

# **Part 5**

## **Codes and Protocols**

# Members Code of Conduct

## The Model Code of Conduct – Authorities Operating Executive Arrangements

### Part 1

#### General Provisions

##### Introduction and Interpretation

1. (1) This Code applies to you as a member of an authority
- (2) You should read this Code together with the general principles prescribed by the Secretary of State (a)
- (3) It is your responsibility to comply with the provisions of this Code
- (4) In this Code  
“meeting” means any meeting of :
  - (a) the authority;
  - (b) the executive of the authority
  - (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees“member” includes a co-opted member and an appointed member
- (5) In relation to a parish council, references to an authority’s monitoring officer and an authority’s standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55 (12) of the Local Government Act 2000

##### Scope

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—
  - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority—
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### **General obligations**

3.
  - (1) You must treat others with respect.
  - (2) You must not—
    - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006[a]);
    - (b) bully any person;
    - (c) intimidate or attempt to intimidate any person who is or is likely to be—
      - (i) a complainant,
      - (ii) a witness, or
      - (iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

  - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
  - (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

4. You must not—
  - (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
    - (i) you have the consent of a person authorised to give it;
    - (ii) you are required by law to do so;
    - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
    - (iv) the disclosure is—
      - (aa) reasonable and in the public interest; and
      - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
  - (b) prevent another person from gaining access to information to which that person is entitled by law.
5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
6. You—
  - (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
  - (b) must, when using or authorising the use by others of the resources of your authority—
    - (i) act in accordance with your authority's reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986(a).
7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—
  - (a) your authority's chief finance officer; or
  - (b) your authority's monitoring officer,where that officer is acting pursuant to his or her statutory duties.

- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## Part 2

### Interests

#### **Personal interests**

8. (1) You have a personal interest in any business of your authority where either—
- (a) it relates to or is likely to affect—
- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
  - (ii) any body—
    - (aa) exercising functions of a public nature;
    - (bb) directed to charitable purposes; or
    - (cc) 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;
  - (iii) any employment or business carried on by you;
  - (iv) any person or body who employs or has appointed you;
  - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
  - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
  - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
  - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

- (ix) any land in your authority's area in which you have a beneficial interest;
  - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
  - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—
- (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
  - (ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
  - (iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is—

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

### **Disclosure of personal interests**

9. (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000(a).

### **Prejudicial interest generally**

10. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business—
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
  - (c) relates to the functions of your authority in respect of—
    - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
    - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
    - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

### **Prejudicial interests arising in relation to scrutiny committees**

11. You also have a prejudicial interest in any business before a scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
  - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **Effect of prejudicial interests on participation**

12. (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

- (b) you must not exercise executive functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

## Part 3

### Registration of Members' Interests

#### **Registration of members' interests**

13. (1) Subject to paragraph 14, you must, within 28 days of—
- (a) this Code being adopted by or applied to your authority; or
  - (b) your election or appointment to office (where that is later),
- register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.
- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

#### **Sensitive information**

14. (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

# Officers' Code of Conduct

## 1. Standards

Employees must give the highest possible standard of service to the public and, where it is part of their duties, provide appropriate advice to elected members and fellow employees with impartiality.

The Council is committed to the highest possible standards of openness, probity and accountability. In line with this commitment employees and others with serious concern about any aspects of the Council's work are encouraged to come forward and voice those concerns.

Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. In these circumstances, it may be easier to ignore the concern than report what may be just a suspicion of malpractice. The Whistleblowing Policy is intended to encourage and enable staff to raise serious concerns within the Council and to do so without fear of reprisals.

## 2. Disclosure of Information

Employees must not use information obtained in the course of their employment for personal gain or benefit, nor pass information onto others who might use it in such a way. Unauthorised disclosure of information of this kind may result in disciplinary action being taken against the employee concerned.

### Data Protection

The **Data Protection Act 1998** regulates the use and disclosure of personal information relating to living individuals. The Act lays down detailed conditions for the processing of personal data and outlines the rights of an individual to access information held about them and to have inaccurate data corrected or erased. A person may also apply to Court for compensation for breaches of the Act, including damage or distress caused through inaccuracy, unauthorised disclosure or destruction of their personal data.

The Act applies to anyone holding data about living individuals on computer and / or manual records. Those responsible for the processing of personal data should liaise with the Council's Data Protection Officer to ensure that the use of the data is registered as necessary with the Government's Data Protection Commissioner. Eight enforceable Data Protection Principles are contained within the Act and these must be adhered to.

It is important that employees are fully aware of their responsibilities in this respect because in the event of a breach of the act the employee may be held personally liable for not complying with or acting against the provisions of the act and its eight principles.

## The Eight Data Protection Principles:

1. **Personal data must be obtained and processed fairly and lawfully.** In other words, the person from whom the information is obtained must not be deceived about the purpose for which it is gathered. The Act sets out the conditions which must be met before processing any data and outlines additional conditions which apply to 'sensitive' data.
2. **Personal data shall be obtained only for one or more specified and lawful purposes and shall not be further processed in any manner incompatible with that purpose.** The purposes must be defined and registered with the Commissioner. Any new uses of personal data or changes to existing uses must be notified to the Council's Data Protection Officer because an amendment to the Council's registration may be required. Once data has been collected for certain defined purposes it should not then be used for other purposes.
3. **Personal data shall be adequate, relevant and not excessive in relation to the purpose for which it is to be processed.** Users cannot collect data 'for the sake of it' in case 'it might come in handy'. Personal data held should only be sufficient to operate the system.
4. **Personal data shall be accurate and where necessary kept up to date.** This places an obligation on data users to take steps to ensure the accuracy of the data they hold, and to keep it up-to-date. This is important as data users can be held liable for damages and compensation payable to data subjects if inaccurate data causes harm or distress to them. It is an offence under the Act to knowingly or recklessly hold or process inaccurate data.
5. **Personal data processed for any purpose shall not be kept for longer than is necessary for that purpose.** The basic requirement is for users not to hold data for indefinite periods on the premise that 'it might come in useful one day'. It is necessary to justify the period for which personal information is kept.
6. **Personal data shall be processed in accordance with the rights of data subjects under the Act.** The data subject has the right (*inter alia*) to have his / her personal data processed fairly and lawfully (including that of being told of the identity of the data controller and the purposes of processing); to be given, on making a written request and paying a fee, a description of all the personal data which is being processed and to receive it in an intelligible form; to have inaccurate data corrected or erased; to seek compensation if he / she suffers damage by reason of any contravention of the Act.
7. **Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data against accidental loss or destruction of or damage to personal data.** This requires that the data users take reasonable security measures to ensure that data cannot be lost, or accessed or tampered with by unauthorised persons. This is probably the principle which will require most attention by employees, who have a personal responsibility for the security of data used. It is important that personal data is not left on display or lying around, either on computer screens, on printouts or manual records and files. Any information read by unauthorised personnel is classed as unauthorised disclosure and can result in legal action against the Council or, indeed, the member of staff

responsible if it is shown that he / she knowingly or recklessly disclosed the information. Such legal action can also be a result of careless conversation in the presence of others (non employees) if the information causes damage or distress to the data subject to whom the personal data relates. Inadequate security measures can result in heavy fines and damages to both an individual and a registered data user.

8. **Personal Data shall not be transferred outside the European economic area unless that country or territory has an adequate level of protection for the processing of that personal data.**

In conclusion, each employee will almost certainly, in the course of their duties, handle personal data to which the Data Protection Act will apply. To be safe, it is best practice to apply the eight principles to all the personal data you handle.

Any queries or concerns about data protection should be addressed to your Section Head or consult the Data Protection Officer (Audit Manager) direct. This is particularly important should you receive a request from an individual for access to their personal information, as there is only a limited amount of time to respond to such a request.

### 3. **Political Neutrality**

Employees serve the District Council as a whole. They must serve all elected members and not just those of the controlling group. In addition, they must ensure that the individual rights of all elected members are respected.

An officer should not be called upon to advise any political group of the Council either as to the work of the group or as to the work of the Council, nor be required to attend any meeting of any political group.

Whether or not employees are politically restricted by the law, they must follow the lawfully expressed policies of the District Council and must not allow their own personal or political opinions to interfere improperly with their work.

### 4. **Relationships**

#### **Elected Members**

Mutual respect between employees and elected members is essential. However, close personal familiarity between employees and elected members can damage professional relationships and prove embarrassing to other employees and elected members and, wherever reasonable and possible, should be avoided.

#### **The Local Community and Service Users**

Employees must always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial delivery of services to all groups and people within that community according to the policies of the District Council.

#### **Contracts**

Employees must make known in writing to their Head of Service all relationships of a business or private nature they have with external or potential contractors. Orders

and contracts must be awarded on merit, by fair competition where appropriate against other tenders and no special favours must be shown to potential contractors (particularly those run by, for example, friends, personal or business partners, spouses or relatives) in the tendering process.

Employees who, in the course of their job, engage or supervise contractors or have any other official relationship with contractors and / or have had or currently have a relationship in a private or domestic capacity with contractors (or their senior staff) must also declare that relationship in writing to their Head of Service.

## **5. Appointment and Other Employment Matters**

Employees involved in appointments must ensure that these are made on merit. There is a strong risk of illegality if an employee makes an appointment based on anything other than the ability of the applicant to undertake the duties of the post. To avoid accusations of bias, employees must not be involved in appointments where they are related to an applicant or otherwise have a close, personal relationship with them.

By the same token, employees must not be involved in supervisory decisions relating to the discipline, promotion or remuneration (regrading) of any employee to whom they are related or otherwise have a close, personal relationship.

## **6. Outside Commitments**

Full-time employees have conditions of service which require them to obtain written consent before engaging in outside employment. All employees must be clear about their contractual obligations and must not take outside employment which conflicts with the District Council's interests.

Employees must adhere to any rules adopted by the District Council on the ownership of intellectual property or copyright.

## **7. Personal and Prejudicial Interests**

If officers have a personal or prejudicial interest in an item of work relating to their section's responsibilities, or such an item involves a relative or friend, then they must inform their Head of Service immediately of the interest and not involve themselves in any way in that work. Any such interests must be recorded in the office register. Failure to do so could lead to disciplinary action and even dismissal.

Employees' off duty hours are their personal concern but they should not subordinate their duty to their private interests or put themselves in a position where their duty and private interests conflict.

Prejudicial interests (which could, for example, arise from work undertaken as part of outside employment or financial interests in companies) in any item of Council work must be avoided if at all possible. If this is not possible, the interest must be declared to Heads of Service at the first opportunity. Failure to do so could lead to disciplinary action and even dismissal.

Employees must declare in writing to their Head of Service or Strategic Director membership of any organisation not open to the public without formal membership

and commitment of allegiance and which has secrecy about rules, membership or conduct (e.g. the Masons, some friendly societies etc.).

## **8. Equality Issues**

Employees must ensure that District Council policies concerning equality issues are complied with in addition to the requirements of the law. In this respect all members of the community, customers and fellow employees have a right to be treated with fairness and equality.

## **9. Separation of Roles During Tendering**

Employees involved in the tendering process and dealing with tenders / contractors must be clear on the separation of the client and contractor roles in the District Council.

Employees in client or contractor units must exercise and display fairness and impartiality when dealing with customers, suppliers, tenderers, contractors and sub-contractors.

Employees who are privy to confidential information on tenders and / or costs for internal and / or external tenderers / contractors must not disclose that information to any party or organisation not entitled to it.

If employees contemplate management buy-outs or otherwise consider tendering (outside any official client / contract capacity) for District Council work, and otherwise are not restricted from doing so, as soon as they have formed a definite intent they must advise their Head of Service accordingly and withdraw immediately from any contract awarding process.

Employees must avoid any suggestions of impropriety when dealing with current or former employees, friends, personal or business partners, spouses, or relatives in awarding contracts to a business run by them or employing them in a senior or otherwise relevant managerial capacity. Where possible, employees must remove themselves from awarding role in such situations.

NOTE: Attention is also drawn to the District Council's Financial and Contract Procedure Rules.

## **10. Corruption**

It is a serious criminal offence for employees corruptly to receive or give any gift, loan, free, reward or any other advantage of doing, or not doing, anything or showing favour or disfavour to any person.

Where any substantiated allegation is made, the onus is on employees to demonstrate that any such rewards given or received have not been corruptly obtained.

## **11. Use of Financial Resources**

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. In all situations employees should strive to ensure 'value for

money' to the local community and to avoid any action which, by its nature, could lead to legal challenge of the District Council.

## **12. Gifts and Hospitality**

### **National Guidance**

The NJC for Local Government Services states at 2.1 on official conduct employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained.

There will be occasions when Council officers are unsure whether they should accept gifts or offers of hospitality from clients or contractors. The following notes are intended to help staff make the right decision.

Officers must be aware that the offering and acceptance of gifts could result in criminal proceedings (Public Bodies Corrupt Practices Act 1889, Prevention of Corruption Act 1916). It is obviously wrong for an officer to accept inducements for personal gain in exchange for treating a client or contractor favourably. On the other hand it would be churlish to refuse minor items which are of only nominal value.

### **Gifts**

An officer should refuse gifts to him / her personally, or to a family member, by a person or organisation which has, or seeks, dealings with the authority. Excepted from this rule are minor promotional gifts distributed to a wide range of people and not uniquely to one officer (e.g. pens, calendars, diaries etc. given usually at Christmas time for use in the office).

If you are in any doubt you should seek advice from your Head of Service.

### **Hospitality**

Invitations to lunch or some other function from a person or organisation which has or is seeking dealings with the Council must be treated with care. A modest working lunch to discuss business or attendance at a reception or promotion which has been approved is acceptable. Offers of holidays or hotel accommodation, use of company flats, cars etc. must be refused.

If you are in any doubt you should seek advice from your Head of Service.

### **Register**

All offers of gifts and / or hospitality must be recorded in the official register. You must follow the procedure laid down in your department.

## **13. Sponsorship – Giving and Receiving**

Where an outside organisation seeks to sponsor a District Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning hospitality and gifts must apply. In this respect particular care must be taken in dealings with contractors or potential contractors.

Where the District Council seeks to sponsor an event or service, special care must be taken to ensure that if any benefit accrues to employees, friends, personal or business partners, spouses or relatives, full disclosure is made before the venture is pursued. Similarly, if the District Council through sponsorship, grant aid, financial or other means gives support in the community, employees must ensure that impartial advice is given and conflicts of interest avoided.

**14. Miscellaneous**

Employees must comply with the District Council's rules on Computer Security, Virus Checking, Use of the Internet and E-mail.

**15. Conclusion**

As emphasised earlier in this Code, although the guidelines are set down for and apply to all employees of the District Council, its effect and relevance will be greater for those employees involved, for example, in the management and policy-making processes of the District Council. Nevertheless, a copy of the code is made available to every employee whatever their position.

# Protocol on Member Officer Relations

## 1. PREAMBLE

- 1.1 The purpose of this protocol is to guide members and officers of the Council in their relations with one another.
- 1.2 The successful operation of the District Council depends on an effective and complementary relationship between councillors and officers, characterised by:
- trust,
  - openness,
  - honesty,
  - integrity,
  - mutual respect,
  - a culture of shared responsibility; and
  - mutual recognition of each other's perspective.
- 1.3 Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. It is hoped that the approach which it adopts to these issues will serve as a guide to dealing with other issues.
- 1.4 For the assistance of both members and officers, the Protocol has made reference to certain rules. It is recognised that the member / officer relationship cannot be codified, and that the relationship must always be guided by mutual respect and by the recognition that members and officers are engaged together in a shared endeavour to serve the public.
- 1.5 This protocol is to a large extent no more than a written statement of current practice and convention. In some respects it seeks to promote greater clarity and certainty.

## 2. CONDUCT

- 2.1 This protocol also seeks to reflect the principles underlying the respective codes of conduct which apply to both members and officers. The shared object of these codes is to enhance and maintain the integrity of local government and they therefore demand very high standards of personal conduct.
- 2.2 A relevant extract from the National Code of Local Government Conduct for Members' is reproduced below:

*"23. Both councillors and officers are servants of the public and are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to councillors and the Council, and to carry out the Council's work under the direction and control of the Council, their committees and sub-committees.*

*24. Mutual respect between councillors and officers is essential to good local government. Close personal familiarity between individual councillors and*

*officers can damage this relationship and prove embarrassing to other councillors and officers."*

- 2.3 A copy of the Council's Code of Conduct for Officers' is available on the staff Intranet. It forms part of the Staff Handbook and is explained to all new members of staff on joining the Council.
- 2.4 In dealing with each other, members and officers should observe reasonable standards of courtesy, and neither party should seek to take unfair advantage of their position.
- 2.5 It is recognised that members may wish publicly to criticise the activities of the Council or specific decisions of the Council. In so doing, members should refrain from public criticism of staff or specific officers. Nor should members endeavour to involve officers either in political disagreements or in disputes between individual members.
- 2.6 Officers should not publicly criticise the Council, its decisions, or any member thereof.
- 2.7 If a member of the public wants to complain about the conduct of a member of Suffolk Coastal District Council or a member of one of the parish or town councils within the Suffolk Coastal District, they must submit their complaint to:

Chairman of the Assessment Sub-Committee  
The Standards Committee  
Suffolk Coastal District Council  
Melton Hill, Woodbridge, Suffolk IP12 1AU  
Fax 01394 385100  
Email: [committee.section@suffolkcoastal.gov.uk](mailto:committee.section@suffolkcoastal.gov.uk)

A complaint form is available at the Council's main reception desk and a link to it can be found on the Council's website at [www.suffolkcoastal.gov.uk](http://www.suffolkcoastal.gov.uk)

### **3. MEMBER AND OFFICER ROLES**

#### **3.1 Members**

- Set the Policy Framework and corporate goals
- Develop policy proposals with professional advice from officers
- Determine which policy options are to be followed
- Monitor the implementation and effect of their decisions
- Represent the local community and ensure that its best interests are considered during policy-making
- Progress constituents' enquiries and complaints
- Represent the Council, ensuring that its views and policies are accurately represented

- 3.2 In particular, the Cabinet has the function of setting the direction of the Council, and taking the key decisions. In addition, it has a key role in proposing the budget and Policy Framework to the Council. The Cabinet will carry out all the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

### 3.2 **Officers**

- Manage the implementation of policy
- Initiate policy proposals which accord with the overall framework set by members
- Give professional advice in the course of policy development
- Manage the organisation
- Take action under delegated powers
- Ensure legal requirements are observed
- Serve the Council as a whole, not any individual body, committee, group or administration
- Must observe political neutrality

## 4. **OFFICERS AND THE CABINET**

### Decisions by Individual Members of the Cabinet

- 4.1 Where a decision is taken by a Cabinet member acting individually within the scope of that individual's powers:
- (a) it is the responsibility of the member to ensure that that decision is recorded by following any procedure approved by the Council for that purpose.
  - (b) the Cabinet member may wish to give effect to his / her decision by issuing an instruction to an officer to implement that decision. In such instances, such an instruction may only be given to a Strategic Director or Head of Service or an appropriate Senior Officer unless the indicates on a specific or general basis that a particular issue or type of issue may be raised with a specific officer within his / her department.
- 4.2 A Cabinet member will not normally make a decision without having first sought and considered advice from the relevant Senior Officer(s), including, where relevant, advice from the Head of Finance on any financial implications.

### Operation of the Cabinet

- 4.3 It is recognised that it is the prerogative of the Cabinet to set its own agenda. The Strategic Directors and Heads of Service of the Council, are the managers of the services they run, and as such are responsible for the efficiency and effectiveness of those services to meet the policy objectives and targets set by the Council. They are also responsible for the provision of professional advice. Accordingly, the Cabinet should not operate in a way which prevents or inhibits the submission to the Cabinet (or any other Council body) of an officer report when a Strategic Director or Head of Service considers it appropriate that such a report should be submitted.
- 4.4 The Cabinet recognises the need to have regard to the full range of the Council's activities, and will manage its business in such a way as not to place unsustainable burdens on officer workloads. Accordingly, members should recognise that if they wish priorities to change, they should discuss the resource issues (and implications) with the relevant officer(s) before making commitments.
- 4.5 Decisions in relation to urgent matters falling within the responsibility of the Cabinet will be taken by the Leader of the Council or relevant Cabinet member, after consultation with the appropriate officer.

### Provision of Information

- 4.6 The effective operation of the Cabinet depends on Cabinet members and Senior officers ensuring that each other is fully briefed with regard to current activities, and identified future issues. It is, accordingly, accepted that it is proper for Strategic Director and/or Heads of Service to regularly discuss with Cabinet members day-to-day matters of concern relating to executive functions, possible future policies, patterns of expenditure, etc.
- 4.7 It is recognised that in most instances, officers will brief the relevant Cabinet member. In respect of significant issues, or matters of high public profile or controversy, officers should also brief the Leader of the Council.
- 4.8 The frequency of Cabinet meetings, the fact that a significant part of the Council's business will come before a single body (i.e. the Cabinet) and the need to ensure that Cabinet members are adequately briefed, will inevitably mean that Cabinet members are better informed than most other members of the Council on many aspects of the Council's activities. The Council will endeavour to keep this discrimination to a minimum.
- 4.9 Where in the course of discussions with a member, future policy options are discussed, the confidentiality of such options shall be respected by the Strategic Director or Head of Service.
- 4.10 Reports to Cabinet shall for the most part be made in the name of the relevant Cabinet Member and shall name the supporting officer. It is recognised that Cabinet members will need to discuss the content of forthcoming reports with supporting Officers, and where members submit reports to the Cabinet, they will do so in accordance with a procedure and timetable which ensure that:
- (a) there is time for the necessary research and internal consultation which goes into report production; and
  - (b) advice has first been sought and considered from the supporting officers or other relevant Senior Officers on legality, consistency with Council policy and practice, and budget and other implications.
- 4.11 The content of officer reports must remain the prerogative of officers, but it must be clear that Cabinet members may invite officers to submit reports on specific matters, and / or to include in their reports an exploration of specific options or proposals – recognising that the conclusions must remain those of the report-writer.

### Reference to Cabinet

- 4.12 Government has stated in guidance issued in connection with the modernising agenda that it does not expect the introduction of executive arrangements to reduce delegation to officers.
- 4.13 Nevertheless, officers must recognise that as individual Cabinet members may take decisions, certain matters which officers might formerly have dealt with (perhaps after formal or informal consultation with a committee chairman) should be referred to a Cabinet member for decision.

4.14 Accordingly, when an issue arises in the course of their day-to-day operational management of the Council, officers should pause and reflect whether the issue is in fact one which should be put before the relevant Cabinet member.

4.15 In particular, officers should refer to the relevant Cabinet members matters which might otherwise not have been referred to the Cabinet, but which

- Are of significant community interest or impact
- Are likely to prove controversial or stimulate media interest

The following matters should not be referred to an individual member:

- For which there is no budget provision
- Which fall outside the Policy Framework
- Which affect another Cabinet member's portfolio

4.16 Regard must also be had to the formula laid down by government for determining those matters which are the prerogative of full Council or a regulatory committee. Officers must take care not to refer non-executive matters to Cabinet members.

## **5. OFFICERS AND SCRUTINY, REGULATORY AND STANDARDS COMMITTEES**

5.1 In exercising its powers to call a named officer to "give evidence" to it, a scrutiny committee should normally only call a Strategic Director or Head of Service or an appropriate senior officer (as scheduled in Part 7 of the Constitution [Management Structure]) unless the Officer indicates on a specific or general basis that a particular issue or type of issue with a specific officer within his / her department may be called.

5.2 Scrutiny should operate in partnership with the Cabinet – challenging and calling-in where appropriate, but working with the Cabinet to develop the Council's services. This will be facilitated by a positive relationship between Strategic Director or Head of Service and scrutiny.

5.3 Service-review task groups may be established either by the Cabinet or by a scrutiny committee. Task groups play an important role in policy development and review, and it is accordingly important that the programme of policy development and review is such as can be effectively supported by officer resources. Accordingly, it is recognised that there is merit in Cabinet and the scrutiny committee agreeing in advance (perhaps through the adoption of "work programmes") on their proposals for task groups, so that a reasonable number only are established at any one time.

5.4 It is accepted that it is proper for Strategic Director or Head of Service regularly to discuss with chairmen and vice-chairmen of committees and sub-committees, day-to-day matters of concern relating to the services for which that committee or sub-committee may be responsible, possible future policies, patterns of expenditure etc.

5.5 Such discussions shall not be used by the chairman, vice-chairman or Strategic Director or Head of Service to pre-empt decisions on matters which are properly the province of the committee or sub-committee, or of the Council itself.

5.6 More significantly, meetings shall be held on a regular basis between appropriate Strategic Director or Head of Service and the chairmen and vice-chairmen of

appropriate committees and sub-committees, at which briefings shall be given on major issues and projects and on matters likely to arise on committee agendas.

- 5.7 Where, in the course of discussions with the chairman or vice-chairman of a sub-committee, future policy options are discussed, the confidentiality of such options shall be respected by the Strategic Director or Head of Service.
- 5.8 Reports will not be withheld from committees or sub-committees if, in the opinion of the Strategic Director or Head of Service, the committee or sub-committee should, at that time, be considering the matter that is the subject of the report.
- 5.9 It is recognised that chairmen and vice-chairmen may wish to discuss the content of forthcoming reports with Strategic Director or Head of Service. In this connection, the following guidelines will be adhered to:
- (a) The options for action listed in a report should not be reduced in number if the Strategic Director or Head of Service considers that the full range of options should be shown to members.
  - (b) A recommendation should not be materially altered, removed or added to unless, arising from discussion with members, it is the Strategic Director or Head of Service's preference so to do.
  - (c) If chairmen of committees wish a particular recommendation to be put to committee in a report, the fact that such material was added at the specific request of the chairman / vice-chairman of the committee will be reported in that report.
- 5.10 As a general practice the chairmen and vice-chairmen of committees and sub-committees should be encouraged to go through the agendas for meetings with appropriate officers prior to the meeting. This is an opportunity not only for the members to raise any questions they may have but also for officers to brief them on any developments which have taken place since the agenda was prepared.
- 5.11 When pre-meeting briefings are organised for committees or sub-committees the chairman and vice-chairman should be invited. If either is unable to attend a representative from their group should be invited. If such a substitute representative has not been intimated, the Leader or Deputy Leader of the appropriate group should be asked to nominate.

## **6. OFFICERS AND MEMBERS GENERALLY**

- 6.1 As officers serve the Council as a whole, it is recognised that officers provide information and advice to all members of the Council irrespective of their party political allegiance, if any.
- 6.2 Accordingly, members are free to approach any Strategic Director or Head of Service to provide them with such information, explanation and advice 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 department's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Head of Service of the Service Area concerned.

- 6.3 Where information given by officers to members is specific to the Council's dealing with the member's constituent, or explains the content of committee reports or comprises facts concerning the Council's activities, the confidentiality of the discussion or correspondence with the member shall be respected by the officer.
- 6.4 The content of information given to members as part of the briefing of a Cabinet member or during a committee "run-through" and information given to committee chairmen and vice-chairmen about future developments, etc (per paragraph 2.1.2 above) may not be disclosed by officers to other members.
- 6.5 Any issue which is significant to the Council and involves new information should be reported to the relevant body or reported in the Members' page of the Council's Intranet. Where a member seeks information on such an issue, but the timing of meetings does not facilitate an early report, the information shall be supplied to the member as soon as is reasonably practicable, but in those cases, the information will be supplied at the same time to all recognised political groups on the Council.
- 6.6 Officers may decline to provide information to a member where the disclosure of such information may affect personal privacy or would be likely to prejudice the Council's position in any negotiations for land, goods or services or where the information relates to legal proceedings or the investigation of crime and security matters.
- 6.7 Finally, any Council information provided to a member must only be used by the member for the purpose for which it was provided, i.e. in connection with the proper performance of the member's duties as a member of the Council.
- 6.8 Correspondence between an individual member and an officer should not normally be copied (by the officer) to any other member. Where exceptionally it is necessary to copy the correspondence to another member, this should be made clear to the original member.
- 6.9 It is expressly recognised that group support officers are not a medium of communication between officers and the Cabinet, scrutiny or members generally.

## **7. MEMBERS WISHING TO HAVE A PARTICULAR MATTER RAISED**

- 7.1 Any member wishing to have a particular matter raised in the course of the formal discharge of the Council's business which would not otherwise appear on a Council agenda, may do so in the following ways:
- (a) By asking a question under Council Procedure Rule 9(2). Notice in writing of such a question must be given to the Chief Executive no later than five clear days before the time fixed for the meeting of the Council at which the question is to be asked.
  - (b) By placing a motion on the agenda for a meeting of the Council under Council Procedure Rule 8(3). Notice in writing of the motion must be given to the Chief Executive no later than nine clear working days before the next meeting of the Council.
  - (c) By requesting a Legal and Democratic Services Officer to place an item on the agenda of a regulatory, scrutiny or Standards committee or sub-committee.

Such a matter must be relevant to the work and responsibility of the committee or sub-committee.

- (d) By requesting the Leader of the Council to put an item on the agenda of a Cabinet meeting.

Full details of the item which the member wishes to appear on the agenda should be provided in writing to the relevant person not less than ten clear days (excluding weekends and Bank Holidays) before the date of the relevant meeting. The agenda will note that the item has been placed on the agenda at the request of the named member, who has the right to attend and speak on that item whether or not he / she is a member of the body in question.

Note: Where this power is exercised, it is generally advantageous to the discussion and determination of the matter for members to give early notice of their wish to have the matter placed upon an agenda.

## **8. MEDIA MATTERS**

- (a) Press Releases

All press releases should be approved by the relevant Cabinet member or by the chairman and vice-chairman of the appropriate committee / sub-committee before issue.

If the relevant Cabinet member is not available, the Leader or Deputy Leader of the Council should be consulted.

If neither the chairman nor vice-chairman of a committee is available, a representative of his / her group, nominated by the Leader or Deputy Leader of the group, should be consulted.

All local government publicity material must also comply with the Code of Recommended Practice on Local Authority Publicity (published in 1988 amended 2001). The Communications Team should be contacted with any queries in this respect. Specific guidelines in the Code apply to election period and particular care must be taken at this time.

- (b) Responding to Press Enquiries

Approaches for information from the press which relate exclusively to matters of fact, etc, should be dealt with by the Council's Communications Team. Where approaches from the media relate to matters within the political domain, or matters of political controversy, the media should be directed, in seeking comments, to the Leader of the Council or relevant Cabinet member (in relation to executive functions) and to the chairman of the relevant committee or, if he / she is not available, the vice-chairman (in the case of scrutiny, regulatory and Standards matters).

It is recognised that the Communications Team will have to exercise their judgement in assessing whether a matter is or is likely to be the subject of political controversy.

All members of the Communications Team must comply with the rules relating to politically restricted posts, as set out in the Local Government and Housing Act 1989.

(c) Press Conferences

Should the Council hold any formal press conferences on major issues, all political groups should be given the opportunity to be represented, and any Independent member(s) of the committee(s) to which the matter relates should be informed.

## **9. OFFICER ATTENDANCE AT POLITICAL GROUPS OF THE COUNCIL**

9.1 It is recognised that in exceptional circumstances it may be of benefit to the Council if background information were made widely available within its own political groups. Accordingly, the following rules will apply:

- (a) Attendance of officers at the Council's political groups will be avoided wherever possible, but officers may accept invitations to attend group meetings where there would be benefit to the Council from their so doing. No officer shall be obliged to attend a group meeting.
- (b) Any invitation for an officer to attend a group meeting should be addressed to the Head of Service of the appropriate service area who may nominate a senior officer within that department to represent him / her.
- (c) Information provided to groups by officers will be limited to fact, background information or professional advice.
- (d) If such information is provided to any one group it will be offered to all political groups.
- (e) If, having provided fact, background information or professional advice to any group, an officer is present when there is discussion on that information, or any opinions or feedback is offered by the group, such discussion, feedback or opinions will be treated by that officer as confidential and not divulged to any other group.

## **10. DEALINGS WITH STAFF**

10.1 Save as set out in paragraph 4.1 above (relating to decisions taken by Cabinet members) a member shall not issue any order with regard to any matter under the jurisdiction of the Council or as regards any works which are being carried out by or on behalf of the Council or give any instructions to any employee of the Council.

10.2 Heads of Service are responsible for the management, direction, control, appraisal and discipline of all their staff. In recognition of this and for the avoidance of potential confusion which might damage the member / officer relationship, enquiries regarding any particular issue or discussions on policy options etc should always be initiated with the relevant Strategic Director or Head of Service (as scheduled in Part 7 of the Constitution [Management Structure]) unless the Strategic Director or Head of Service indicates on a specific or general basis that a particular issue or type of issue may be raised with a specific officer within his / her department.

- 10.3 Members visiting Council premises to discuss matters with officers will deal only with the officers referred to in the immediately preceding paragraph and shall not endeavour to question other members of staff or to give them directions or instructions.

## **11. WARD MATTERS - "EARLY WARNING"**

- 11.1 While officers will advise local members on significant matters which specifically and particularly affect their ward (other than planning applications which are listed in the weekly list), it is recognised that both from the potential workload burden falling on members and from an administrative point of view, it is impractical for ward members to be advised of everything that is happening within the Council which affects their ward.
- 11.2 Officers will exercise their judgement to give ward members "early warning" of actions being taken which affect their ward. In exercising this judgement, officers will take into account the significance, publicity value, or contentiousness of the issues.
- 11.3 Where matters raised in officer reports to the Cabinet or a committee or sub-committee are considered to be of particular relevance to a single ward or identifiable group of wards, those wards will be identified in the report.
- 11.4 Members recognise that the above procedures involve the exercise of judgement, and that hindsight may in some instances subsequently indicate that that judgement might profitably have been exercised in a different way.
- 11.5 Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the ward or wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on an issue of specific and particular relevance to a ward or wards, the ward member(s) should be notified at the outset of the exercise.

## **12. COMMUNICATION WITH THIRD PARTIES**

- 12.1 The Council's official dealings with third parties should normally be conducted through the paid staff. In dealing with third parties, members should avoid appearing to bind the Council, or to commit it to a particular course of action.
- 12.2 Accordingly, 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 member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister, or where the member is responding to correspondence addressed to him / her) for a letter to appear over the name of a member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out over the name of a member.

## **13. RECALL OF DELEGATED MATTERS**

- 13.1 The Council's Scheme of Delegation is contained in Part 3 of the Constitution "Responsibility for Functions". This scheme has specifically and formally been approved by the Council, and it is recognised that officers are entitled to operate in accordance with the scheme.

13.2 However, it is recognised that there may be circumstances (which should not arise frequently) when a matter falling within an officer's delegated authority raises policy or local issues which would justify that matter being considered by the formal political structure of the Council. In these circumstances:

- (a) The officer may, of his / her own volition, decline to exercise his / her delegated authority and remit the matter to Cabinet or committee (whether or not after consultation with a Cabinet member or that committee's chairman and vice-chairman).
- (b) A member of the Cabinet, committee chairman, vice-chairman or opposition spokesperson, or, where the matter specifically relates to a particular ward or wards, the member(s) for that or those wards, may request that the matter be placed on the agenda of the Cabinet or relevant committee for determination, before any decision or action binding upon the Council is taken.

In exercising this convention, members shall act reasonably, selectively and constructively, and shall not use this convention to frustrate or needlessly delay the discharge by the Council of its business.

- (c) Where the officer concerned takes the view that this convention is being invoked unreasonably, or where the officer is of the view that it would be prejudicial to the interests of the Council for action to be delayed until the next ordinary meeting of the Cabinet or relevant committee, the officer may consult the Leaders of the political groups represented on the Council with a view to exercising his / her delegated authority. Subject to the views expressed, (s)he may exercise his / her delegated authority, but the matter shall be the subject of report to the next ordinary meeting of that committee.

#### **14. CIVIL EMERGENCIES**

14.1 In an emergency, the community will look to the Council for help in coping with the consequences of the emergency, and to restore normality. In doing this, the Council will essentially undertake its normal activities, in abnormal circumstances.

14.2 It is the responsibility of the Chief Executive, or such other officer nominated by him / her to organise and co-ordinate the Council's response.

14.3 The circumstances of any emergency may require action to be taken promptly and without delay, and it is recognised that:

- (i) action may have to be taken by the officer in charge acting on his / her initiative in the circumstances as understood at any given time, which go beyond that formally authorised in the Council's Scheme of Delegation;
- (ii) expenditure may have to be incurred by the officer in charge; and
- (iii) there may not always be time in dealing with a major emergency to sustain normal channels of communication and administration;

14.4 A major issue in any emergency, however, is the provision of information, and the Council's Emergency Plans contain arrangements for dealing with the media, and for providing information to enquirers.

14.5 The plans also indicate the responsibility of the Chief Executive to ensure that the Cabinet and relevant local members are kept informed of the action being taken by the Council, and that queries from elected members are answered.

14.6 Members should use available channels of communication to contact the Chief Executive or his / her nominated representative for information, and should not approach operational officers at the scene of the emergency, in rest centres, etc.

## **15. ACCESS BY MEMBERS TO DOCUMENTS OR PROPERTY**

15.1 Any member may for the purposes of his / her duty as a member but not otherwise, may inspect and take copies of any document which is in the possession, or under the control of the Council, and which contains material relating to any business to be transacted at a meeting of the Council, the Cabinet or a committee or sub-committee of the Council, in accordance with Section 23 of the Access to Information Procedure Rules.

15.2 Provided that the Chief Executive or the Head of Legal and Democratic Services may decline to allow the inspection or copying of any document the circulation of which is specifically restricted by them as relating to personal privacy; information about Council negotiations for land, goods or service where disclosure would be likely to prejudice the Council's position; information about legal proceedings; investigation of crime and security matters in accordance with paragraphs 1 - 7 of Part I of Schedule 12A to the Local Government Act 1972.

15.3 A member shall not, unless authorised to do so by the Council, Cabinet, relevant committee or relevant Head of Service, inspect any lands, premises, or works which the Council has a right or duty to inspect.

## **16. MEMBERS SERVING AS REPRESENTATIVES ON OUTSIDE BODIES**

16.1 Members serving as representatives of the Council on outside bodies are entitled to expect relevant officers of the Council to provide guidance, advice or help on matters coming before such outside bodies which are relevant to the business of the Council, or which otherwise directly affect the Council.

16.2 Members serving as representatives should inform relevant officers of matters of significance to the Council or its activities, or of importance to the district, which come to their attention as such representatives.

16.3 Where information is provided to a member by an outside body in confidence, and the member believes that the proper exercise of his / her representative role requires the disclosure of that information to the Council, (s)he should discuss the matter with the outside body with a view to determining the terms upon which (s)he may so disclose that information, or may alternatively request the relevant Strategic Director or Head of Service to raise the issue of disclosure with the outside body.

## **17. MEMBER DEALINGS WITH THE COUNCIL**

17.1 To avoid causing embarrassment to junior staff, members dealing with the Council in their capacity as a private individual should advise Heads of Service of that fact.

Note: Officers finding themselves in the same situation (e.g. as applicants for planning permission, etc) are similarly required to give notice.

**18. Whilst this protocol gives guidance only to members on the most frequently encountered issues, a breach of the guidance may be regarded as bringing the Protocol and the Council itself into disrepute.**

**19. DEFINITIONS**

For the purpose of this protocol a “Senior Officer” is a Strategic Director or Head of Service

# Monitoring Officer Protocol

1. The Monitoring Officer shall discharge his / her responsibilities with determination and a manner which will enhance the reputation of the Council. In general terms his / her ability to discharge these duties depends on excellent working relations with colleagues and members but also the flow of information and access to debate particularly at early stages.
2. The following arrangements and understandings between the Monitoring Officer and colleagues and members are designed to help ensure the effective discharge of the relevant functions.
  - (a) As a member of the Corporate Management Team the Monitoring Officer will have advance notice of those meetings and agenda and reports and the right to attend and speak.
  - (b) Advance notices of meetings whether formal or informal between Strategic Director or Head of Service and Cabinet members or committee chairmen will be given to the Monitoring Officer where any procedural, vires or other constitutional issues are likely to arise. The Monitoring Officer shall be entitled to attend these meetings as an observer.
  - (c) Strategic Director or Head of Service will alert the Monitoring Officer to all emerging issues of concern including legality, probity, vires and constitutional issues.
  - (d) The Monitoring Officer or his / her staff will have copies of all reports to members.
  - (e) They shall endeavour to develop good liaison and working relations with the Standards Board, the District Auditor and the Ombudsman including the giving and receiving of relevant information whether confidential or otherwise.
  - (f) The Monitoring Officer shall endeavour to maintain a special relationship with the Chairman of the Council, Chairman of the Standards and scrutiny committees and to ensure the Head of Paid Service and Strategic Directors have up-to-date information regarding emerging issues.
  - (g) The Monitoring Officer shall report to the Council on any proposal, decision or omission by the Council or any committee or officer which has given or is likely to give or would give rise to any contravention of any enactment or rule of law.
  - (h) The Monitoring Officer, together with the Director of Finance, shall advise the Cabinet or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget.
  - (i) The Monitoring Officer shall record and analyse issues raised with him / her by members, officers, the public and other relevant stakeholders.
  - (j) In carrying out any investigation (whether under regulations or otherwise) the Monitoring Officer shall have unqualified access to any information held by

the Council and any employee who can assist in the discharge of the relevant functions.

- (k) The Monitoring Officer shall make enquiries into allegations of misconduct in the absence of a written complaint being received by the Standards Board and if appropriate shall make a written report to the Standards Committee unless the Monitoring Officer and Chairman of Standards Committee agree a report is not warranted.
- (l) The Head of Paid Service, Section 151 Officer and Monitoring Officer shall meet regularly to consider and recommend action in connection with current governance issues and other matters of concern regarding probity.
- (m) The Monitoring Officer shall have control of a budget sufficient to enable him / her to seek Counsel's opinion on any matter concerning their functions.
- (n) The Monitoring Officer shall be responsible for preparing and maintaining a training programme for members on the Ethical Framework subject to the approval of the Standards Committee.
- (o) The Monitoring Officer shall report to the Council from time to time on the Constitution and any necessary or desirable changes following consultation in particular with the Head of Paid Service and Section 151 Officer. In order to fulfil this responsibility the Monitoring Officer may:
  - (a) undertake an audit trail of a sample of decisions; and
  - (ii) compare practices in this Council with those in other comparable authorities, or national examples of best practice.
- (p) In consultation with the Chairman of the Council and Standards Board the Monitoring Officer may defer the making of a formal report under Section 5 LGHA 1989 where another investigative body is involved.
- (q) The Monitoring Officer shall report to the Council from time to time as necessary on the staff, accommodation and resources he / she requires to discharge his / her functions.
- (r) The Monitoring Officer will appoint a deputy and keep him / her briefed on emerging issues.
- (s) The Monitoring Officer shall endeavour to ensure good communication with clerks to town and parish councils.

### **3. DEFINITIONS**

For the purpose of this protocol a "Senior Officer" is a Strategic Director or Head of Service

# Code of Good Practice in Rights of Way

## 1. INTRODUCTION

- 1.1 The Council has powers under the Highways Act 1980 and the Town and Country Planning Act 1990 to make orders for the creation, diversion and extinguishment (or stopping up) of public footpaths and bridleways, and to enter into agreements for the creation of footpaths and bridleways. The changes made by such orders and agreements affect the right of the public to cross private land and so can be contentious and the subject of impassioned debate. Because of this it is important that the system of making decisions on changes to the public rights of way network is seen to be open and impartial, consisting of sound judgements made for justifiable reasons.
- 1.2 This Code of Practice has been drawn up to set out clearly the way in which the Council deals with applications for public path orders and agreements.
- 1.3 It complements the statutory Local Code of Member Conduct and the Council's Code of Officer Conduct which address a range of aspects of members' and officers' conduct in carrying out official duties. All members of the Council have given a written undertaking to observe the Code of Member Conduct. Further information on the provision of the Code can be obtained from the Council's Monitoring Officer, telephone 01394 444336, or e-mail [hilary.slater@suffolkcoastal.gov.uk](mailto:hilary.slater@suffolkcoastal.gov.uk)

## 2. BASIC PREMISE

- 2.1 The Highways Act 1980 and the Town and County Planning Act 1990 both lay down precise criteria to be met for the making and confirmation of public path orders. The legislation is supplemented by advice contained in Department of Environment Circular 2/93 "Public Rights of Way" and other Circulars and Regulations. The basis premise is to ensure that appropriate balanced consideration is given to the impact of changes to the network upon both the landowner's / occupier's interests and the public's right.
- 2.2 Within the context of the legal provisions, the successful operation of the system relies on ensuring that members and officers act in a way which is not only fair but is clearly seen to be so. The respective roles of members and officers are set out in this Code of Practice.

## 3. DECISION MAKING ON APPLICATIONS

### The Role of Committee Members

- 3.1 Members of the Rights of Way Committee, in making decisions on public path order applications, will:
  - Act fairly and openly
  - Approach each application with an open mind
  - Carefully consider the grounds for order making
  - Carefully weigh up all the material considerations
  - Ensure that reasons for decisions are clearly stated.

- 3.2 Committee members will be free to vote on applications however they consider appropriate within the context set by the Highways Act or Town and Country Planning Act, as appropriate, and shall not have pre-judged the outcome prior to their consideration of all relevant available information at the committee meeting.
- 3.3 If committee members have, prior to the meeting, given an undertaking as to the stance they will take on the determination of an application, e.g. at a town or parish council meeting, or to an interested party, they should refrain from voting but may fulfil their representational role, subject to compliance with the statutory Code of Member Conduct.
- 3.4 Committee members also have a role (see 3.6 below) on behalf of their ward to present local views, but members must make it explicit when they are acting in that role. The decision-making role and its impartiality must not be prejudiced by any such action.

### **The Role of Members**

- 3.5 The representational role of members is a part of the process. Subject to compliance with the terms of the Members' Code of Conduct, Members will be given the opportunity in respect of all rights of way applications to fulfil that role within their ward by:
- Responding in writing to officers on the merits of an application;
  - Attending any committee site meetings for applications within their ward; and
  - Making representations to the committee.
- 3.6 Members shall not give instructions to officers, nor should they place pressure on officers in order to secure a particular outcome to an application.
- 3.7 Members can expect officers to give them every help and assistance in answering questions relating to rights of way matters.

### **The Role of Officers**

- 3.8 In respect of applications to be determined by the Rights of Way Committee Officers will:
- Provide professional and impartial advice
  - Make sure that all information necessary for a decision to be made is given, including the views of those consulted and the substance of any objections
  - Set the application in the context of any other considerations, for example a planning application or highway authority policy and practice
  - Provide a clear and accurate written analysis of the issues
  - Be responsible for carrying out the decisions of the Committee
- 3.9 In respect of decisions that are taken under delegated authority the Rights of Way Officer, given the appropriate delegated authority by the Head of Legal and Democratic Services, may exercise that authority to determine an application. A brief written resume of key issues, the decision and reasons for it will be prepared and placed on the application file. Details of all current applications, and of all public path orders and agreements made by the Council, are also contained in the Rights of Way Manual for Members.

- 3.10 The District Council recognises that Rights of Way Officers shall not make or subscribe to any statements or reports which are contrary to their own professional opinions.

#### **4. CONSULTATIONS**

- 4.1 The Council is required by legislation to consult statutory undertakers and other affected councils on applications for public path orders. In addition the Council follows national best practice to achieve unopposed orders wherever this is possible, as recommended by the Rights of Way Review Committee Practice Guidance Note No 1. Upon receipt of a technically correct application the Council therefore consults widely with representatives of user groups and other bodies and individuals it considers may be affected by or interested in proposals as appropriate.
- 4.2 In all instances consultees and interested parties are asked to submit their views in writing in order that a true record can be placed on the appropriate file and used in informing the decision-making process. A period of 28 days is usually allowed for consultation responses, but this can be extended at the discretion of officers if consultees require extra time. Responses can be submitted electronically or in hard copy form.
- 4.3 At the end of the consultation process it is usual procedure for the views of the consultees to be forwarded to applicants for consideration. Officers are responsible for managing such subsequent negotiation as is deemed useful in respect of the Council's intention to achieve unopposed public path orders wherever possible.
- 4.4 Negotiation may result in changes to the original proposals and re-consultations will be carried out as appropriate.

#### **5. DISCUSSIONS WITH APPLICANTS AND LOBBYING**

- 5.1 The Rights of Way Manual for Members details current public path order and agreement applications and is updated every two months by Officers. The manual includes details and plans of each proposal, with a summary of the history and current position for the benefit of members.
- 5.2 Prior to application submission, application determination and order making, dialogue and meetings with applicants are essential and may be protracted, but will normally only involve Officers.
- 5.3 Pre-application meetings should not involve members of the Rights of Way Committee, other than where the committee has by resolution determined that a meeting shall exceptionally involve members and where the meeting is limited to providing advice on the proper process to follow and / or which officer to contact for further advice. Where meetings to discuss proposed or submitted applications do involve members appointed by the committee at least one officer will be present at all such meetings.
- 5.4 It will be made clear at all pre-application meetings that:
- Only officers' initial and provisional views can be given, based upon the provisions of the legislation

- No decisions can be made which would bind or otherwise compromise the decision of the Council.
- 5.5 Notes of the discussions at all meetings will be taken and will be placed on the application file. Any follow-up correspondence shall also be placed on the file. Information will be available for public inspection subject to the provisions of the Access to Information Act.
- 5.6 A note will be taken of all telephone conversations involving either members or officers where advice on the merits of a proposal has been given.
- 5.7 In the event that applicants or other interested parties wish to discuss applications with members, either before applications are submitted, prior to their determination or after the order making stage, meetings with applicants may involve members acting in a representative role. Members should take care to avoid compromising their position before they have received all the relevant information, evidence and arguments about an application. Members of the Rights of Way Committee may choose as a matter of principle not to meet applicants or interested parties and may wish to pass applicants on to a neighbouring District Councillor.
- 5.8 Where members do choose to meet relevant parties they will:
- Not express an opinion which could be taken as firm support or opposition to a proposal
  - Not organise support or opposition for a proposal or lobby other members
  - Inform lobbyists or objectors of the importance of their views being submitted in writing to the Council
  - Advise the Chairman of the Rights of Way Committee or the Rights of Way Officer of the existence of any party that appears to be trying to exercise undue or unreasonable pressure on members of the Council.

## 6. COMMITTEE PROCEDURES

- 6.1 Rights of Way Committee papers will be available, in accordance with the Access to Information Act provisions, at least five clear working days prior to the meeting.
- 6.2 All applications presented to the committee for determination will have a full written report from the Rights of Way Officer. This will include a map showing the proposal, the views of those who have been consulted on the proposal, the substance of objections, an explanation of the relevant legislation, other relevant information as appropriate and a reasoned consideration of the proposal.
- 6.3 Any material information which is received after the written report has been prepared but more than 24 hours before the start of the committee / sub-committee meeting will be presented orally by officers. Information received within 24 hours of the start of the meeting will only be presented where it is brief and can be readily conveyed to the committee.
- 6.4 The Head of Legal and Democratic Services will have the discretion to withdraw any item from the agenda of the committee subsequent to the preparation of the report, but prior to a discussion by the committee if the circumstance of the application has changed within that period.

- 6.5 When the committee determines an application, the reasons for the decision will be clearly stated at the meeting and recorded in the minutes. Members need to be sure that their decisions are based on sound reasons and made with respect to the requirements of the relevant legislation. Members shall be aware that they may be required themselves to justify their decision at a public inquiry or hearing, for instance if an opposed order is referred to the Secretary of State for determination.
- 6.6 The Council considers that there are benefits in allowing public speaking at Rights of Way Committee meetings. A summary of the procedure to be followed is set out in the Appendix to this Code.

## 7. **SITE VISITS**

- 7.1 All sites are visited by officers as part of the application process, and meetings involving officers, applicants and consultees may be held on site as part of the consultation and negotiation process prior to the determination of an application, and in accordance with the provisions of Section 5 of this code.
- 7.2 While there is no need for authority from applicants for visits to existing rights of way, all applicants are requested to give authority for consultees to inspect proposed routes, either unaccompanied or by prior appointment, when submitting an application.
- 7.3 Members wishing to visit sites on their own should be aware that they do not have authority to visit land or routes which are not public rights of way and should seek advice from officers before undertaking unaccompanied site visits. Any lobbying that may occur during a visit should be dealt with in accordance with the procedure described in Section 5 above.
- 7.4 Formal site visits by the committee will be held when they provide a material benefit and the committee requests that a visit be held, for example, to understand local conditions and the physical characteristics of existing and proposed routes of paths.
- 7.5 All members of the committee (including substitutes who may attend at a subsequent meeting) will normally attend formal site visits, together with the appropriate ward member(s).
- 7.6 All members attending formal site visits by the committee shall be accompanied by an appropriate officer of the Council.
- 7.7 The purpose of a formal site visit by the Committee is fact finding. No discussion of the merits of the application will be permitted. Applications will not be determined during site visits.
- 7.8 During formal site visits the members of the committee should not make any comments that could create an impression to an outside party that they had already formed a view on the merits of an application. Decisions on applications should only be made within a formal meeting of the committee, when members have before them all the necessary information to be able to make an informed decision.
- 7.9 There may be occasions on site visits when questions raised by members cannot be satisfactorily answered or require further investigation. In this event officers will pursue these matters and report back to the committee meeting.

7.10 Further details of the procedures at formal site visits are contained in the Appendix attached to this code.

## **8. DISCLOSURE OF INTERESTS AND HOSPITALITY**

8.1 Members and officers are required to comply with the requirements of the Suffolk Coastal Codes of Conduct, including registration of their interests and making appropriate declarations - whether a "personal" or "prejudicial" interest.

8.2 Members and officers are discouraged from receiving hospitality from people with an interest in a rights of way proposal. If receipt of hospitality is unavoidable, members and officers will ensure that it is of the minimum level and will declare its receipt as soon as possible by entering details in the appropriate hospitality book. Hospitality books for members and officers are retained by the Council's Monitoring Officer. When hospitality is offered but not accepted this will also be recorded in the appropriate hospitality book.

8.3 In the event that significant hospitality has been offered and accepted by officers or members this should be declared at the relevant committee meeting.

## **9. DISTRICT COUNCIL APPLICATIONS**

9.1 Where the District Council wishes to make alterations to the rights of way network, for instance across land within its own ownership/occupancy, it will need to make an appropriate application. The application will be submitted by the appropriate Strategic Director or duly authorised nominee, and will be dealt with by the Council in the same way as those submitted by private applicants.

9.2 No District Council application will be determined under delegated authority by an officer, but will be determined by the Rights of Way Committee.

## **10. APPLICATIONS SUBMITTED BY MEMBERS AND OFFICERS**

10.1 All applications which are submitted by or on behalf of members, or any officers of the Council or their spouse / partner in their private capacity, will be reported to the Rights of Way Committee for a decision, rather than being dealt with in accordance with the Scheme of Delegation to Officers.

10.2 The member / officer concerned will inform the Rights of Way Officer of the submission of their application to ensure that the above mentioned procedure can be adopted.

10.3 No member or officer concerned will take part in the processing or determination of the application, and, if normally present at the determining committee meeting, will declare a prejudicial interest in the normal manner and leave the meeting for the consideration of that item of business.

## **11. TRAINING**

11.1 The Rights of Way Manual for members contains information on rights of way principles and legislation, particularly as relevant to the Council's rights of way role, and is updated every two months.

- 11.2 To facilitate effective working, all members of the Council will also be offered training in the principles of rights of way and the procedures followed by the District Council in determining applications for public path orders and agreements. The precise contents of this training will be determined from time to time by officers in consultation with members.
- 11.3 Members of the Rights of Way Committee will be expected to have undertaken training on current rights of way principles and public path order and agreement procedures. When significant changes to rights of way legislation or policy occurs which is relevant to the Council's rights of way function updated information or training as appropriate will be offered to all members of the committee. All members of the Council will be invited to benefit from it if they so wish.
- 11.4 Members who have not participated in appropriate training would not be expected to be members of the Rights of Way Committee. Only in the most exceptional cases when there are no trained members available and a committee would be potentially inquorate, should a member who has not received training take part in making a decision on a rights of way application.
- 11.5 A record of member training in rights of way will be maintained. The training and provision of information undertaken and provided each year will be reviewed.

## 12. **COMPLAINTS**

- 12.1 If there is concern that this Code of Practice has not been adhered to you should contact your local ward councillor or you should write to the Head of Legal and Democratic Services at the Council Offices, or e-mail [hilary.slater@suffolkcoastal.gov.uk](mailto:hilary.slater@suffolkcoastal.gov.uk)
- 12.2 In the event that the concern is a matter that relates to the Council's Statutory Code of Conduct for Members or its Officer Code of Conduct, then concern should be made in writing to the Monitoring Officer at the Council Offices, or e-mail [hilary.slater@suffolkcoastal.gov.uk](mailto:hilary.slater@suffolkcoastal.gov.uk)
- 12.3 The Council has adopted a Complaints Procedure which may be followed in the event that the initial enquiry is not resolved to the complainant's satisfaction. A copy of the Complaints Procedure is available on the Council's web-site, or from the Council Offices.

## APPENDIX

### **PROCEDURES FOR PUBLIC SPEAKING AT RIGHTS OF WAY COMMITTEE MEETINGS AND SITE VISITS**

#### **1. ON SUBMISSION OF A RIGHTS OF WAY PUBLIC PATH ORDER / AGREEMENT APPLICATION**

When submitting an application to the Council applicants are made aware that in the event of the application being referred to the Rights of Way Committee there will be the opportunity for public speaking.

#### **2. PRIOR TO THE DETERMINATION OF AN APPLICATION OR CONSIDERATION OF AN OPPOSED ORDER BY THE RIGHTS OF WAY COMMITTEE**

As soon as it is known that an application will be determined by the Rights of Way Committee, or that the committee is to consider an order which the Council has made and to which objection and / or representation has been received, letters will be sent to all those who have expressed an interest in the matter stating that the item will be considered by the Rights of Way Committee and advising of the date, time and place of the meeting. Recipients will be advised that there will be the opportunity for public speaking at the meeting and sent a copy of the Council's leaflet 'Have Your Say on Changes to Rights of Way' which explains procedures.

Those given the opportunity to speak at the meeting will be:

- representative of town / parish council
- objector / interested party
- applicant or agent
- affected landowners / occupiers
- relevant District Council ward member(s)

The intention is that only one person will speak from each of the above parties. In exceptional circumstances the Head of Legal and Democratic Services or his representative may, after consulting the councillor who will preside at the committee meeting:

- (i) allow more than one parish council to send a representative by prior agreement, where a proposal has a significant effect upon more than one parish
- (ii) allow more than one objector / interested party to speak, where it is clear that conflicting views cannot be effectively presented by one representative. Copies of the agenda for the meeting will normally be sent to all those who have expressed an interest in the matter.

It will not be necessary to make any arrangements to speak before the day of the meeting. Those wishing to speak should attend on the day of the meeting and make their wish known to the officer servicing the committee before the commencement of the meeting.

### **3. PROCEDURES AT COMMITTEE MEETINGS**

Interested parties will be invited to attend half an hour before the start of the committee meeting in order that the officer servicing the committee can ascertain who wishes to speak, and upon which item. This information will be relayed to the Chairman and it will then be a matter for the Chairman to determine any re-ordering of the agenda in conjunction with the officer servicing the committee.

Anyone who arrives after the start of the meeting will not be in a position to insist upon speaking on an item.

District Council ward members should also attend prior to commencement of the meeting, both to alert the Chairman to their wish to speak and to avoid an item being brought forward in their absence.

### **4. ORDER OF SPEAKING**

The order of debate will be as follows:

- (i) Introduction by appropriate District Council officer
- (ii) Representation by objector / interested party
- (iii) Representation by applicant or agent
- (iv) Representation by affected landowners / occupiers
- (v) Representation by relevant town or parish council
- (vi) District Council ward member(s)
- (vii) Rights of Way Committee general debate
- (ix) Adjournment for Site Visit (if required)
- (x) Rights of Way Committee general debate and conclusion

### **5. ARRANGEMENTS FOR SPEAKING**

Speakers will be asked to leave the public seats and occupy a seat especially set aside before speaking. They will also be asked to state who they represent.

Speakers should confine their statements to matters of fact or opinion. It is to everyone's benefit if speakers:

- Are brief and to the point
- Limit opinions to the merits of the proposal under consideration
- Address only relevant rights of way issues

### **6. DURATION OF SPEAKING**

As stated in item 2 above it is the intention that only one person will speak from each of the interested parties. Speakers will be given a maximum of three minutes to speak in presentation, with the Chairman having absolute discretion as to how many and in what form questions are allowed over and above the three minute presentation. No speaker will be given a second opportunity to speak to ensure equality of representation. All questions should be based upon matters of fact only, and channelled exclusively through the Chairman. There will be no general debate involving those engaged in public speaking, given that the purpose of allowing public speaking is to make appropriate representations and to tease out matters of fact.

## **7. ILLUSTRATIVE MATERIAL**

If a speaker wishes to refer to illustrative material, which they wish to be displayed at the meeting, then this must be provided to the officers in advance of the meeting so that appropriate arrangements can be made for its display. Ideally a spare copy of such material should be deposited for Council retention on the relevant application file.

## **8. PROCEDURES AT SITE VISITS**

Formal site visits by the committee will be held when they provide a material benefit and the committee requests that a visit be held, for example, to understand local conditions and the physical characteristics of existing and proposed routes of paths.

It is the committee's usual procedure to adjourn a meeting while it undertakes a site visit. When adjourning the committee will state the time at which the meeting will reconvene, allowing sufficient time for it to travel and inspect the site in question.

The site visit is not part of the consideration of the merits of an application and therefore public rights to attend do not apply. However, the committee will invite representatives of the interested parties present at the committee meeting to attend. Where access to private land is necessary (for example to inspect the proposed route of a path to be diverted) officers will secure the prior agreement of the landowner.

The purpose of the site visit is fact finding. Officers will be able to point out relevant features of the site and surroundings. Members will be able to see the physical features of existing and / or proposed routes and ask questions through the Chairman or the officer to seek clarification.

At site visits all questions from members will be carried out through the Chair or, at the Chairman's discretion, directed at the relevant officer. There may be occasions when questions raised by members are not able to be answered or require further investigation, in which event officers will pursue these matters and report back to the committee.

No discussion of the merits of the application will be permitted on a site visit. Members will not make any comments that could create the impression that they have already formed a firm position on the merits of the application. The decision on the application will be made within the formal meeting of the Rights of Way Committee, when members have all the necessary information before them to make an informed decision.

The Chairman may ask any interested party representative present at the site visit if there are any physical features of the existing and / or proposed routes that have not been visited that they consider should be seen by the members. The Chairman will then determine whether to accede to any requests for those routes to be visited.

The visiting party will stay together as a group. No lobbying will be allowed. If any party persists in attempting to lobby, the Chairman may determine to curtail the site visit and return on another occasion.

A written record will be kept of the site visit and placed on the application file.

# Code of Good Practice in Planning

## 1. INTRODUCTION

- 1.1 The way in which planning decisions are made is subject to a great deal of public and media interest. Planning decisions affect the daily lives of everyone and the private lives of individuals, landowners and developers, and therefore on many occasions will be contentious. Because of this it is important that the system of making decisions is seen to be open and impartial, consisting of sound judgements made for justifiable reasons.
- 1.2 This Code of Practice has been drawn up to set out clearly the way in which the Council deals with planning and other applications.
- 1.3 It complements the statutory Local Codes of Member and Officer Conduct which address a range of aspects of members' and officers' conduct in carrying out official duties. All Members of the Council have given a written undertaking to observe the Code. Further information on the provision of the Code can be obtained from the Council's Monitoring Officer, telephone 01394 444336, or e-mail [hilary.slater@suffolkcoastal.gov.uk](mailto:hilary.slater@suffolkcoastal.gov.uk)

## 2. BASIC PREMISES

- 2.1 The basis of the planning system is the consideration of private proposals against wider public interests. The Town and Country Planning Acts provide that decisions on individual proposals should be made in accordance with the Development Plan unless material planning considerations justify a departure from those policies. The Development Plan for Suffolk Coastal District consists of the Suffolk Coastal Local Plan incorporating First and Second Alterations and the Suffolk Structure Plan.
- 2.2 Within the context of the legal provisions, the successful operation of the planning system relies on ensuring that Members and Officers act in a way which is not only fair but is clearly seen to be so. The respective roles of members and officers is set out in this Code of Practice.
- 2.3 The Government has placed a high priority on speed in the determination of planning applications and the practice contained in this code has to take account of this Government priority.

## 3. DECISION MAKING ON PLANNING APPLICATIONS

### The Role of Committee Members

- 3.1 Members of Development Control Committee or Development Control Sub-Committees, in making decisions on planning applications, will:
- Act fairly and openly;
  - Approach each application with an open mind;
  - Carefully weigh up all the material planning considerations; Ensure that reasons for decisions are clearly stated.

- 3.2 The planning system exists to balance the consideration of private proposals against the wider public interest. Members must take into account the interests of all of the District, together with the Government's national planning priorities, and will act in a way which is not only fair, but is clearly seen to be so.
- 3.3 Members will be free to vote on planning applications however they consider appropriate within the context set by the Town and Country Planning Acts, and shall not have pre-judged the outcome prior to their consideration at the committee or sub-committee meeting of all relevant available information. Members should not, prior to the meeting, give an undertaking as to the stance they will take on the determination of a planning application, e.g. at a Town or Parish Council meeting, or to an interested party. They should indicate that any view they might put forward might change in the light of the planning officers report and the sub-committees discussion.
- 3.4 Committee members will also have a role (see 3.5 below) on behalf of their ward to present local views, but members must make it explicit when acting in that role. The decision-making role and its impartiality must not be prejudiced by any such action.

### **The Role of Members**

- 3.5 The representational role of members is a key part of the planning process. Subject to compliance with the terms of the Members' Code of Conduct, in fulfilling that role members will be given the opportunity in respect of all applications to:
- Respond in writing to officers on the merits of the application;
  - Attend any committee site meetings for applications within their ward;
  - To make representations to the determining committee.
- 3.6 Members shall not give instructions to officers, nor should they place pressure on officers in order to secure a particular recommendation on an application.
- 3.7 Members can expect officers to give them every help and assistance in answering questions relating to planning matters.

### **The Role of Officers**

- 3.8 In respect of applications to be determined by a committee or sub-committee Officers will:
- Provide professional and impartial advice;
  - Make sure that all information necessary for a decision to be made is given, including the substance of any objections and the views of those consulted;
  - Set the application in the context of the Development Plan and all other material considerations;
  - Provide a clear and accurate written analysis of the issues;
  - Give a clear recommendation;

- Be responsible for carrying out the decisions of the Development Control Committee and Sub-Committees.

3.9 In respect of decisions that are taken under delegated authority the case officer for the application will prepare a brief written resume of key issues and a recommendation. This written report will be considered by a senior officer, given the appropriate delegated authority by the Head of Planning Services , who may exercise that authority to determine the application. In no circumstances will the case officer determine the application.

3.10 The District Council recognises that Chartered Town Planners and other Chartered Professional Officers shall not make or subscribe to any statements or reports which are contrary to their own professional opinions and the appropriate Professional Institute's Code of Conduct.

#### **4. DISCUSSIONS WITH APPLICANTS**

4.1 Pre-application meetings with prospective applicants are encouraged, but will normally only involve officers. They may involve members acting in a representative role where approached by a prospective applicant, such meetings should not normally involve members of the committee or sub-committee which may be making the decision on the intended application. Exceptions are where the committee or sub-committee has by resolution determined that a pre-application meeting shall exceptionally involve members and where the meeting is limited to providing advice on the proper process to follow, involving which officer to contact for further advice. Committee members may also wish to pass applicants on to a neighbouring District Councillor.

4.2 Where pre-application meetings involve members appointed by committee a note of the discussion will be taken and will be made available for public inspection subject to the usual rules about Access to Information, when an application is submitted. At least one officer will be present at all such meetings. The same provisions will apply where following a determination of an application consideration is being given to a fresh application.

4.3 It will be made clear at pre-application meetings that:

- Only officers' initial and provisional views can be given, based upon the provisions of the Development Plan and other material planning considerations;
- No decisions can be made which would bind or otherwise compromise the decision of the Council;
- A written note will be made of all substantive meetings. A follow-up letter should be normal practice when documentary evidence has been left with the Council;
- A note will be taken of telephone conversations where express advice on the planning merits of a proposal has been given. The meeting note and the follow-up correspondence shall be placed on the relevant file, should an application materialise following initial discussions.

#### **5. CONSULTATION AND LOBBYING**

5.1 The Council is required by legislation to give certain publicity and consult certain key parties on particular planning applications. The Council supplements the statutory

requirements with its own practice on consultation. Attached as Appendix A is a statement of the Council's current practice of consultation on planning applications.

- 5.2 In all instances interested parties are asked to make their representations in writing in order that a true record of the representation can be placed on the appropriate file for public inspection and to be used in informing the decision making process. Representations can be submitted electronically or submitted in hard copy form.
- 5.3 It is quite common for applicants and other interested parties to wish to discuss a proposed development with members before an application is determined. This can aid the understanding of issues involved. However, to avoid compromising their position before they have received all the relevant information, evidence and arguments, members of the determining committee may choose as a matter of principle not to meet applicants or interested parties. Where they do choose to meet relevant parties they will:
- Not express an opinion which could be taken as firm support or opposition to a proposal;
  - Not organise support or opposition for a proposal or lobby other members;
  - Inform lobbyists or objectors of the importance of their views being submitted in writing to the Council;
  - Advise the Chairman of the Development Control Sub-Committee or the Head of Planning Services of the existence of any party that appears to be trying to exercise undue or unreasonable pressure on members of the Council.

## 6. **COMMITTEE PROCEDURES**

- 6.1 Development Control Committee and Area Development Control Sub-Committee papers will be available, in accordance with the Access to Information Act provisions, at least five clear working days prior to the meeting.
- 6.2 All applications presented to the committee or sub-committee for determination will have a full written report from officers, including the substance of objections, and the views of those who have been consulted on the planning merits of the proposal, a clear explanation of the relevant Development Plan policies, site related history, any other material planning considerations, a reasoned consideration of the proposal and a clear recommendation.
- 6.3 Any material planning information which is received after the written report has been prepared but more than 24 hours before the start of the committee / sub-committee meeting will be presented orally by officers. Information received within 24 hours of the start of the meeting will only be presented where it is brief and can be readily conveyed to the committee / sub-committee.
- 6.4 The Head of Planning Services will have the discretion to withdraw any item from the agenda of the committee or sub-committee subsequent to the preparation of the report, but prior to a discussion by the committee or sub-committee if the circumstance of the application has changed within that period.

- 6.5 Where an application is determined in accordance with an officers' report the decision will be as set out in that report subject to any amendments which officers or members may put forward at the meeting.
- 6.6 Where the committee or sub-committee disagrees with the officers' professional advice, the reasons for rejecting a report's recommendation will be clearly stated at the meeting and recorded in the minutes. Members need to be sure that when they do not follow officers' professional advice, their decisions are based on sound planning reasons. Members shall be aware that they may be required themselves to justify their decision at appeal. Where Members support an application contrary to the Officers professional advice and that application is a Departure for the Development Plan the application will be referred up to the Development Control Committee for its consideration.
- 6.7 The Council considers that there are benefits in allowing public speaking at Planning / Sub-Committee meetings. A summary of the adopted practice is set out in Appendix B.
- 6.8 Where a planning obligation is required in respect of a development proposal, the officers' report to the committee / sub-committee will set out the reasons for this and indicate any principal terms that the obligation might contain. If the committee / sub-committee requires additional or amended obligations they shall be clearly specified by the committee / sub-committee and in all cases the detail will also be recorded in the minutes of the meeting.
- 6.9 A register is kept of planning obligations entered into and an annual report will be made to the Development Control Committee summarising progress in the receipt and use of financial sums or development in kind received in accordance with a planning obligation.

## **7. SITE VISITS**

- 7.1 All sites are investigated by officers as part of the application process. However, there may be circumstances when members will wish to visit specific sites, for example, to understand local conditions and the relationship of a proposed development and the surrounding area, where these features cannot be assessed from the submitted drawings, illustrative material or from outside the site.
- 7.2 Formal site visits will be held when there is a clearly identified material benefit from holding one and the committee or sub-committee so requests that a visit be held.
- 7.3 All members of the relevant Development Control Sub-Committee (including substitutes who may attend at a subsequent meeting) will be invited to attend the site visit, together with the ward or ward members. Where a proposal would have a significant effect on an adjoining ward, the adjoining ward members will also be invited.
- 7.4 All members attending formal site visits by the Development Control Sub-Committee shall be accompanied by an appropriate officer of the Council.
- 7.5 The site visit is not part of the consideration of the merits of an application and therefore public rights to attend the meeting do not apply. However, a representative

of the town or parish council will be invited to the site visit along with the applicant or his / her agent.

- 7.6 If access to private land is necessary, then officers will secure the prior agreement of the landowner.
- 7.7 The purpose of the site visit is fact finding. Officers will be able to point out relevant features of the site and surroundings. Members will be able to see the physical features of the site and ask questions through the Chairman or the officer to seek clarification. A written record will be kept of the site visit and placed on the planning file.
- 7.8 No discussion of the merits of the case will be permitted, and all questions from members will be carried out through the Chair or at the Chairman's discretion directed at the relevant officer.
- 7.9 The Chairman may ask the applicant (or agent), the representative of the town or parish council, or the owner on whose property the site visit is being conducted if there are any parts of the site that have not been visited that they consider should be seen by the members. The Chairman will then determine as to whether to accede to any requests for that part of the site or area to be visited.
- 7.10 The visiting party will stay together as a group. No lobbying by applicants, town or parish council representatives or objectors will be allowed. If an applicant or group persists in attempting to lobby, the Chairman may determine to curtail the site visit and return on another occasion.
- 7.11 The members of the committee / sub-committee, when on site visits, should not make any comments that could create an impression to an outside party that they had already formed a firm position on the merits of the application. The decision on the application should not be made until the formal meeting of the Development Control Sub-Committee and the members will have before them all the necessary information to be able to make an informed decision. There may be occasions when questions raised by members have not been able to be answered or require further investigation in which event officers will pursue these matters and report back on them to the appropriate committee or sub-committee meeting.
- 7.12 Exceptionally, a member of the Development Control Sub-Committee may not be able to attend a site visit or may wish to see a site that is the subject of a report to the Committee. When visiting sites on their own, members should normally seek only to view the site from a public area, and should deal with any lobbying that may occur at the visit in accordance with Section 5 of this Code of Practice. Members may wish to seek advice before undertaking unaccompanied site visits that necessitate access to private property.

## **8. DISCLOSURE OF INTERESTS AND HOSPITALITY**

- 8.1 Members and officers are required to comply with the requirements of the Suffolk Coastal Code of Conduct, including registration of their interests and making appropriate declarations - whether a "personal" or "prejudicial" interest.
- 8.2 Members and officers are discouraged from receiving hospitality from people with an interest in their planning proposal. If receipt of hospitality is unavoidable, members

and officers will ensure that it is of the minimum level and will declare its receipt as soon as possible, in a hospitality book, which in the case of members is retained by the Council's Monitoring Officer, and in the case of officers by the Head of Legal and Democratic Services. When hospitality is offered but not accepted this will also be entered into the hospitality register.

- 8.3 In the event that significant hospitality has been offered and accepted by officers or members this should be declared at the relevant committee / sub-committee meeting.

## **9. DISTRICT COUNCIL APPLICATIONS**

- 9.1 Where the District Council wishes to carry out development which requires planning permission it will need to make an application for its own development before development may be carried out. The appropriate application will be submitted by the Chief Executive or his duly authorised nominee, and will be dealt with by the Council as Local Planning Authority in the same way as those submitted by private applicants.

- 9.2 No District Council application will be determined under delegated authority, but will be determined by the Development Control Sub-Committee or Development Control Committee.

## **10. APPLICATIONS SUBMITTED BY MEMBERS AND OFFICERS**

- 10.1 All applications which are submitted by or on behalf of members, or any officers of the Council or their spouse / partner in their private capacity, will be reported to the Development Control Sub-Committee for a decision, rather than being dealt with in accordance with the Scheme of Delegation to Officers.

- 10.2 The member / officer concerned will inform the Head of Planning Services of the submission of their application to ensure that the above mentioned procedure can be adopted.

- 10.3 No member or officer concerned will take part in the processing or determination of the application, and if normally present at the determining sub-committee meeting, will declare a prejudicial interest in the normal manner and leave the meeting for the consideration of that item of business.

## **11. TRAINING**

- 11.1 To facilitate the effective working of the planning system, all members of the Council will be offered training in the principles of the planning system and the planning procedures followed by the District Council. The precise contents of this training will be determined from time to time by officers in consultation with members.

- 11.2 Members of the Development Control Committee and Development Control Sub-Committees will have undertaken training on current planning procedures and the principles of the planning system. When significant changes to the planning system or policy applicable to the District occurs updated information or training as appropriate will be provided to all members of the Development Control Committee and Development Control Sub-Committees – information / training which all members of the Council will be invited to benefit from if they so wish.

- 11.3 Members who have not participated in appropriate training can not be Members of the Development Control Committee or Development Control Sub-Committees. Only in the most exceptional cases when there are no trained members available and a committee or sub-committee would be potentially inquorate, should a member who has not received training take part in making a decision on a planning application. A record of member training in planning will be maintained.
- 11.4 As part of the annual monitoring role of the Development Control Committee, the training and provision of information undertaken and provided each year will be reviewed.

## 12. COMPLAINTS

- 12.1 If there is concern that the Code of Practice set out in this document has not been adhered to you should contact your local ward councillor or you should write to the Head of Planning Services at the Council Offices, or e-mail [philip.ridley@suffolkcoastal.gov.uk](mailto:philip.ridley@suffolkcoastal.gov.uk). In the event the concern is a matter that relates to the Council's Statutory Code of Conduct for Members or Officers, then concern should be made in writing to the Monitoring Officer at the Council Offices, or e-mail [hilary.slater@suffolkcoastal.gov.uk](mailto:hilary.slater@suffolkcoastal.gov.uk).
- 12.2 The Council has adopted a Complaints Procedure which may be followed in the event that the initial enquiry is not resolved to the complainant's satisfaction. A copy of the Complaints Procedure is available on the Council's web-site, or from the Council Offices.

**STATUTORY PUBLICITY**

Nature of Development	Publicity Required
Development where application accompanied by environmental statement	Advertisement in newspaper and site notice
Departure from development plan	Advertisement in newspaper and site notice
Affecting public right of way	Advertising in newspaper and site notice
Major Development	Advertisement in newspaper, site notice and neighbour notification as appropriate
Minor Development	Site notice and neighbour notification as appropriate
Development affecting the setting and character of a listed building	Advertisement in newspaper and site notice
Development affecting the character or appearance of a Conservation Area	Advertisement in newspaper and site notice
Agricultural permitted development where Local Planning Authority indicates a need for its prior approval	Site notice posted by developer
Telecommunications	

**INFORMAL PUBLICITY ARRANGEMENTS**

The planning officer dealing with a case has discretion to notify a neighbour direct, or not, as he or she considers desirable having regard to adopted guidelines. Notification is carried out having regard to the following guidelines:

- (i) Notification will take place when, in the opinion of the inspecting officer, demonstrable harm may be caused to the amenities of a neighbouring property resulting in:
  - a) loss of privacy;
  - b) loss of peaceful enjoyment;
  - c) loss of daylight or sunlight;
  - d) adverse visual impact;
  - e) or other adverse effect.
  
- (ii) The person notified will be the occupier of the neighbouring property affected by the proposals;

- (iii) 'Neighbouring property' is any residential property having a boundary contiguous with, or abutting, an application site but does not include a property separated from the site by a public highway;
- (iv) Notification will not be undertaken simply because a neighbour's outlook over adjoining property is affected or because a solely private interest is involved e.g. a private right of way;
- (v) Where application proposals affect properties over a wider area, the local town / parish council will be able to express a local view but where the impact could be substantial, consideration will be given to advertising the application by press advertisements as an item of general interest.

**N.B. This protocol will become effective from 1 October 2003**

## **PUBLIC SPEAKING PROCEDURES FOR DEVELOPMENT CONTROL SUB-COMMITTEE MEETINGS**

### **RECEIPT OF A PLANNING APPLICATION**

When acknowledging an application the Council will indicate that in the event that the application is to be reported to one of the two Area Sub-Committees there will be a potential for public speaking. In advance of knowing whether the matters in question are to be reported to a sub-committee meeting it would be inappropriate to advise applicants or agents of the precise details of the scheme.

### **PROCEDURE WHEN AN ITEM IS SCHEDULED TO BE REPORTED TO A DEVELOPMENT CONTROL SUB-COMMITTEE**

Progress on applications can be monitored on-line by visiting the Council's website – [www.suffolkcoastal.gov.uk](http://www.suffolkcoastal.gov.uk). This will indicate if the application is going to be considered by the Sub-Committee and, if so, when. The following would normally be permitted to speak:

- (i) representative of town / parish council;
- (ii) applicant or representative;
- (iii) objector / interested party;
- (iv) relevant ward members.

The intention is that only one person would speak from each of the above parties. It will not be necessary to make any prior arrangements to speak and people will be invited to turn up on the day, before the start of the meeting and make their wish to speak known to the Democratic Services Officer or his / her assistant.

### **PROCEDURES AT SUB-COMMITTEE MEETINGS**

Interested parties will be invited to attend sub-committee meetings from 8.30 am onwards so that the Democratic Services Assistant can ascertain who wishes to speak, and upon which item. This information will be relayed to the Chairman via the Democratic Services Officer and it will then be a matter for the Chairman to determine any re-ordering of the agenda in conjunction with the Democratic Services Officer. The instructions will be clear that anyone who arrives after 9.00 a.m. will not be in a position to insist upon speaking on an item. It is assumed that ward members would also wish to attend at the start of the meeting to alert the Chairman to their wish to speak and to avoid an item being brought forward in their absence.

### **ORDER OF SPEAKING**

The order of debate will be as follows:

- (i) Introduction by Planning Officer;
- (ii) Representations by applicant or representative;
- (iii) Representations by objector or interested party;
- (iv) Representations by relevant town or parish council (in exceptional circumstances the Chairman may allow more than one parish council to send a representative by prior agreement where a development proposal is of such magnitude that it affects several parishes);

- (v) Ward member(s);
- (vi) Development Control Sub-Committee general debate.

### **DURATION OF SPEAKING**

Speakers, other than Ward members, will be given a maximum of three minutes to speak in presentation, with the Chairman having absolute discretion as to how many and in what form questions are allowed over and above the three minute presentation. No speaker will be given a second opportunity to speak to ensure equality of representation. All questions should be based upon matters of fact only, and channelled exclusively through the Chairman. There will be no general debate, including those engaged in public speaking, given that the purpose of allowing public speaking is to make appropriate representations and to tease out matters of fact.

### **ILLUSTRATIVE MATERIAL**

If a speaker wishes to refer to illustrative material, which they wish to be displayed at the meeting, then this must be provided to the officers in advance of the meeting so that appropriate arrangements can be made for its display.