits where the Council has not arranged transport, there is no provision for the payment of travelling expenses if the Member decides to visit the site at a time other than that arranged and notified.

5.6 Travel – best value

In all cases of travel, it shall be a general principle that the method of travel selected will be the best for the Council and for the Member in terms of cost, convenience and time.

6. Subsistence Allowances

6.1 A Member is entitled to receive reimbursement of subsistence costs, as set out in this section, where expenditure has been actually and necessarily incurred by them for the purpose of performing an approved duty.

6.2 The duties approved for the payment of subsistence allowance are set out at Schedule 2.

6.3 The reasonableness of claims for subsistence allowance shall be determined by the Chief Executive (or representative) whose decision shall be final.

6.4 This section shall apply in cases of approved attendance at a conference involving an absence from the Member's usual residence of more than 24 hours. In such cases, the Council shall make arrangements for the booking and payment by the Council of appropriate hotel accommodation. The Member may decide to upgrade hotel accommodation from that approved by the Council and may arrange to be accompanied by a partner and any additional costs involved shall be borne by the Member.

Note: subsistence costs, even if incurred, shall not be reimbursed if breakfast is included in a hotel bill paid by the Council, in cases where the provision of meals is included in a conference fee or in cases where hospitality is provided free of charge.

7. Allowances for the Mayor and Deputy Mayor

7.1 Allowances, as shown in Schedule 1, are payable to holders of the following offices to enable them to meet the expenses of their office:

7.2 The Mayor or Deputy Mayor may, by notice given in writing to the Assistant Director Finance & Procurement, elect to forgo any part of their entitlement to the annual allowance.

Note: in the event of such a renunciation, the position is likely to be as at 3.3 above.

7.3 The rules for part-year entitlement of Mayor's and Deputy Mayor's allowances shall be the same as for remuneration allowances, as set out at 3.4 above.

8. Claims and Payments

8.1 Remuneration Allowances

Payments of Basic Allowances, Special Responsibility Allowances, Co-optees' Allowances and Travelling Allowances for travelling within Castle Point shall be made monthly in instalments of one-twelfth of the amount specified in this Scheme (subject to any adjustments required to ensure that the total amounts paid for a year or part year are equal to the amounts allowed by the Scheme).

8.2 Conference, Travelling (Outside Castle Point) and Subsistence Allowances

8.2.1 Claims for payment of these allowances must be made in writing and in a form specified by the Assistant Director Finance & Procurement within two months of the date of the relevant approved duty.

8.2.2 So far as is reasonably practicable, claims must be supported by

appropriate receipts, such as train tickets or receipts, bus tickets, taxi receipts, car park tickets, restaurant bills etc.

8.3 Allowances for the Mayor and Deputy Mayor

These allowances are for a year of office. They will be paid in amounts of equal monthly instalments (subject to any adjustments required to ensure that the total amounts paid for a year or part year are equal to the amounts allowed by the Scheme), starting with the month of election to office (or with the following month if election occurs too late to allow payment by the usual monthly date) and ending with March.

8.4 General

8.4.1 All allowances shall be paid by direct credit to the Member's bank account. Payments shall be made monthly, on or about the 26th of each month. There is no provision for advance payments.

8.4.2 The Assistant Director Finance & Resources is responsible for deducting tax and national insurance from those payments that are subject to these deductions. If requested by the Assistant Director Finance & Resources for purposes of tax and national insurance, Councillors must provide details and evidence of identity, residence and date of birth.

Note: it is a Member's responsibility to be aware of any impact on earnings related benefits and to take the appropriate action.

Schedule 1 - Rates of Allowances

Remuneration Allowances	£ pa
Basic Allowance	3,550
Special Responsibility Allowances	
Leader of the Council	14,200
Deputy Leader of the Council	7,100
Cabinet Member	7,100
Leader of the Minority Group	3,550
Chairman of Overview & Scrutiny Committee	1,775
Chairman of Development Management Committee	3,550
Chairman of Audit & Governance Committee	1,775
Chairman of Standards Committee	1,775
Vice-Chairman of Development Management Committee	887.50
Chairman of Licensing Committee	1,775
Independent Member/Co-optee	355

MAYORAL ALLOWANCES	£ pa
Mayor	6,137
Deputy Mayor	2,888

CONFERENCE ALLOWANCES	
Daily allowance for approved conferences and meetings (Payable for each day of attendance)	£15.00

TRAVELLING ALLOWANCE	
Approved duties in area of Castle Point	£ pa
Standard return travel distance from Council Offices	
Less than 5 miles	120
5 miles or more but less than 10	241
10 miles or more	361
Approved duties outside Castle Point	p
Allowance for each mile travelled up to and including 8,500 p.a.	40.2
Allowance for each mile travelled over 8,500 p.a.	11.3

Subsistence allowance for approved duties
Reasonable expenses will be reimbursed if supported by receipts. Expenses shall not be reimbursed for breakfast that is included in a hotel bill paid by the Council, in cases where the provision of meals is included in a conference fee or in cases where hospitality is provided free of charge.

Schedule 2 – approved duties

DUTIES APPROVED FOR THE PAYMENT OF CONFERENCE ALLOWANCES

Approved attendance at conferences or meetings organised by any person or body other than by way of trade or by anybody whose objects are not wholly or partly political, where the purpose of the conference or meeting is to discuss matters which, in the Council's opinion, relate to the interest of their area, or part of it, or to the inhabitants of their area, or some of them.

Note: this may include conferences and seminars held by professional and public bodies.

DUTIES APPROVED FOR THE PAYMENT OF ALLOWANCES FOR TRAVELLING OUTSIDE CASTLE POINT AND FOR SUBSISTENCE

Approved site visits outside the area of Castle Point at the time when they have been arranged by the Council or the Cabinet or a committee

Attendance at meetings outside the borough of outside bodies as the Council's appointed representative (or representative's nominee).

Attendance at meetings outside the borough approved for the payment of travelling allowance by the Chief Executive (or representative).

21. Gifts and Hospitality Guidance

21.1 Introduction

The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the Council as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position. This guidance supports the Councillor Code of Conduct

The law on the acceptance of gifts and hospitality is set out in the Councillor Code of Conduct and in the Bribery Act 2010. These requirements are then supplemented by the procedures which have been adopted by this Council, to provide a clear set of rules for the protection of both Councillors and the Council. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to 10 years' imprisonment.

This guidance sets out:

- (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality;
- (b) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it; and
- (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the Council

This Code does not apply to the acceptance of any facilities or hospitality which may be provided to you by this Council.

21.2 General Principles

In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do so would be in breach of one or more of these principles.

- (a) Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor:
 - (e) As a Councillor, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non offer of any inducement or reward for discharging those duties in a particular manner.
 - (i) The Bribery Act 2010 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing or not doing anything in respect of any matter or transaction in which the Council is concerned, you commit a criminal offence carrying a maximum term of imprisonment of up to 10 years.
 - (iii) Furthermore, the Councillor Code of Conduct provides that you must act in the public interest, serving the Council and the whole community, rather than acting in the interests of any particular individual or section of the community, and that it is a breach of the Code improperly to confer any

advantage or disadvantage on any person, including yourself.

- (b) You should only accept a gift or hospitality if there is a commensurate benefit to the Council.
 - (i) The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Council which would not have been available but for the acceptance of that gift or hospitality.
 - (ii) Acceptance of hospitality can confer an advantage on the Council, such as an opportunity to progress the business of the Council expeditiously through a working lunch, or to canvass the interests of the Council and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the Council is clear and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.
 - (iii) As set out above, the Councillor Code of Conduct provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Councillor of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the Council, would be a breach of the Code.
- (c) Never accept a gift or hospitality if acceptance might be open to misinterpretation.
 - (i) The appearance of impropriety can be just as damaging to the Council and to you as a Councillor as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Council favours any particular person, company or section of the community or is placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.
 - (ii) Certain occasions are particularly sensitive and require the avoidance of any opportunity for such misunderstanding. These include:
 - (1) occasions when the Council is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.
 - (2) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination,
 - (3) funding decisions, when the Council is determining a grant application by any person or organisation.
- (d) Never accept a gift or hospitality which puts you under an improper obligation.
 - (i) Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality

improperly, they may feel that they will no longer be able to secure impartial consideration from the Council.

- (e) Never solicit a gift or hospitality.
 - (i) You must never solicit or invite an offer of a gift or hospitality in connection with your position as a Councillor. You should also take care to avoid giving any indication that you might be open to such an improper offer. Asking for a benefit may be an offence under the Bribery Act 2010.

21.3 Consent Regimes

For clarity, the Council has agreed that you may accept gifts and hospitality in the following circumstances:

- (a) civic hospitality provided by another Public Authority
- (b) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits
- (c) tickets for sporting, cultural and entertainment events which are sponsored by the Council
- (d) small gifts of low intrinsic value below £50, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise
- (e) a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a contractor or party with whom you have done business on behalf of the Council if you meet accidentally in a public house, café or bar. In such cases, you should make reasonable efforts to return the offer where this is practicable
- (f) a modest working lunch not exceeding £10 a head in the course of a meeting in the offices of a party with whom the Council has an existing business connection where this is required in order to facilitate the conduct of that business. Councillors should not make such arrangements themselves, but request Officers to settle the detailed arrangements, and Officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must not exceed a value of £10 a head
- (g) modest souvenir gifts with a value below £50 from another Public Authority given on the occasion of a visit by or to the Council
- (h) Hospitality received in the course of an external visit or meeting which has been duly authorised by the Council. Councillors should not make such arrangements themselves, but request Officers to settle the detailed arrangements, and Officers are under instruction to make it clear that any such hospitality for Councillors and Officers is to be no more than commensurate with the nature of the visit
- (i) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Councillor deals with the gift

strictly in accordance with the following procedure: The Councillor must, as soon as practicable after the receipt of the gift, pass it to the secretary to the Council Mayor, together with a written statement identifying the information set out below. The Chief Executive will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the Mayor's Charity Fund, on whose behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Mayor.

Special consent provisions exist where you wish to accept any gift or hospitality which is in accordance with the general principles set out above, but is not within any of the general consents set out above. You may only accept the gift if you have previously obtained specific consent in accordance with the following procedure:

You must make an application in writing to the Monitoring Officer, setting out:

- (a) the nature and your estimate of the market value of the gift or hospitality
- (b) who the invitation or offer has been made by or on behalf of
- (c) the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the Council in which they have been involved
- (d) any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the Council
- (e) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper

You must not accept the gift or hospitality until you have received the appropriate consent.

The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the Council's accounts for the relevant year. But note that this does not relieve you of the obligation to register the receipt of the gift as set out below.

21.4 Reporting

Where you accept any gift or hospitality which you estimate to have a market value or cost of provision of £50 or greater, you must, as soon as possible but not later than 28 days after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, setting out the information set out in Paragraph 21.3 above. A form for this purpose is available from the Monitoring Officer, but you can send the same information by any convenient means. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the Council's accounts for the year in question.

Even if the value of the gift or hospitality is less than £50, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

21.5 Gifts to the Council

Gifts to the Council may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the Council.

You should not solicit any such gift on behalf of the Council except where the Council has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements.

If you receive such an offer on behalf of the Council, you must first consider whether it is appropriate for the Council to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the Council under any improper obligation, whether there is a real benefit to the Council which would outweigh any dis-benefits).

If you do not have delegated authority to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation. The Monitoring Officer will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the Council.

If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the Council to accept the gift, you should consult the Monitoring Officer directly.

21.6 Definitions

"Gift or hospitality" includes any:

- (a) free gift of any goods or services
- (b) opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public
- (c) opportunity to obtain any goods or services which are not available to the general public
- (d) offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

References to the "value" or "cost" of any gift or hospitality are references to the higher of:

- (a) your estimate of the cost to the person or organisation of providing the gift or consideration
- (b) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

22. Protocol on Councillor/Officer Relationships

22.1 Introduction

The success of the Council is greatly dependent upon the positive working relationship between Councillors and Officers. It is important that there should be a close working relationship between a Cabinet Member and the Chief Officers, Directors, Assistant Directors and other appropriate senior officers. However, such relationships should never be allowed to become so close, or appear to be so close, that the Officer's ability to deal impartially with other Councillors and party groups is brought into question.

It is important that dealings between Councillors and Officers should observe normal standards of courtesy, there should be mutual trust and respect, and neither party should seek to take unfair advantage of their position.

This Protocol seeks to enhance the working relationships between Councillors and Officers of the Council. Whilst the Protocol cannot be comprehensive it sets out guidance on some of the key issues that arise in those relationships. The Protocol reflects the principles underlying the Councillor Code of Conduct and the Principles of Public Life. The shared objective is to enhance and maintain the integrity of local government, therefore demanding very high standards of personal conduct.

22.2 The Role of Councillors and Officers

In fulfilling their roles, the elected Councillors and Officers are both jointly responsible for:

- (a) acting honestly, with integrity and in the public interest; and
- (b) open and transparent objective decision-making.

In addition to the requirements set out in Article 4 and Article 6 of the Constitution, the Councillors' role is to:

- (a) Collectively be the ultimate policy makers and carry out a number of strategic and corporate management functions;
- (b) Represent their communities and bring their views into the Council's decision-making process, i.e. become an advocate for their communities;
- (c) Effectively represent the interests of their ward and of individual residents;
- (d) Respond to residents' enquiries and representations, fairly and impartially and assist in the resolution of concerns and grievances;
- (e) Be involved in decision-making for the people of the borough as a whole;
- (f) Be available to represent the Council on other bodies; and
- (g) Contribute to the governance and effective management of the Council's business at meetings of the Council, Cabinet and other committees and sub-committees, maintaining the highest standards of conduct and ethics.

In addition to the requirements set out in Article 3 of the Constitution, Officers are responsible for:

- (a) providing professional and technical advice that Councillors must have before them when formulating policy and when taking decisions;
- (b) lawfully implementing Councillors' decisions;
- (c) day-to-day administration, including staffing matters;
- (d) taking managerial and operational decisions in accordance with the Council's Scheme of Delegation;
- (e) the provision of information regarding Council services; and
- (f) undertaking public consultation.

22.3 Underlining Principles for the Working Relationships

The following principles apply to both Councillors and Officers during the course of their working relationship and in fulfilling their duties and are designed to foster the good working relationships between Officers and Councillors that are essential to effective decision making and the delivery of services.

- (a) Mutual respect and courtesy between Officers and Councillors;
- (b) An awareness of each other's responsibilities and duties;
- (c) No inappropriate criticism, intimidating behaviour or the creation of a threatening work environment of any kind;
- (d) Any appropriate challenges are to be conducted in a professional and respectful manner;
- (e) Equal treatment, regardless of personal or political opinion (actual or perceived);
- (f) An adherence to the law and the lawful instructions and advice of others; and
- (g) An avoidance of close personal familiarity.

Alleged breaches of the Councillor Code of Conduct are dealt with through the Council's Standards Committee, breaches of the Officer Code of Conduct as contained in the Council's HR policies are dealt with by the Head of Paid Service, in accordance with the Council's HR policies and procedures.

If an Officer is concerned about the conduct of a Councillor, they should report this to their senior manager, who will notify both the Head of Paid Service and the Monitoring Officer. These concerns could include public criticism of an Officer by a Councillor or unreasonable, frivolous or vexatious requests for information.

22.4 Officer Appointments, Performance and Political Neutrality

The appointment of the Chief Officers and Statutory Officers will be made in accordance with the Officer Employment Procedure Rules. All other appointments are made at the appropriate Officer level.

The main functions and areas of responsibility of Officers are set out in Article 3 and Chapter 4 of the Constitution. The position of the Head of Paid Service is to have overall corporate management and operational responsibility (including overall management responsibility for all officers).

Staffing matters (including discipline, training, setting and monitoring targets) are dealt with by the relevant managers.

Councillors may wish to comment on an individual Officer's performance and/or deficiencies. In such instances these are expected to be raised with the relevant Chief Officer in the first instance. Thereafter to the Chief Executive, if unresolved.

Officers are politically neutral, serve the whole Council and must avoid being identified with any political group. In order to safeguard this neutrality, Officers must avoid involvement in party political matters, such as campaigns in the political arena. This assumes particular significance in the run up to Elections. In their lives outside work, all politically restricted posts, which includes the Chief Officers and Statutory Officers and many Senior Officers, are prevented from active political involvement.

22.5 Officer Advice to Party Groups

There is statutory recognition for Party Groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making body. Officers may properly be called upon to support and contribute to such deliberations by Party Groups, provided that this is first agreed between the relevant Group Leader and the Chief Executive.

The support provided by Officers can take many forms, ranging from a briefing meeting with a Chairman, a Cabinet Member or a Group (either jointly or individually) to a presentation to a full Party Group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all Party Groups.

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

- (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of Party business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of Party business are to be discussed;
- (b) Party Group meetings, whilst they inform part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such;
- (c) Where Officers provide information and advice to a Party Group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant committee or

sub-committee when the matter in question is considered; and

- (d) the attendance of Officers at a Party Group meeting does not confer on that meeting any official standing.

Special care needs to be exercised whenever Officers are involved in providing information and advice to a Party Group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Code (in particular, the provisions concerning the declaration of interest and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Councillor only meeting.

Officers must respect the confidentiality of any Party Group discussions at which they are present in the sense that they should not relay any confidential information to another Party Group.

Any particular cases of difficulty or uncertainty with providing advice to Party Groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

22.6 Support Services to Councillors

The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, etc.) to Councillors is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes or for purposes not directly related to Council business. A similar restriction applies to the Public Relations Officers.

22.7 Councillors' Access to Information and to Council Documents

Both Councillors and Officers must adhere to the Access to Information Procedure Rules as set out in the Constitution.

Disclosure of confidential information by either a Councillor or Officer will constitute a breach of their relevant Code of Conduct and the appropriate action will be taken. In addition, the Council could be exposed to a damages or compensation claim as a result of the disclosure.

Councillors are able to approach any Council service with a request to provide them (within a reasonable period) with such information, explanation and advice (about that service's functions), as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a service's activities to a request for specific information on behalf of a constituent.

Councillors' entitlement to information from Officers is linked to their role as a Member of the Council, Ward Councillors, decision-makers and performing functions, such as overview and scrutiny (this is referred to as the common law 'need to know' principle). Under common law principles Councillors have the right to access information held by the Council where it is reasonably necessary to enable the Councillor to properly perform their duties as a Councillor.

However, if the Councillor's motive for seeing documents is indirect, improper or ulterior, this may be raised as a bar to their entitlement. Councillors are not, therefore, allowed to go off on a 'fishing expedition' through the Council's documents.

If a Councillor is a member of a particular committee or sub-committee, then they have the right to inspect documents relating to the business of that committee or sub-committee. If not a member of that committee or sub-committee, the Councillor would have to show good cause why sight of them is necessary to perform their duties.

In such instances, the Chief Officers may request a Member to demonstrate their 'need to know'.

All requests for information from Councillors should normally be directed to the relevant member of the Leadership Team. It must be remembered, however, that Officers within a service are accountable to their Assistant Director and whilst Officers should always seek to assist Councillors they must not, in doing so, go beyond the bounds of the Council they have been given by their Assistant Director. Individual Councillors (except Cabinet Members acting under delegated authority) do not have the power or authority to instruct Officers to provide information, explanations, advice or to carry out any specific task or tasks.

Councillors have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, committee or sub-committee meeting. This right applies irrespective of whether the Councillor is a member of the committee or sub-committee concerned and extends not only to reports which are to be submitted to the meeting, but also to relevant background papers. This right does not, however, apply to documents relating to certain items which may appear on the private agenda for meetings in accordance with the provisions of the Access to Information Procedure Rules.

Finally, any Council information provided to a Councillor must only be used by the Councillor for the purpose for which it was provided and in connection with the proper performance of the Councillor's duties as a Member of the Council.

22.8 Correspondence

Correspondence between an individual Councillor and an Officer should not normally be copied (by the officer) to any other Councillor. Where exceptionally it is necessary to copy the correspondence to another Councillor, this should be made clear to the original Councillor. In other words, a system of "silent copies" should not be employed.

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

22.9 Decision-Making

Decision-making by the Council is closely regulated by law. The taking of a decision by the wrong person or body or taken in the wrong way can invalidate the decision from the beginning or leave it vulnerable to being overturned by a court at a later date.

The law does not interfere with the merits of a decision which is normally left to the discretion of the Council. The law is concerned with process and any failure to follow lawful process will be addressed by the courts, sometimes with severe consequences as to the liability of an authority to others.

All Councillors and senior officers must understand the parameters of the authority they exercise and recognise that acting outside those parameters leaves the Council open to legal liability and/or public criticism. For Councillors, such actions are likely to amount to a breach of the Councillor Code of Conduct, and for Officers, may lead to disciplinary proceedings.

22.10 Officer Advice

Any Cabinet Member taking decisions individually must take advice from the relevant Officer(s). In taking Officer advice, Cabinet Members must consider what advice they require from the relevant service areas in respect of the particular issue to be addressed.

A Cabinet Member must always have the advice of the Monitoring Officer and Section 151 Officer when taking decisions.

The Cabinet Member must give Officers adequate opportunity to provide them with the advice on the issue prior to them taking the decision.

If the Chief Executive and/or the Monitoring Officer agree that a decision is unlawful or in breach of existing Council policy or procedure, they will refer the matter back to the relevant Cabinet Member asking them to reconsider. Ultimately, and in a case of serious disagreement, the Monitoring Officer is under a legal duty to report any likely breach of the law to full Cabinet.

23. Protocol and Code of Conduct for Planning Matters

Part 1

Introduction

- 23.1 **The aim of this Code of Good Practice:** to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 23.2 One of the key purposes of the planning system is to regulate the development and use of land in the public interest. **Your role as a Member of the Development Management Committee is** to make planning decisions openly, impartially, with sound judgment and for justifiable reasons. You are also a democratically accountable decision-taker who has been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.
- 23.3 **When the Code of Good Practice applies:** this code applies to Councillors at all times when involving themselves in the planning process. (This includes when taking part in the decision-making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with Officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

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

- 23.4 Further guidance for Councillors is found in the Development Management Committee (DMC) Handbook which sets out the duties and responsibilities of DMC members, skills and attributes, culture and behaviours, as well as the call-in procedure.

Relationship to the Councillor Code of Conduct

- 23.5 **Do** apply the rules in the Councillor Code of Conduct first, which must be always be complied with. This is both the rules on disclosable pecuniary interests (and other interests if included in your authority's code) and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 23.6 **Do** then apply the rules in this Code, which seek to explain and supplement the Councillor Code of Conduct for the purposes of planning and development control. If you do not abide by this Councillor Planning Code, you may put:

- the Council at risk of proceedings on the legality or maladministration of the related decision; and
- yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Localism Act 2011, a complaint being made to the police to consider criminal proceedings.

23.7 **Do** be aware that like the Councillor Code of Conduct, this Planning Code is a reflection and summary of the law on decision-making and not a direct replication of it. If in doubt, seek the advice of your Monitoring Officer or their staff advising at the meeting.

Development Proposals and Interests under the Councillor Code of Conduct

23.8 **Do** disclose the existence and nature of your interest as required by the Councillor Code of Conduct.

23.9 **Do take into account when approaching a decision that** the principle of integrity is defined, by the Committee on Standards in Public Life in 2013 in terms that “holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships”. It is therefore advisable that you:

- **Don’t** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have a disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Councillors when other members of the public would not have the same opportunity to do so.
- **Do** note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate Officer, in person or in writing, but that the Councillor Code of Conduct may place additional limitations on you in representing that proposal.
- **Do** notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary interest or other personal conflict of interest and note that:
 - you should send the notification no later than submission of that application where you can;
 - the proposal will always be reported to the committee as a main item and not dealt with by Officers under delegated powers;
 - you must not get involved in the processing of the application; and
 - it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with Officers and in public speaking at committee.

Fettering Discretion in the Planning Process

(natural justice, predisposition and predetermination)

- 23.10 **Don't** fetter your discretion and therefore your ability to participate in planning decision-making at this Council by approaching the decision with a closed mind. Fettering your discretion in this way and taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias, pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- 23.11 **Do** be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the law. Your prior observations, apparent favouring or objections in respect of a particular outcome will not on their own normally suffice to make a decision unlawful and have it quashed, but you must never come to make a decision with a closed mind.
- 23.12 **Do** keep at the front of your mind that, when you come to make the decision, you:
- must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice and the arguments from all sides;
 - are not required to cast aside views on planning policy you held when seeking election or when otherwise acting as a Member, in giving fair consideration to points raised;
 - are only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
 - are to come to a decision after giving what you feel is the right weight to those material considerations.
- 23.13 **Do** be aware that you can be biased where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- 23.14 **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a Borough and County Councillor), provided:
- the proposal does not substantially effect the well being or financial standing of the consultee body;
 - you make it clear to the consultee body that:
 - your views are expressed on the limited information before you only;

- you must reserve judgment and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
- you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.

23.15 **Do** explain that you do not intend to speak and vote as a member of the committee because you will be perceived as having judged (or you reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes. (Use the disclosure form provided for disclosing interests.)

23.16 **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member where you have represented your views or those of local electors and fettered your discretion, but do not have a disclosable or other personal conflict of interest. Where you do:

- notify the Democratic Services Officer by 5.15 pm on the day before the committee meeting that you wish to speak in this capacity before commencement of debate of the item;
- remove yourself from the Council Chamber for the duration of that item; and
- ensure that your actions are recorded in accordance with the Council's committee procedures.

Contact with Applicants, Developers and Objectors

23.17 **Do** refer those who approach you for planning, procedural or technical advice to officers.

23.18 **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should seek to arrange that meeting yourself through a request to the Assistant Director Development Services to organise it. Officers will then ensure that those present at the meeting are advised from the start that the discussions will not bind the Council to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the committee.

23.19 **Do** otherwise:

- follow the rules on lobbying;
- consider whether or not it would be prudent in the circumstances to make notes when contacted; and
- report to the Assistant Director Development Services any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition, in respect of presentations by applicants/developers:

- 23.20 **Don't** attend a planning presentation without requesting an officer to be present.
- 23.21 **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- 23.22 **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the Development Management Committee.
- 23.23 **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Councillors would intend to vote at a committee.

Lobbying of Councillors

- 23.24 **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the committee's decision-making, to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
- 23.25 **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 23.26 **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible, including its addition to your register of interests, where relevant.
- 23.27 **Do** copy or pass on any lobbying correspondence you receive to the Assistant Director Development Services at the earliest opportunity.
- 23.28 **Do** promptly refer to the Assistant Director Development Services any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- 23.29 **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate Officers to follow the matter up.
- 23.30 **Do** note that, unless you have a disclosable or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code

through:

- listening or receiving viewpoints from residents or other interested parties;
- making comments to residents, interested parties, other Councillors or appropriate officers (making clear that you must keep an open mind);
- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion of others in your role as a Ward Member.

Lobbying By Councillors

- 23.31 **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will be seen to have fettered your discretion on the grounds of bias.
- 23.32 **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but you should normally disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal and make it clear to that organisation and the committee that you have reserved judgment and the independence to make up your own mind on each separate proposal.
- 23.33 **Don't** excessively lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- 23.34 **Do** be aware of the power of social media posts or re-posting and be careful not to give the impression that you will definitively vote in a certain way or act with a closed mind if you intend to participate in the decision-making on behalf of the authority.
- 23.35 **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Councillor to do so. Political Group Meetings should never dictate how Councillors should vote on a planning issue.

Site Visits/Inspections

- 23.36 **Do** try to attend site visits organised by the Council where possible.
- 23.37 **Don't** request a site visit unless you feel it is strictly necessary because:
- particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site

inspection; or

- there are significant policy or precedent implications and specific site factors need to be carefully addressed.

23.38 **Do** ensure that you report back to the committee any information gained from the site visit that you feel would benefit all members of the committee.

23.39 **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.

23.40 **Do** ask the Officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.

23.41 **Don't** hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the Council and direct them to or inform the Officer present.

23.42 **Don't** express opinions or views.

23.43 **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:

- you feel it is essential for you to visit the site other than through attending the official site visit,
- you have first spoken to the Assistant Director Development Services about your intention to do so and why (which will be recorded on the file) and
- you can ensure you will comply with these good practice rules on site visits.

Public Speaking at Meetings

23.44 **Don't** allow members of the public to communicate with you during the committee's proceedings (orally, in writing or by social media) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.

23.45 **Don't** participate in social media or exchanges by texting as a member of the committee during the committee's proceedings as this may give the impression of undue external influence and may give the appearance of bias.

23.46 **Do** ensure that you comply with the Council's procedures in respect of public speaking.

Officers

23.47 **Don't** put pressure on Officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Assistant Director Development Services, which may be incorporated into any committee report).

23.48 **Do** recognise that Officers are part of a management structure and only discuss a

proposal, outside of any arranged meeting, with a Director/Assistant Director or those Officers who are authorised by their Director/Assistant Director to deal with the proposal at a Member level.

- 23.49 **Do** recognise and respect that Officers involved in the processing and determination of planning matters must act in accordance with the Officer Code of Conduct and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the committee or its Members.

Decision-Making

- 23.50 **Do** ensure that, if you request a proposal to go before the committee rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the committee.
- 23.51 **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- 23.52 **Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- 23.53 **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- 23.54 **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the Officers' introduction to the matter. (Where a matter is deferred and its consideration recommences at a subsequent meeting, only members of the committee who were present at the previous meeting will be able to vote. If this renders the committee inquorate then the item will have to be considered afresh and this would include public speaking rights being triggered again).
- 23.55 **Do** have recorded the reasons for the committee's decision to defer any proposal [and that this is in accordance with the Council's protocol on deferrals].
- 23.56 **Do** make sure that if you are proposing, seconding or supporting a decision contrary to Officer recommendations or the Development Plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded (it will help to take advice from Officers when and where necessary to do this and, if there are no indications allowing you to do this in advance of the meeting, it may be helpful to request a short adjournment for these purposes). Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

Training

- 23.57 **Don't** participate in decision-making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- 23.58 **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- 23.59 **Do** participate in the annual review of a sample of planning decisions to ensure that Councillors' judgments have been based on proper planning considerations.

Part 2

Development Management/Site Visits/Committee

Introduction

- 23.60 Officers will advise Members where it is considered that a site visit would be beneficial to the Committee's deliberations. This will be clearly stated within the Committee report, together with the arrangements which have been put in place.
- 23.61 Requests by Members for site visits made at the Committee meeting itself will not normally be entertained. This is because site visits can cause delay and additional costs and should only be used where the expected benefit is substantial.
- 23.62 A site visit is only likely to be necessary if:
- the impact of the proposed development is difficult to visualise from the plans and any supporting material;
 - there is a good reason why the comments of the applicant and objectors cannot be expressed adequately in writing or the proposal is particularly contentious.
- 23.63 The lack of any common approach on when and why to hold a site visit and how to conduct it can leave a Council open to the accusation that such visits are, at best, arbitrary and unfair and, at worst, a covert lobbying device.

Attendance at Site Visits

- 23.64 The following persons are entitled to attend a Development Management Committee site visit:-

- (a) Members as agreed by the Development Management Committee;
 - (b) Planning Officer(s) as appropriate;
 - (c) Other Councils and supporting County Council Officers, as appropriate
- e.g. Highway Engineer, Archaeology Adviser

Procedure

Organisation and Notification of Site Visits

- 23.65 Members are notified in writing of the date and time of the visit by reference to the agenda for the forthcoming meeting.
- 23.66 Applications/agents are, where relevant, informed of the site visit and purpose.

Procedure at the Site Visit

- 23.67 In order that visits are conducted in a consistent manner, the following procedure is as follows:-
- (1) Assemble at the agreed time and place for each site; Start time only at/or after the time stated on the timetable;
 - (2) In the absence of the Chair of the Development Management Committee, Members elect a Chair for the purpose of conducting the site visit in accordance with the adopted Council procedures;
 - (3) The Planning Officer gives brief details of the application, highlighting the main aspects which need to be considered on site. A copy of the plans will be available;
 - (4) At the conclusion of the visit, Members and Officers present converse in private to see if there is any further information Members wish Officers or applicants/agents to make available to the Development Management Committee prior to the meeting. However, there should be no discussion as to the relative merits of the application;
 - (5) The purpose of a site visit is to gather information and improve understanding of the planning application – it is neither the forum for debate nor the venue for the decision;
 - (6) Applications and objectors are, understandably, often keen to lobby Members on site – Members should let Officers lead the visit; that way Members remain one step removed and able to concentrate on information gathering.

- (7) Members should feel free to ask questions but do not get involved in discussions about the merits/demerits of the application;
- (8) Members should avoid making comments or statements that could be misconstrued or misinterpreted;
- (9) On site, Members should try to keep together as a Committee – that way all parties can be sure that each Member has had an opportunity to see the same things from the same place;
- (10) Whenever possible Members should try to arrive on time and together – Members arriving early and on their own will always be prey to lobbying;
- (11) If Members cannot attend or are going to be late Members should try to let Officers or a fellow Member know;
- (12) Members should wear sensible clothing and footwear.

Report to Committee

- 23.68 An Officer report will include the fact that a site visit is recommended. Individual Members who attended the site visit can, of course, contribute their personal views during the subsequent discussion of the application by the Committee before a decision is made.

Lobby of/or by Councillors

- 23.69 When being lobbied Members should take care about expressing an opinion that may be taken as indicating that they have already made up their minds or have a closed mind on the issue before they have been exposed to all the evidence and arguments. If Members do express an opinion, they should make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at Committee.
- 23.70 Members need to take account of the general public's (and Ombudsman's) expectations that a planning application will be processed and determined in an open and fair manner, in which Members making the decision will take account of all evidence presented before arriving at a decision and that to commit themselves one way or another before hearing all the arguments makes them vulnerable to an accusation of partiality or bias. The determination of a planning application is a formal administrative process involving rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly.
- 23.71 A Member who represents a ward affected by an application is in a difficult position if it is a controversial matter around which a lot of lobbying takes place. If the Member responds to lobbying by deciding to go public in support of a particular outcome or even campaigning actively for it – it may be

very difficult for that Member to argue convincingly, when the Committee comes to take a decision on the application, that they have carefully weighed the arguments presented – perhaps in some respects for the first time – at the meeting. Whilst in most circumstances this would not amount to predetermination, the proper course of action for such a Member would be to make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at Committee.

23.72 It is difficult to find a form of words which conveys every nuance of these situations and which gets the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is ultimately the responsibility of the individual Member. The following points should be borne in mind:-

- Given that the point at which a decision on a planning application is made cannot occur before the Development Management Committee meeting, when all available information is to hand and has been duly considered, any political group meeting prior to the Committee meeting should not be used to decide how Members should vote. The view of the Ombudsman in the past has been that the use of political Whips to seek to influence the outcome of a planning application could amount to maladministration.
- Members should not put improper pressure on Officers for a particular recommendation and, as required by the Councillor Code of Conduct, should not do anything which compromises, or is likely to compromise, their impartiality.

23.73 Unless care is taken, lobbying can lead to the impartiality and integrity of a Member being called into question. Members need to take account of the public's expectation that a planning application will be processed in an open and fair manner. Accordingly, it is helpful to bear in mind the following:-

- Take care when expressing an opinion on a planning application – it could be construed that a Member has already made up their mind.
- Members should restrict themselves to giving procedural advice and refer those who are lobbying to the relevant Planning Officer.
- If a Member does express an opinion it should be made clear by the Member that the Member will only be in a position to take a final decision after having heard all the relevant evidence and arguments at Committee.
- Members should not put improper pressure on Officers for a particular recommendation.

- The point at which a decision on a planning application is made cannot occur before the Committee meeting – when all available information is to hand.
- Any Group meeting prior to the Committee meeting should not be used to decide how Members should vote – the Ombudsman may view this as maladministration.
- If a Member has been lobbied prior to a decision then the Member shall declare so at Committee – it does not prevent that Member from participating in the debate or the vote provided that the Member has not already signalled their intentions.
- If a Member does commit themselves one way or another before hearing all the arguments, they should declare so at the Development Management Committee and withdraw from the vote.
- A specimen letter to constituents is available from the Assistant Director Planning Services.

23.74 Members who are unsure as to whether an interest should be declared should seek the advice of the Council's Monitoring Officer although, as indicated above, the decision rests with the Member.

Protocol for Public Speaking On Planning Applications at Development Management Committee Meetings and Committee Procedure

1. The Council welcomes the general principle that the public should be able to participate in the decision-making process by speaking on planning applications at Development Management Committee meetings. This document will outline the procedure under which such spoken comments may be made, in order to ensure that the decision-making process remains fair and effective.
2. For the purposes of clarity public speaking applies only to those planning applications that come before the Development Management Committee for determination and not those applications dealt with under the delegated powers of the Head of Place and Policy.
3. A letter will be sent to all people who responded to a planning application consultation advising them that the application will be decided at a Development Management Committee meeting. This letter will indicate the date of the meeting and specify the procedures for public speaking at these meetings.

4. A list of planning applications to be decided at a Development Management Committee Meeting will also be published in paper and electronic format at least five clear working days before the meeting. The Agenda may be viewed at the Council Offices and on the Council's website.
5. One person will be allowed to speak at the Development Management Committee in objection to the application under consideration regardless of the officer recommendation. This person may speak for a maximum of three minutes and should restrict their statement to material planning considerations. A list of such considerations is set out for guidance purposes at the end of this protocol and is also included in the Development Management Committee Handbook. The person will not be able to question members or officers and neither will members or officers be able to question the person speaking.
6. One person will be allowed to speak at the Development Management Committee in support of the application under consideration regardless of the officer recommendation. This person may be the applicant or their agent or a member of the public. This person may speak for a maximum of three minutes and should restrict their statement to material planning considerations. The person will not be able to question members or officers and neither will Members or officers be able to question the person speaking.
7. Where both an objector to an application and a supporter of an application wish to speak the objector shall speak first and the supporter second.
8. Where a member of the public wishes to speak in objection or support of a planning application that person must contact the Council's Democratic Services Department by 5.15 p.m. on the Monday prior to the meeting and give their name and contact details, the application concerned and whether it is in objection or support. Any person wishing to speak at the meeting is requested to be present at the Council offices by 7.00 p.m. on the day of the meeting and make themselves known to the Committee Officer so that arrangements can be finalised.
9. Where more than one person wishes to speak in objection to an application the persons who have expressed a wish to speak will be contacted by the Council's Democratic Services prior to the Development Management Committee meeting. They will be advised that they should work collectively to prepare one three minute objection statement to be delivered by a spokesperson. This will be known as a multiple objection.
10. The Committee Officer will seek the agreed name representing the multiple objections at 7.00 p.m. on the day of the meeting.
11. If those within the multiple objections are unable to agree on a spokesperson the Chairman will determine which of the persons who have

expressed a wish to speak will be allowed to do so. Whilst it is at the Chairman's discretion who will be allowed to speak priority will be given to a local resident directly affected by the application. The person nominated to speak on behalf of the multiple objections by the Chairman shall be notified prior to commencement of the Development Management Committee meeting.

12. The Council will not accept documentary submissions by supporters/objectors to applications at this time.
13. At the Development Management Committee meeting the Chairman will read out the application proposal and the Planning Officer will introduce and present the item and make their recommendation. This will ensure that the members of the committee are aware of the nature of the issues related to the application in question and will ensure that the public speakers do not have to waste time in their three-minute period describing the application. Public speaking on a planning application shall take place immediately after the Planning Officer has delivered their report.
14. Where a multiple objection is to be delivered the Chairman will indicate that it is a "multiple objection representation". Thereafter the objector and supporter will be invited to speak by the Chairman. The objector's and supporter's three-minute period will be strictly timed, and the objector and supporter must stop speaking when the end of the time period is indicated by the Chairman. Where an objector or supporter does not respect this rule, they may be asked to leave the chamber and future opportunities to speak at the Development Management Committee may be restricted.
15. Whilst a member of the public is speaking, other members of the public, Councillors and Officers must respect the right of the speaker to express their opinion. The Chairman may ask anybody who interrupts or heckles the speaker to leave the chamber for the remainder of the meeting.
16. After a member of the public has spoken against the application, the applicant or their agent will be invited by the Chairman to speak in support of their application.
17. In certain circumstances, a Member of the Council for that particular Ward whether or not a member of the Development Management Committee may wish to address the Committee on a planning application. The Member may have personal views or be representing the community. In these circumstances, the Member should advise the Committee Officer by the Monday prior to the date of the meeting of his or her request to address the Committee. At the meeting, the Chairman of the Committee will then invite the Member to speak after any members of the public have addressed the Committee. No questions to or from the Member, or to or from Members of the Committee shall be allowed. The Members of the Development Management Committee will speak on the matter after members of the public and the applicant have spoken on the matter pursuant to this Protocol.

18. Once the objector, the supporter and any Ward Member or Town Council Member have addressed the meeting, the Chairman will invite Members of the Development Management Committee to ask questions of the Planning Office in order to clarify any issues and to inform the debate.
19. The Committee will then debate the application, taking into account the representations made by the members of the public and on behalf of the applicant. Members of the public must not interrupt or heckle during this debate and will be asked by the Chairman to leave the chamber should such activity occur. Members will speak on the proposal for a maximum of 4 minutes.
20. At the conclusion of the debate, the Chairman will read out the Planning Officer recommendation and the application will be voted upon. Voting will be by way of a show of hands and by simple majority with the Chairman having the casting (2nd) vote, where required.
21. Members may propose amendments to the recommendation and any proposal must be seconded before it can be discussed. The Chairman reads out the revised recommendation with amendment and Members vote on the revised recommendation.
22. In the event that Members vote against a Planning Officer recommendation as presented to them in the Committee item, members are required to put forward valid and material planning reasons for not supporting the recommendation in the report. An alternative Motion cannot be proposed until those reasons have been given. Members must state what the Motion is and the reasons for it. The reasons must be precise and relevant. If valid and material planning reasons are given, then the alternative Motion must be proposed and seconded.
23. The Planning Officer will advise the Committee if they can sufficiently conclude the requirements of the revised motion for the application to be determined at that meeting or if a deferral is required. For example, if the proposed amendment requires a number of conditions to be considered the officer would need to defer to allow adequate time to correctly construct all conditions and then prepare a report to present them to the following Committee. If no deferral is required, the Chairman will read out the revised recommendation as per the motion and Members will vote on the revised recommendation.
24. Where a deferred application is returned to the Development Management Committee, the Chairman will read out the revised recommendation as presented to them in the second report and Members vote to agree the revised recommendation.
25. Where an application has been considered and deferred to a future meeting

for determination the Democratic Services officer will ensure that only those who considered the application at the first meeting will take part at the second meeting (including substitutes).

Public Speakers: What can I speak about?

Your comments should relate to the application and to issues that the Committee can take into account when determining an application such as:

- Planning Policy (Government Guidance and Local Plans)
- Design, appearance, layout and effect on nearby property
- Impact on visual or residential amenity (including loss of light, noise, odor and other environmental impacts)
- Impact on trees, conservation areas or nature conservation
- Highway safety and traffic issues

Try to avoid issues that are not planning matters such as:

- Private property rights (boundary or access disputes, restrictive covenants)
- Effect on property values
- Personality or a developer's motives
- Loss of view over private land
- Please don't make personal remarks. (Committee proceedings are not exempt from the laws of slander).

If you have any queries about speaking at the Development Management Committee please telephone (01268) 882400.