

Date: 7 June 2013  
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To: Members of the Standards Committee:  
(Councillors Susie Bond, Peter Bowden, Geoff Chamberlain,  
Graham Godbeer and Frances Newth)

Substitute members for information:  
Councillors Alan Dent and Douglas Hull

Co-opted non-voting members (Parish/Town Councillors):  
Councillors David Mason and Courtney Richards

Co-opted non-voting member (Independent):  
Ray Davison and Tim Swarbrick

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Appointed Independent Person (non-voting) - Alison Willan  
Appointed Reserve Independent Person (non-voting) – John Walpole

**Standards Committee**  
**Tuesday 18 June 2013**  
**10 am**  
**Council Chamber**

Members of the Council who do not sit on this Committee are welcome to attend as observers.

Members of the public are welcome to attend this meeting.

- There is a period of 15 minutes at the beginning of the meeting to allow members of the public to ask questions.
- The Chairman has the right and discretion to control questions to avoid disruption, repetition and to make best use of the meeting time.
- All individual contributions will be limited to a maximum period of 3 minutes – where there is an interest group of objectors or supporters, a spokesperson should be appointed to speak on behalf of the group.

Should anyone have any special needs or require any reasonable adjustments to assist them in making individual contributions, please contact Hannah Whitfield (contact details at top of page).

Councillors and members of the public are reminded to switch off mobile phones during the meeting. If this is not practical due to particular circumstances, please advise the Chairman in advance of the meeting.

## AGENDA

		Page/s
1	<b>Public question time</b> – standard agenda item (15 minutes) Members of the public are invited to put questions to the Committee through the Chairman.	
2	To receive any apologies for absence.	
3	To confirm the minutes of the Standards Committee meeting held on 29 April 2012.	6 - 10
4	To receive any declarations of interests relating to items on the agenda.	
5	To agree any items to be dealt with after the public (including the press) have been excluded. There are no items which Officers recommend should be dealt with in this way.	
6	To consider any items which in the opinion of the Chairman, should be dealt with as matters of urgency because of special circumstances. (Note: Such circumstances need to be identified in the minutes. If you wish to raise a matter under this item, please do so in advance of the meeting by notifying the Chief Executive who will then consult with the Chairman).	
7	Draft Social Media Use Policy – for debate before adoption by Council.	Deputy Monitoring Officer / Corporate Organisational Development Manager To follow
8	Public speaking at committee meetings	Monitoring Officer 11 - 12

In 2008 Council approved changes to the Constitution to allow public speaking at meetings. Feedback through the Monitoring Officer has suggested that these arrangements should be reviewed for a number of reasons, including:

- shortening the period during which a question may be asked to give more people the chance to speak;
- addressing the problem of statements being made during Public Question Time instead of questions asked;
- allowing members (not on Development Management Committee) and the public to speak on matters other than planning applications at Development Management Committee;
- asking members of the public to put their question at the start before explanatory detail and background context. It has been suggested that the question could be projected onto a screen (although this would require the member of the public to submit their question before the meeting);
- ability to reject a question if it has been put at meeting of the Council in the past six months. Responses to past questions can be found in the minutes of that committee;
- Only allowing questions that are either within the remit of the council or relate to matters that the council could influence.

At the Annual Council meeting on 22 May 2013, Members agreed for the Standards Committee to consider public speaking issues further and make recommendations to Council.

The current public speaking arrangements are set out below.

### **Questions and statements by the public**

*(Part 4 - Rules of Procedure, 4.1 procedural standing orders of the Council's [Constitution](#))*

*There shall be a fifteen minute period of public question time at the commencement of Council and Committee meetings with the exception of the Licensing and Enforcement Committee, the Development Management Committee and Planning Inspections Committee. Each individual questioner exercising a right during the public question time to be restricted to speaking for a total of 3 minutes.*

*At all meetings of the Cabinet, the Overview and Scrutiny and Audit and Governance Committees, members of the public have the general right to make statements and/or ask questions in respect of all agenda items that are not to be considered in Part B [the part of the meeting to which the public is not admitted]. The normal procedure to be that after a report has been introduced by the relevant Portfolio holder and/or officer the Chairman will enquire of any member of the public whether they wish to speak in respect of the matter and/or ask questions. In each case, contributions from members of the public will be limited to 3 minutes.*

*The chairman of any meeting has the right and discretion to control question time to avoid disruption, repetition and wasting of meeting time.*

### **Development Management Committee**

At Annual Council in 2008 it was agreed that in respect of the Council's Development Control Committee public speaking be introduced at the earliest possible opportunity at the discretion of the Chief Executive in consultation with the Chairman of the Development Management Committee at such time that the Council has considered its current review of systems and procedures in respect of the determination of all planning and related applications. Following that review, public speaking was introduced at Development Management Committee for individual planning applications and the wording on the front of the agendas reflects this agreed scheme.

At **Licensing and Enforcement Committee**, the public speak on applications in line with the requirements set out in national regulations.

### **Attendance by a member when not a Committee member – Procedural Standing Orders:**

**27.4** Any member of the Council attending a meeting of which he is not a member shall not be able to propose or second any motion nor to vote at that meeting. Except as otherwise provided in this Standing Order he shall not be entitled to speak at that meeting (except with the consent of the meeting).

**Appendix A sets out public speaking arrangements for some of the other local authorities in the area.**

			Page/s
9	Public input in Council business	Corporate Organisation Development Manager / Engagement and Funding Officer	13 - 16
10	Complaints update	Monitoring Officer	17 - 18
11	Consideration of <a href="#">Local Government Association (LGA) and Planning Advisory Service's latest guidance (April 2013)</a>	Deputy Monitoring Officer	19 - 36
12	Forward Plan	Monitoring Officer	37

### **Members and co-opted members remember!**

- ❑ You must declare the nature of any disclosable pecuniary interests. [Under the Localism Act 2011, this means the interests of your spouse, or civil partner, a person with whom you are living with as husband and wife or a person with whom you are living as if you are civil partners]. You must also disclose any personal interest.
- ❑ You must disclose your interest in an item whenever it becomes apparent that you have an interest in the business being considered.  
Make sure you say what your interest is as this has to be included in the minutes. [For example, 'I have a disclosable pecuniary interest because this planning application is made by my husband's employer'.]
- ❑ If your interest is a disclosable pecuniary interest you cannot participate in the discussion, cannot vote and must leave the room unless you have obtained a dispensation from the Council's Monitoring Officer or Standards Committee.

### **Decision making and equality duties**

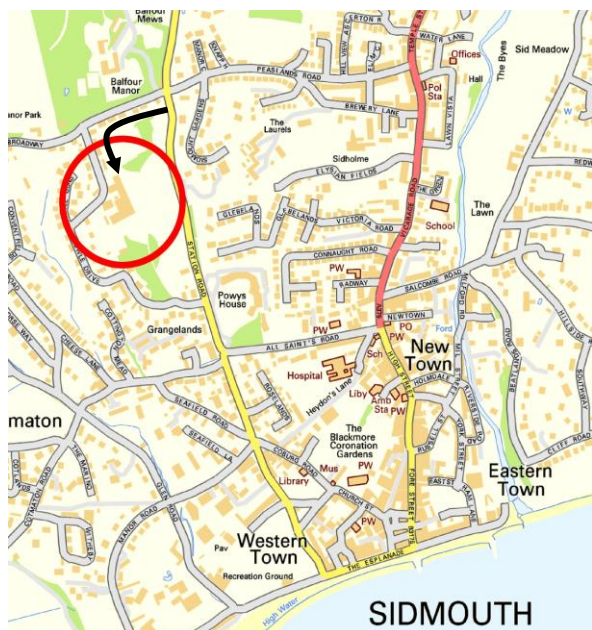
The Council will give due regard under the Equality Act 2010 to the equality impact of its decisions.

An appropriate level of analysis of equality issues, assessment of equalities impact and any mitigation and/or monitoring of impact will be addressed in committee reports.

Consultation on major policy changes will take place in line with any legal requirements and with what is appropriate and fair for the decisions being taken.

Where there is a high or medium equalities impact Members will be expected to give reasons for decisions which demonstrate they have addressed equality issues.

## Getting to the Meeting – for the benefit of visitors



The entrance to the Council Offices is located on Station Road, Sidmouth. **Parking** is limited during normal working hours but normally easily available for evening meetings.

The following **bus service** stops outside the Council Offices on Station Road: **From Exmouth, Budleigh, Otterton and Newton Poppleford – 157**

The following buses all terminate at the Triangle in Sidmouth. From the Triangle, walk up Station Road until you reach the Council Offices (approximately ½ mile).

**From Exeter – 52A, 52B**

**From Honiton – 52B**

**From Seaton – 52A**

**From Ottery St Mary – 379, 387**

Please check your local timetable for times.

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The Committee Suite has a separate entrance to the main building, located at the end of the visitor and Councillor car park. The rooms are at ground level and easily accessible; there is also a toilet for disabled users.

**For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546**

## **EAST DEVON DISTRICT COUNCIL**

### **Minutes of a Meeting of the Standards Committee held at Knowle, Sidmouth on 29 April 2013**

- Present:** Councillors:  
Peter Halse (Chairman)  
Peter Bowden  
Geoff Chamberlain  
Frances Newth  
Tim Wood  
Co-opted non-voting members:  
Cllr David Mason, Parish/Town Council member  
Cllr Courtney Richards, Parish/Town Council member  
Ray Davison, Independent member  
Tim Swarbrick, Independent member
- Also present:** Alison Willan, Independent Person
- Officers:** Denise Lyon, Monitoring Officer and Deputy Chief Executive  
Rachel Pocock, Deputy Monitoring Officer and Corporate Legal and Democratic Services Manager  
Hannah Whitfield, Democratic Services Officer  
Alan Dent, substitute Standards Committee Member  
Douglas Hull, substitute Standards Committee Member  
John Walpole, Reserve Independent Person

The meeting started at 10:00 am and ended at 11:25 am

#### **\*23 Public question time**

There were no questions raised by members of the public.

Cllr David Mason asked whether following the recently published Daily Telegraph article, and the subsequent resignation of Graham Brown, there were any matters that needed to be considered by the Committee. In response the Monitoring Officer advised that the matter had been referred to the Police soon after the article had been published. The issue was then, on advice from Police, directed to Action Fraud under the Bribery Act 2010 and the Council's own Fraud, Theft and Corruption policy. Devon and Cornwall Police were continuing to look into the matter and the Monitoring Officer was currently in discussions with them about releasing a joint statement. The Monitoring Officer confirmed that the Independent Person had been consulted on the matter.

During discussion the Committee spoke of the importance of putting out a clear message to the public to explain what action had already been taken and what would happen next.

In response to a question about the future of the East Devon Business Forum and the Business Task and Finish Forum, the Deputy Monitoring Officer confirmed that Council Officer resource had been withdrawn from the East Devon Business Forum. The Business Task and Finish Forum focusing on engagement with the business community was ongoing.

**\*24 Minutes**

The minutes of the meeting of the Standards Committee held on 16 October 2012 were confirmed and signed as a true record.

**\*25 Declarations of interest**

Councillor Peter Halse had declared a personal interest under minute \*23 as a former attendee of the East Devon Business Forum.

**\*26 Draft Social Media Use Policy**

The Deputy Monitoring Officer reported that following a useful discussion at the previous meeting on the draft Social Media Use Policy there had been further refinement of the document. The Policy had been sent to a specialist for their view/input, however unfortunately due to sickness it has not been possible to circulate the revised version of the Policy before the meeting. This item would therefore be deferred until the next Committee meeting.

**RESOLVED** that the Draft Social Media Use Policy be added to the Forward Plan for June's Standards Committee meeting.

**\*27 Openness and transparency on personal interests: a guide for councillors**

The Department for Communities and Local Government had published a helpful and practical guide for councillors on openness and transparency on personal interests. The Deputy Monitoring Officer advised that it was general guide and was therefore not specific to individual adopted Codes.

The Deputy Monitoring highlighted the following points:

- The Council's new Code made it clear that Portfolio Holders, who have delegated authority to make certain decisions, were responsible for recognising and declaring where they have a Disclosable Pecuniary Interest (DPI) or personal interest;
- The Council's new Code included a definition of the types of meeting covered by it. A Councillor with a DPI was prohibited from any form of participation, including speaking as a member of the public. In response to a question, the Deputy Monitoring Officer clarified that the spouse or legal advisor of a Councillor who had a DPI would be able to speak on a planning application for example;
- Failure to declare a DPI was a criminal offence;
- The regulations were not clear as to whether a dispensation was required for setting Council tax, therefore the Monitoring Officer had taken the view to issue a dispensation.

A copy of the guide had been circulated to EDDC Members and Parish and Town Councils.

## 28 **Protocol for the Independent Person**

At the last meeting, the Committee had considered and endorsed a draft protocol for Independent Persons written by Hoey Ainscough Associates Ltd following a series of workshops they had run on the role of the Independent Person (IP).

The draft Protocol had been amended to reflect the Council's own Code of Conduct procedures. It set out the relationships between the IP (and reserve IP) and the various parts of the local authority involved in the process of handling standards complaints and wider promotion of standards. The aim of the protocol was to ensure that responsibility was clear at each stage of the process and set out the expectations of the IP (and reserve IP).

Following discussions at the last meeting about the reserve IP's lack of involvement in the complaints process to date, the Protocol now set out that the reserve IP would be consulted on at least one complaint per quarter. Only one IP would be consulted in any case. Concern was raised that depending on the number of complaints received this could mean the lead IP was not consulted.

Six monthly meetings would also be set up between the MO, IP, reserve IP and the Chairman to discuss any standards matters that might have arisen.

The Chairman invited the IP to give her thoughts on the Protocol. The IP welcomed the Protocol which clearly set out the role and was expected of the IP.

- RECOMMENDATION** that the Protocol for the Independent Person be adopted subject to the point referring to the reserve IP's involvement in the complaints process being amended to:
- The reserve IP will be consulted on at least one complaint per quarter (as long as there is more than one case received by the Council in that quarter). Only one IP will be consulted in any case.

## \*29 **Complaints update and statistics**

The Committee considered the report of the Monitoring Officer, which detailed the level and types of complaints received by the Monitoring Officer for the Standards Committee since the last meeting.

The Monitoring Officer advised the Committee that significant effort went into, where appropriate, resolving complaints at an early stage and helping to facilitate a local resolution which satisfied both parties. Due to increased workload resulting from the number of Code and non-Code complaints received, the Democratic Services Officer and Deputy Monitoring Officer had been assisting the Monitoring Officer in the early assessment stage of a complaint and helping to gather evidence and find a resolution, where required.

The Committee noted that one complaint was being referred to the Standards Hearing Sub Committee. Following a detailed investigation the Investigating Officer had reported findings of a potential breach of the Code of Conduct. Although the Council's adopted procedure allowed the Monitoring Officer to facilitate a resolution



between the two parties, in this instance had not been possible and therefore it was necessary to convene a formal Hearing.

A member of the Committee commented that due to the assessment of complaints now being delegated to the Monitoring Officer rather than an Assessment Committee, as had been the case under the old complaints' process, the Standards Committee had no detail about the types of complaints being received. The Monitoring Officer explained that under the new complaints' process, complaints remained confidential unless referred to the Standards Hearing Sub Committee. However an explanation of why a particular paragraph had been referenced could be included in future complaint update reports to give the Committee a better understanding of the standards' issues being raised by complainants. The Monitoring Officer reminded the Committee that she would hold six monthly meetings with the Independent Person and reserve Independent Person and Chairman of Standards Committee to review relevant Standards' matters.

The Monitoring Officer asked the Committee to disregard the graphs shown in the report as they contained errors. A corrected version of the graphs would be appended to the minutes.

## **RESOLVED**

1. that future Complaints' update reports include an explanation of why a particular Code of Paragraph had been referenced against a complaint to give Members a better understanding of the types of issues being raised by complainants;
2. that correct versions of the graphs showing the types of allegations received by the MO under the new Code of Conduct and old Code of Conduct are appended to these Minutes (Appendix A).

## **\*30 Forward Plan**

The Committee noted the contents of the Forward Plan and future meeting dates.

Social Media Use policy would be added to the list of items to be considered at June's meeting.

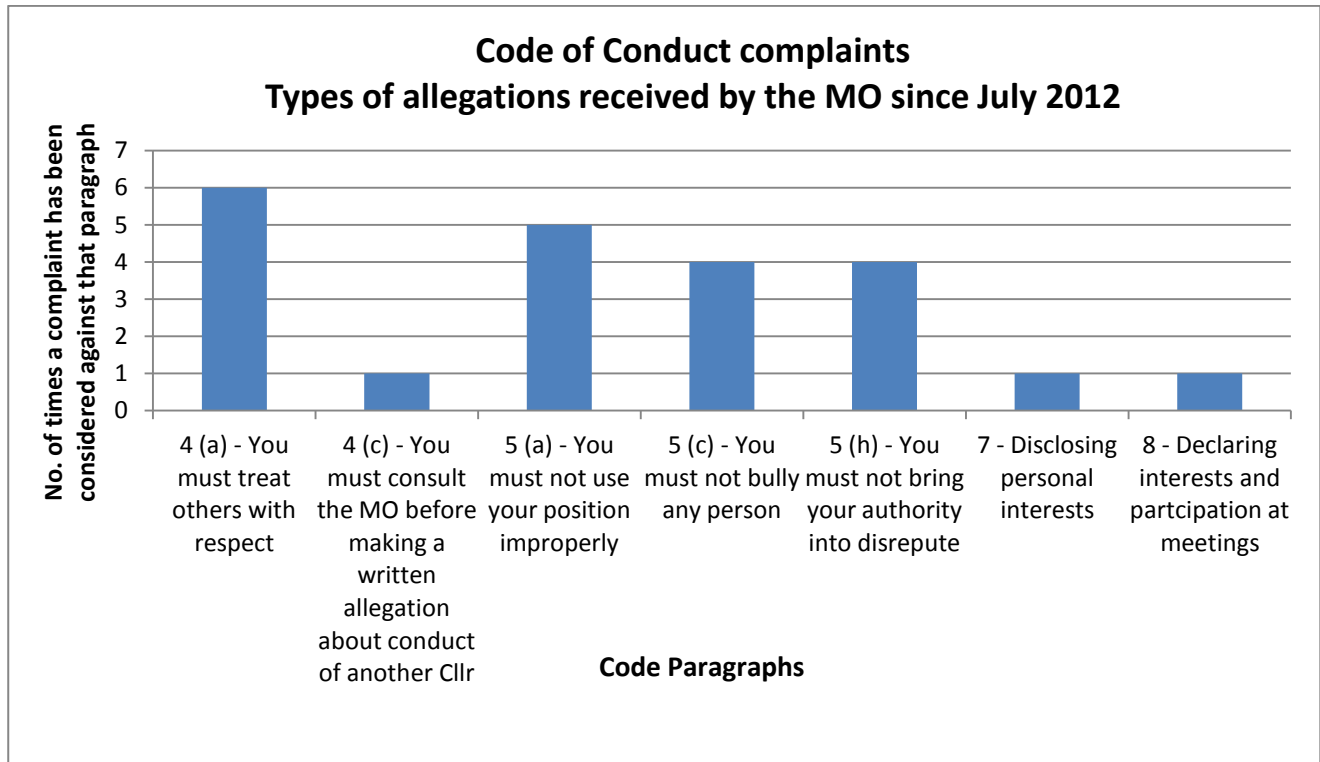
Chairman ..... Date .....

## APPENDIX A

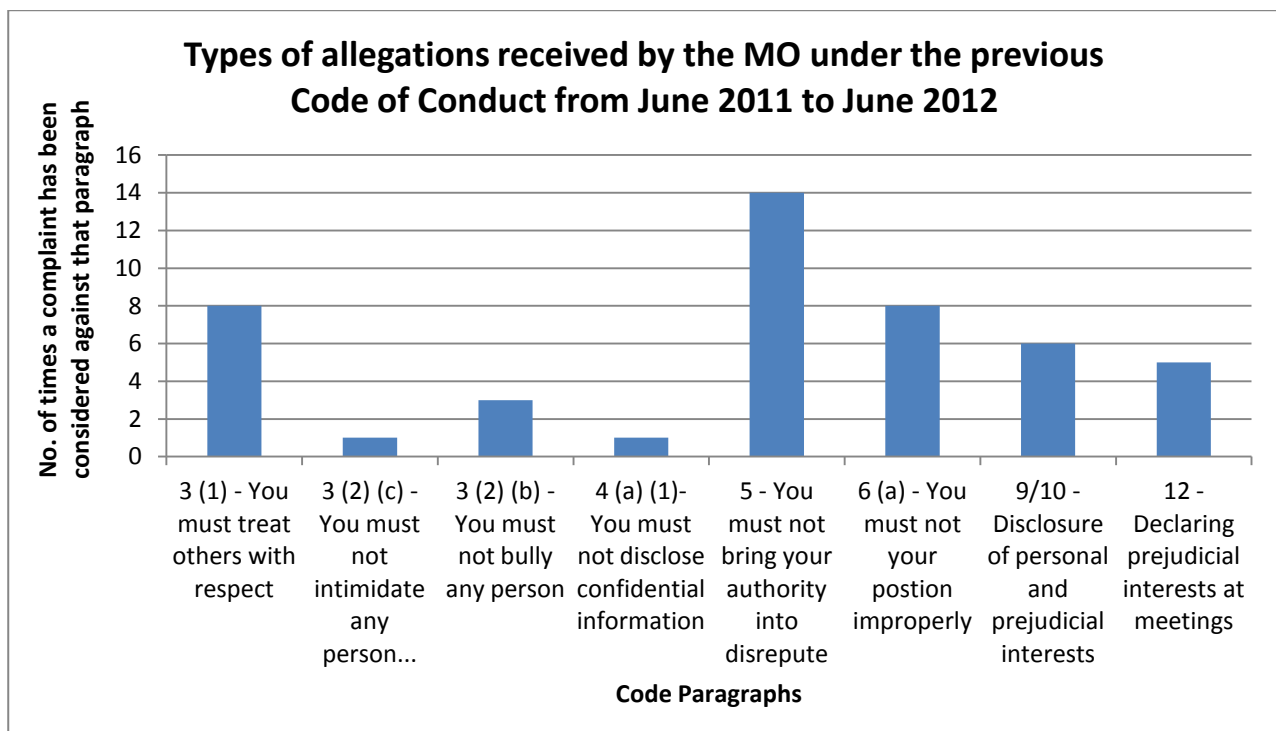
**Overview of all complaints received since the new standards arrangements were introduced in July 2012.**

Number of Code of Conduct complaints received = 14 (8 x EDDC Cllr, 4 x Town Cllr, 2 x Parish Cllr)

Number of Non Code of Conduct complaints received = 12



The graph below has been included to show how the types of allegations received by the MO since the new Code was adopted compares to the types allegations received under the previous Code.



## Appendix A – Public speaking arrangements for other local authorities in the area

Council	Public Question Time	Duration (minutes)	Time allowed for each speaker (minutes)	Questions in advance?	Planning Committee - Public speaking on non-application items?	Additional notes
East Devon District Council	Yes	15	3	No	No	<p>Public Question Time is included on all main committee agendas, excluding Development Management, Planning Inspections and Licensing and Enforcement – these committees have their own speaking arrangements.</p> <p>At meetings of Cabinet, Overview and Scrutiny and Audit and Governance, members of the public can make statements and/or ask questions in respect of agenda items (except those to be considered under Part B).</p>
South Hams District Council	Yes – but only at Executive and Scrutiny Panels	15	Not stated	Yes – 3 days	Reference to speaking on applications only	<p>3 days notice required to ask a question, however at Executive meetings the Chairman, at his/her discretion, can allow 'urgent' questions.</p> <p>Questions to be no longer than 50 words in length.</p> <p>Questions can not relate to planning matters.</p> <p>Monitoring Officer can reject questions if for example it is derogatory to the council, offensive or it is about a matter the local authority is not responsible for.</p> <p>Speakers must register beforehand to speak on a planning application.</p>
Exeter City Council	Yes – but only for Scrutiny Committees	15	Not stated	Yes – 3 days	Reference to speaking on applications only	<p>Public speaking at planning meetings - Speakers must register before the meeting. Only 1 objector and 1 supporter permitted.</p>

Council	Public Question Time	Duration (minutes)	Time allowed for each speaker (minutes)	Questions in advance?	Planning Committee - Public speaking on non-application items?	Additional notes
East Dorset District Council	Yes	15	3	No	Reference to speaking on applications only	<p>At ordinary meetings of Council, committees and sub-committees residents can make a presentation in the form of a question, petition or deputation.</p> <p>A form is available on the Council website for submitting questions to individual committees.</p> <p>Speakers must give 2 days notice to speak on a planning applications. Maximum of 2 supporters and 2 objectors (can be extended for major applications)</p>
Devon County Council	Yes	30	See notes	Yes – 4 days	Reference to speaking on applications only	<p>Questions can be put to Council and Cabinet.</p> <p>Only one question to be asked per speaker, however a supplementary question can be asked.</p> <p>No limit on the length of any question – advised to keep it short as possible to avoid any misunderstanding. 50 words advised to be sufficient to frame a clear and direct question.</p>
South Somerset District Council	Yes	15	3	No	Yes – see note	<p>As well as Public Question Time the public can also comment on individual agenda items at Committees.</p> <p>Planning applications are considered at Area Committees which cover wider issues than just planning.</p>
Mid Devon District Council	Yes	30	3	Yes but only for written questions – 2 days	Reference to speaking on applications only	<p>Questions can be verbal however written questions preferred. A supplementary question can be asked at the discretion of the Chairman. Written questions must be received 2 days in advance of the meeting and must not exceed 100 words.</p> <p>Questions must be relevant to an item on the agenda for that meeting.</p>

# **Standards Committee**

## **Introduction**

This short paper provides a summary of ways in which the Council ensures 'public input' into Council business.

The ways in which East Devon District engages with communities will be captured in the Council's Engagement Strategy. This is currently the subject of discussion with Devon County Council to facilitate joined up working in this area.

## **1 Regular 'channels' for public input**

### **1.1 Residents' Survey - Viewpoint Survey 2013**

This is a general Council survey which is being sent out to 3,000 randomly selected households from throughout the district. It asks questions on various Council services and about the Council as a whole. The questionnaire has been approved by Cabinet.

The results will be reported to Councillors in Autumn and the Council can take action where necessary.

We intend to engage with Town and Parish Councils, and the Voluntary and Community Sector at the 'Working together for the future of East Devon' event which is due to be held on 11 October. This is an annual event.

Discussions are underway with the Business TaFF regarding a survey specifically aimed at the business community.

### **1.2 Speak Now Panel and East Devon Editors**

We have a residents' panel of customers, we regularly send them questionnaires and invite them to take part. However, it is not used as often as it could be. We have recently set up a customer reading panel called the East Devon Editors. This is a group of residents who have volunteered to look through Council documents etc and improve them.

### **1.3 Participatory Budgeting with Section 106 money for play and sport**

This involves extensive community engagement and residents really do get to decide how money is spent on play and sport in their area. By the end of this year we will have spent about £1million in this way on over 30 projects. This is a groundbreaking approach as the vast majority of other councils decide themselves how to spend this money.

### **1.4 Sustainable Communities Act**

EDDC have decided to take part in the SCA, which allows local people to submit their ideas to us about how they feel power and funding should be diverted away from central Government. The closing date for proposals is in October.

### **1.5 Systems Thinking**

Services regularly ask customers their views on specific services through 'what matters surveys'.

### **1.6 Customer Services**

The Customer Services Manager analyses customer enquiries and data to see how we can better help our customers and designs her service around their needs.

### **1.7 Tenants**

There is a whole tenant participation team, including the Tenant Panel. Tenants make decisions on Council Housing Policy and regulations, they are involved in designing the service.

### **1.8 Neighbourhood Assessments**

Environmental Health helped by other Officers undertake Neighbourhood Assessments, visiting locations throughout East Devon and door knocking to talk to residents. Common concerns are answered and actions may be taken on the results.

### **1.9 Public speaking at committee meetings.**

The Standards Committee have been asked by Council to review these arrangements, however currently there is a 15 minute period of public question time at the commencement of Council and Committee meeting with the exception of the Licensing and Enforcement Committee, the Development Management Committee and Planning Inspections Committee. Each individual questioner can speak for a maximum of 3 minutes.

At all meetings of the Cabinet, the Overview and Scrutiny and Audit and Governance Committees, members of the public have the general right to make statements and/or ask questions in respect of all agenda items that are not to be considered in Part B [the part of the meeting to which the public is not admitted]. Contributions from members of the public are limited to 3 minutes each.

## **2 Specific, recent consultations**

### **2.1 Local Plan**

The Local Plan, led by Planning Policy, has had several rounds of public consultation. Changes have been made as a result at every stage.

### **2.2 Exmouth Splash Consultation closed January 2013**

We wanted to know what people thought about draft proposals for a new 'Exmouth Splash' leisure and attractions area on Exmouth seafront.

We received 518 completed questionnaires. As a result of the consultation:

- The Watersports hub would move to the far eastern edge of the site in response to water users' comments on beach safety and size of site for required storage.
- The public open space area would now be in the centre front of the site (where the watersports hub was originally proposed) giving a more natural

and open feeling to the area on arriving from the west. Rather than have a fenced pay-to-enter area, attractions such as mini-golf would be included within public open-space. This would be similar to arrangements on regenerated seafronts in other towns such as Teignmouth.

- Car-parking would amount to at least 280 spaces but remain as surface car parking only. This would be nearly 80 more than the number there now. Additional spaces specifically for the hotel/holiday accommodation could increase this by approximately another 50.
- There will be a further investigation of market demand for a hotel or other type of holiday accommodation at the north western part of the site.

### **2.3 Local Council Tax Support Consultation closed October 2012**

As part of the Government's welfare reforms, Council Tax Benefit (CTB) was abolished. All local councils had to replace it with their own scheme called 'Council Tax Support' (CTS) for all working-age customers. At the same time as this change, the Government reduced the funding it provides to cover local CTS schemes. We carried out consultation on our draft scheme so we could make it as fair as possible.

We sent out questionnaires to everyone that would be affected (4,000 people) and opened the questionnaire up to anyone who wanted to complete it. We received a high response rate, 1,126 responses.

We made changes to our draft scheme as a result.

- We consulted on a 70% maximum Council Tax Support amount – this was increased to 80%.
- We consulted on a £3,000 capital limit – this was increased to £8,000
- We consulted on a Band D Council Tax Restriction – our consultation responses recognised this and this has been implemented.
- We consulted on setting up an Exceptional Hardship Fund – the majority consultation responses agreed with this and this has been set up.
- We consulted on removing Second Adult Rebate – the majority of consultation responses agreed with this and this has been removed for working-age customers.

### **2.4 Shaping our Future Consultation Consultation closed January 2012**

Giving residents, Town and Parish Councils etc the opportunity to comment on EDDCs draft plans for the future. This included the Council Plan, Financial Plan, Homes and Communities Plan, Environment Plan and Economy Plan.

### **2.5 Connaught and Manor Gardens Surveys Summer 2012**

A survey was undertaken with people using Connaught and Manor Gardens to find out what they thought was good and bad about the gardens. The results were excellent overall. There were some common comments such as:

- There needs to be a coffee shop in Manor Gardens in the old TIC building- this has now happened and the coffee shop has opened.
- In Manor Gardens we need more benches near the bandstand- we had two donated benches and we will make sure they are put near the bandstand.

- In Connaught Gardens the deckchairs need to be available more often- the lads running the concession can no longer do it, we are looking for others to take it on.

## **2.6 Seafield Gardens, Seaton Early 2013**

This project involved £35k of Council budget to redesign and improve these gardens. This work was carried out with extensive consultation and residents were able to submit their ideas as part of the design phase of the project.

Corporate Organisational Development Manager, Karen Jenkins

Engagement and Funding Officer, Jamie Buckley



## Standards Committee, 18 June 2013

### Item 10 - Code of Conduct complaints update

This paper provides an update for Members on outstanding complaint cases and new cases received since the last Standards Committee meeting (29 April 2013) to date:

Case #	TC/PC or EDDC member	Relevant paragraphs in Code of Conduct and outcome following consultation with Independent Person
Outstanding complaints:		
MO-C003	EDDC Councillor	<p>Allegation member did not treat others with respect/courtesy.</p> <p><b>A Hearing has been arranged for 3 July 2013</b>, following an investigation. (Committee Members/non-voting members required for the Hearing have been contacted; the matter will not be discussed on 18 June)</p>
MO-C008 & MO-C0014	EDDC Councillor	<p>Alleged that Subject Member had made misrepresentations and been inappropriate and disrespectful in communication.</p> <p>4a – you must treat others with respect, 5h – you must not conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office into disrepute.</p> <p>Recommended action undertaken by Subject Member. <b>Case closed.</b></p>
MO-C011	Town Councillor	<p>Alleged that during an incident with the complainant, the Subject Member was verbally aggressive and referred to their position as a Councillor inappropriately.</p> <p>5c – you must not bully any person and 5h – you must not conduct yourself in a manner or behave in such a way as to give a reasonable person the impression that you have brought your office or the Council into disrepute.</p> <p><b>Complaint under assessment.</b></p>
New complaints:		
MO-C015	Town Councillor	<p>Complaint arisen following an exchange between the complainant and subject member. Complainant alleges that the Subject Member was offensive in their remarks.</p> <p>4a – you must treat others with respect, 5a – you must not attempt to use your position as a Member improperly to confer on or secure for yourself or any person, an advantage or disadvantage, 5h – you must not conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office into disrepute.</p> <p><b>Complaint under assessment.</b></p>

MO-C016	Parish Councillor	<p>Complainant alleges that the subject member intentionally tried to discredit the Council at a Parish Council meeting.</p> <p>4a – you must treat others with respect, 5a – you must not attempt to use your position as a Member improperly to confer on or secure for yourself or any person, an advantage or disadvantage, 5h – you must not conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office into disrepute.</p> <p><b>Complaint under assessment.</b></p>
MO-C017	District Councillor	<p>Complainant alleges that the subject member was disrespectful at a public meeting.</p> <p>4a – you must treat others with respect</p> <p><b>Complaint under assessment.</b></p>
MO-C018	District Councillor	<p>Complainant alleges that the subject member was disrespectful at a public meeting.</p> <p>4a – you must treat others with respect</p> <p><b>Complaint under assessment.</b></p>
MO-C019	District Councillor	<p>Alleged that Subject Member had made misrepresentations and been inappropriate and disrespectful in communication.</p> <p>4a – you must treat others with respect, 5h – you must not conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office into disrepute.</p> <p><b>Complaint under assessment.</b></p>

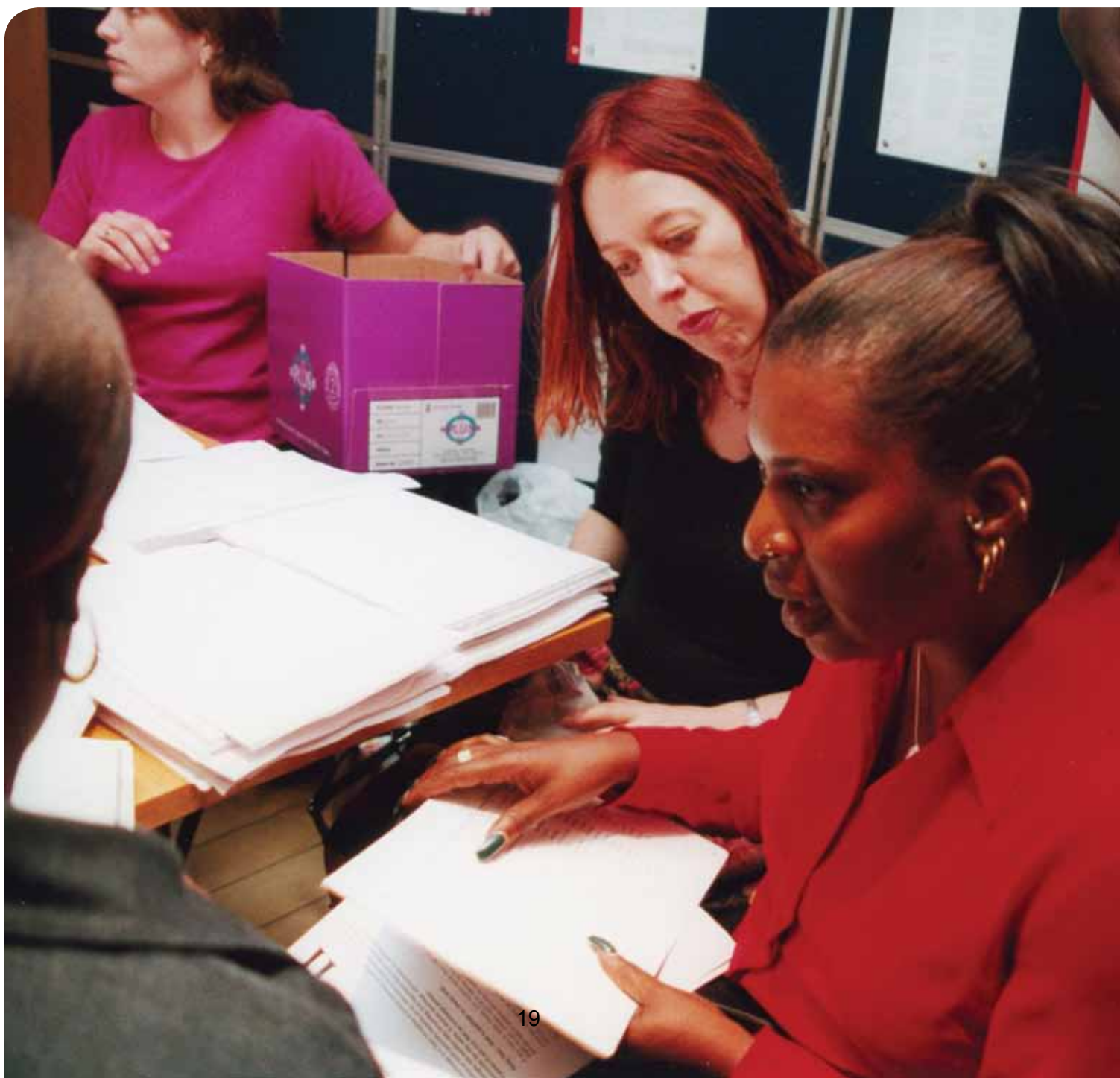
Since the last Standards Committee meeting there have been five complaints made to the Monitoring Officer which have been assessed and discussed with the Independent Person, but have not been found to be Code of Conduct complaints. Common factors for deciding that a complaint is not a Code of Conduct complaint include:

- the subject member not acting in their official capacity as councillor at the time;
- the subject member acting in their official capacity as a councillor, however the complaint concerns processes or the skills set of that councillor.

Since the new Standards arrangements were introduced there have been 17 complaints received which were not considered to be Code of Conduct complaints. A good proportion of these resulted from one contentious Council meeting.

# Probity in planning

for councillors and officers





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This publication was prepared by Trevor Roberts Associates for the Planning Advisory Service. It also includes contributions from officers from various councils.

**April 2013**

## Foreword

This 2013 update to the 2009 version of the Local Government Association's Probity in Planning guide reflects changes introduced by the Localism Act 2011. It clarifies how councillors can get involved in planning discussions on plan making and on applications, on behalf of their communities in a fair, impartial and transparent way.

This guide has been written for officers and councillors involved in planning. Councillors should also be familiar with their own codes of conduct and guidance.

This guide is not intended to nor does it constitute legal advice. Councillors and officers will need to obtain their own legal advice on any matters of a legal nature concerning matters of probity.

## Introduction

Planning has a positive and proactive role to play at the heart of local government. It helps councils to stimulate growth whilst looking after important environmental areas. It can help to translate goals into action. It balances social, economic and environmental needs to achieve sustainable development.

The planning system works best when officers and councillors involved in planning understand their roles and responsibilities, and the context and constraints in which they operate.

Planning decisions involve balancing many competing interests. In doing this, decision makers need an ethos of decision-making in the wider public interest on what can be controversial proposals.

It is recommended that councillors should receive regular training on code of conduct issues, interests and predetermination, as well as on planning matters.

## Background

In 1997, the Third Report of the Committee on Standards in Public Life (known as the Nolan Report) resulted in pressures on councillors to avoid contact with developers in the interests of ensuring probity. In today's place-shaping context, early councillor engagement is encouraged to ensure that proposals for sustainable development can be harnessed to produce the settlements that communities need.

This guidance is intended to reinforce councillors' community engagement roles whilst maintaining good standards of probity that minimizes the risk of legal challenges.

Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework.

Decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and decision notices. Nevertheless, it is important that the decision-making process is open and transparent.



One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. Opposing views are often strongly held by those involved.

Whilst councillors must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. It is important, therefore, that planning authorities make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons.

The process should leave no grounds for suggesting that those participating in the decision were biased or that the decision itself was unlawful, irrational or procedurally improper.

This guidance is not intended to be prescriptive. Local circumstances may provide reasons for local variations of policy and practice. Every council should regularly review the way in which it conducts its planning business.

This guidance refers mainly to the actions of a local authority planning committee as the principal decision-making forum on planning matters. It is recognised, however, that authorities have a range of forms of decision-making: officer delegations; area committees; planning boards, and full council.

This guidance applies equally to these alternative forms of decision-making. Indeed, it becomes very important if the full council is determining planning applications referred to it, or adopting local plans and other policy documents, that councillors taking those decisions understand the importance of this guidance. The guidance also applies to councillor involvement in planning enforcement cases or the making of compulsory purchase orders.

## The general role and conduct of councillors and officers

Councillors and officers have different but complementary roles. Both serve the public but councillors are responsible to the electorate, whilst officers are responsible to the council as a whole. Officers advise councillors and the council and carry out the council's work. They are employed by the council, not by individual councillors. A successful relationship between councillors and officers will be based upon mutual trust, understanding and respect of each other's positions.

Both councillors and officers are guided by codes of conduct. The 2011 Act sets out a duty for each local authority to promote and maintain high standards of conduct by councillors and to adopt a local code of conduct. All councils had to adopt a local code by August 2012.

The adopted code should be consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

It should embrace the standards central to the preservation of an ethical approach to council business, including the need to register and disclose interests, as well as appropriate relationships with other councillors, staff, and the public. Many local authorities have adopted their own, separate codes relating specifically to planning although these should be cross referenced with the substantive code of conduct for the council.

Staff who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute. Many authorities will have adopted a code of conduct for employees and incorporated those or equivalent rules of conduct into the contracts of employment of employees.

In addition to these codes, a council's standing orders set down rules which govern the conduct of council business.

Councillors and officers should be cautious about accepting gifts and hospitality and should exercise their discretion. Any councillor or officer receiving any such offers over and above an agreed nominal value should let the council's monitoring officer know, in writing, and seek advice as to whether they should be accepted or declined. Guidance on these issues for both councillors and officers should be included in the local code of conduct

Employees must always act impartially and in a politically neutral manner. The Local Government and Housing Act 1989 enables restrictions to be set on the outside activities of senior officers, such as membership of political parties and serving on another council. Councils should carefully consider which of their officers are subject to such restrictions and review this regularly.

Officers and serving councillors must not act as agents for people pursuing planning matters within their authority even if they are not involved in the decision making on it.

Whilst the determination of a planning application is not a 'quasi-judicial' process (unlike, say, certain licensing functions carried out by the local authority), it is a formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. All involved should remember the possibility that an aggrieved party may seek a Judicial Review and/or complain to the Ombudsman on grounds of maladministration or a breach of the authority's code.

Finally, as planning can sometimes appear to be complex and as there are currently many changes in planning taking place, the LGA endorses the good practice of many councils which ensures that their councillors receive training on planning when first appointed to the planning committee or local plan steering group, and regularly thereafter. The Planning Advisory Service (PAS) can provide training to councillors (contact [pas@local.gov.uk](mailto:pas@local.gov.uk)).



## Registration and disclosure of interests

Chapter 7 of the 2011 Act places requirements on councillors regarding the registration and disclosure of their pecuniary interests and the consequences for a councillor taking part in consideration of an issue in the light of those interests. The definitions of disclosable pecuniary interests are set out in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. A failure to register a disclosable pecuniary interest within 28 days of election or co-option or the provision of false or misleading information on registration, or participation in discussion or voting in a meeting on a matter in which a councillor or co-opted member has a disclosable pecuniary interest, are criminal offences.

For full guidance on interests, see Openness and transparency on personal interests: guidance for councillors, Department for Communities and Local Government, March 2013. (This guidance note does not seek to replicate the detailed information contained within the DCLG note). Advice should always be sought from the council's monitoring officer. Ultimately, responsibility for fulfilling the requirements rests with each councillor.

The provisions of the Act seek to separate interests arising from the personal and private interests of the councillor from those arising from the councillor's wider public life. Councillors should think about how a reasonable member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the councillor's involvement would be appropriate.

Each council's code of conduct should establish what interests need to be disclosed. All disclosable interests should be registered and a register maintained by the council's monitoring officer and made available to the public. Councillors should also disclose that interest orally at the committee meeting when it relates to an item under discussion.

A councillor must provide the monitoring officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the councillor becoming aware of such changes.

A disclosable pecuniary interest relating to an item under discussion requires the withdrawal of the councillor from the committee. In certain circumstances, a dispensation can be sought from the appropriate body or officer to take part in that particular item of business.

If a councillor has a (non-pecuniary) personal interest, he or she should disclose that interest, but then may speak and vote on that particular item. This includes being a member of an outside body; mere membership of another body does not constitute an interest requiring such a prohibition.

It is always best to identify a potential interest early on. If a councillor thinks that they may have an interest in a particular matter to be discussed at planning committee he or she should raise this with their monitoring officer as soon as possible.

See Appendix for a flowchart of how councillors' interests should be handled.

## Predisposition, predetermination, or bias

Members of a planning committee, Local Plan steering group (or full Council when the local plan is being considered) need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application or on planning policies.

The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a ‘closed mind’ approach and likely to leave the committee’s decision susceptible to challenge by Judicial Review.

Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a councillor makes it clear they are willing to listen to all the considerations presented at the committee before deciding on how to vote (predisposition). The latter is alright, the former is not and may result in a Court quashing such planning decisions.

Section 25 of the Act also provides that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter.

This reflects the common law position that a councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in light of all the information presented at the meeting. Nevertheless, a councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the councillor was biased.

For example, a councillor who states “Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the committee” will be perceived very differently from a councillor who states: “Many people find windfarms ugly and noisy and I will need a lot of persuading that any more windfarms should be allowed in our area.”

If a councillor has predetermined their position, they should withdraw from being a member of the decision-making body for that matter.

This would apply to any member of the planning committee who wanted to speak for or against a proposal, as a campaigner (for example on a proposal within their ward). If the Council rules allow substitutes to the meeting, this could be an appropriate option.

Authorities will usually have a cabinet/ executive member responsible for development and planning. This councillor is able to be a member of the planning committee. Leading members of a local authority, who have participated in the development of planning policies and proposals, need not and should not, on that ground and in the interests of the good conduct of business, normally exclude themselves from decision making committees.

## Development proposals submitted by councillors and officers, and council development

Proposals submitted by serving and former councillors, officers and their close associates and relatives can easily give rise to suspicions of impropriety. Proposals could be planning applications or local plan proposals.

Such proposals must be handled in a way that gives no grounds for accusations of favouritism. Any local planning protocol or code of good practice should address the following points in relation to proposals submitted by councillors and planning officers:

- if they submit their own proposal to their authority they should play no part in its consideration
- a system should be devised to identify and manage such proposals
- the council's monitoring officer should be informed of such proposals
- such proposals should be reported to the planning committee and not dealt with by officers under delegated powers.

A councillor would undoubtedly have a disclosable pecuniary interest in their own application and should not participate in its consideration. They do have the same rights as any applicant in seeking to explain their proposal to an officer, but the councillor, as applicant, should also not seek to improperly influence the decision.

Proposals for a council's own development should be treated with the same transparency and impartiality as those of private developers.

## Lobbying of and by councillors

Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward member or to a member of the planning committee.

As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves".

Lobbying, however, can lead to the impartiality and integrity of a councillor being called into question, unless care and common sense is exercised by all the parties involved.

As noted earlier in this guidance note, the common law permits predisposition but nevertheless it remains good practice that, when being lobbied, councillors (members of the planning committee in particular) should try to take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments.

In such situations, they could restrict themselves to giving advice about the process and what can and can't be taken into account.

Councillors can raise issues which have been raised by their constituents, with officers. If councillors do express an opinion to objectors or supporters, it is good practice that they make it clear that they will only be in a position to take a final decision after having heard all the relevant arguments and taken into account all relevant material and planning considerations at committee.

If any councillor, whether or not a committee member, speaks on behalf of a lobby group at the decision-making committee, they would be well advised to withdraw once any public or ward member speaking opportunities had been completed in order to counter any suggestion that members of the committee may have been influenced by their continuing presence. This should be set out in the authority's code of conduct for planning matters.

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

A local code on planning should also address the following more specific issues about lobbying:

- Planning decisions cannot be made on a party political basis in response to lobbying; the use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.
- Planning committee or local plan steering group members should in general avoid organising support for or against a planning application, and avoid lobbying other councillors.
- Councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity.
- Call-in procedures, whereby councillors can require a proposal that would normally be determined under the delegated authority to be called in for determination by the planning committee, should require the reasons for call-in to be recorded in writing and to refer solely to matters of material planning concern.

As previously outlined, councillors must always be mindful of their responsibilities and duties under their local codes of conduct. These responsibilities and duties apply equally to matters of lobbying as they do to the other issues of probity explored elsewhere in this guidance.

## Pre-application discussions

Pre-application discussions between a potential applicant and a council can benefit both parties and are encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.

Some councils have been concerned about probity issues raised by involving councillors in pre-application discussions, worried that councillors would be accused of predetermination when the subsequent application came in for consideration. Now, through the Localism Act and previously the Audit Commission, the LGA and PAS recognise that councillors have an important role to play in pre-application discussions, bringing their local knowledge and expertise, along with an understanding of community views. Involving councillors can help identify issues early on, helps councillors lead on community issues and helps to make sure that issues don't come to light for the first time at committee. PAS recommends a 'no shocks' approach.

The Localism Act, particularly S25, by endorsing this approach, has given councillors much more freedom to engage in pre-application discussions. Nevertheless, in order to avoid perceptions that councillors might have fettered their discretion, such discussions should take place within clear, published guidelines.

Although the term 'pre-application' has been used, the same considerations should apply to any discussions which occur before a decision is taken. In addition to any specific local circumstances, guidelines should include the following:

- Clarity at the outset that the discussions will not bind a council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
- An acknowledgement that consistent advice should be given by officers based upon the development plan and material planning considerations.
- Officers should be present with councillors in pre-application meetings. Councillors should avoid giving separate advice on the development plan or material considerations as they may not be aware of all the issues at an early stage. Neither should they become drawn into any negotiations, which should be done by officers (keeping interested councillors up to date) to ensure that the authority's position is co-ordinated.

- Confirmation that a written note should be made of all meetings. An officer should make the arrangements for such meetings, attend and write notes. A note should also be taken of any phone conversations, and relevant emails recorded for the file. Notes should record issues raised and advice given. The note(s) should be placed on the file as a public record. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised or advice given can still normally be placed on the file to reassure others not party to the discussion.
- A commitment that care will be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to committee could appear to be advocacy.
- The scale of proposals to which these guidelines would apply. Councillors talk regularly to constituents to gauge their views on matters of local concern. The Nolan Committee argued that keeping a register of these conversations would be impractical and unnecessary. Authorities should think about when, however, discussions should be registered and notes written.

Authorities have other mechanisms to involve councillors in pre-application discussions including:

- committee information reports by officers of discussions to enable councillors to raise issues, identify items of interest and seek further information
- developer presentations to committees which have the advantage of transparency if held in public as a committee would normally be (with notes taken)
- ward councillor briefing by officers on pre-application discussions.

Similar arrangements can also be used when authorities are looking at new policy documents and particularly when making new site allocations in emerging development plans and wish to engage with different parties, including councillors, at an early stage in the process.

The Statement of Community Involvement will set out the council's approach to involving communities and other consultees in pre-application discussions. Some authorities have public planning forums to explore major pre-application proposals with the developer outlining their ideas and invited speakers to represent differing interests and consultees. As well as being transparent, these forums allow councillors and consultees to seek information and identify important issues for the proposal to address, although still bearing in mind the need to avoid pre-determination.

## Officer reports to committee

As a result of decisions made by the courts and ombudsman, officer reports on planning applications must have regard to the following:

- Reports should be accurate and should include the substance of any objections and other responses received to the consultation.
- Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the National Planning Policy Framework (NPPF), any local finance considerations, and any other material planning considerations.



- Reports should have a written recommendation for a decision to be made.
- Reports should contain technical appraisals which clearly justify the recommendation.
- If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated. This is not only good practice, but also failure to do so may constitute maladministration or give rise to a Judicial Review challenge on the grounds that the decision was not taken in accordance with the provisions of the development plan and the council's statutory duty under s38A of the Planning and Compensation Act 2004 and s70 of the Town and Country Planning Act 1990.

Any oral updates or changes to the report should be recorded.

## Public speaking at planning committees

Whether to allow public speaking at a planning committee or not is up to each local authority. Most authorities do allow it. As a result, public confidence is generally enhanced and direct lobbying may be reduced. The disadvantage is that it can make the meetings longer and sometimes harder to manage.

Where public speaking is allowed, clear protocols should be established about who is allowed to speak, including provisions for applicants, supporters, ward councillors, parish councils and third party objectors.

In the interests of equity, the time allowed for presentations for and against the development should be the same, and those speaking should be asked to direct their presentation to reinforcing or amplifying representations already made to the council in writing.

New documents should not be circulated to the committee; councillors may not be able to give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material considerations arising. This should be made clear to those who intend to speak.

Messages should never be passed to individual committee members, either from other councillors or from the public. This could be seen as seeking to influence that member improperly and will create a perception of bias that will be difficult to overcome.

## Decisions which differ from a recommendation

The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the NPPF) indicate otherwise (s38A Planning & Compensation Act 2004 and s70 of the Town and Country Planning Act 1990).

This applies to all planning decisions. Any reasons for refusal must be justified against the development plan and other material considerations.

The courts have expressed the view that the committee's reasons should be clear and convincing. The personal circumstances of an applicant or any other material or non-material planning considerations which might cause local controversy will rarely satisfy the relevant tests.

Planning committees can, and often do, make a decision which is different from the officer recommendation. Sometimes this will relate to conditions or terms of a S106 obligation. Sometimes it will change the outcome, from an approval to a refusal or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.

Planning committees are advised to take the following steps before making a decision which differs from the officer recommendation:

- discussing the areas of difference and the reasons for that with planning officers beforehand (as part of a standard 'call-over' meeting where all items on the agenda are discussed)
- recording the detailed reasons as part of the mover's motion
- adjourning for a few minutes for those reasons to be discussed and then agreed by the committee
- where there is concern about the validity of reasons, considering deferring to another meeting to have the putative reasons tested and discussed.

If the planning committee makes a decision contrary to the officers' recommendation (whether for approval or refusal or changes to conditions or S106 obligations), a detailed minute of the committee's reasons should be made and a copy placed on the application file. Councillors should be prepared to explain in full their planning reasons for not agreeing with the officer's recommendation. Pressure should never be put on officers to 'go away and sort out the planning reasons'.

The officer should also be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome, and chances of a successful award of costs against the council, should one be made.

All applications that are clearly contrary to the development plan must be advertised as such, and are known as 'departure' applications. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated.

The application may then have to be referred to the relevant secretary of state, depending upon the type and scale of the development proposed (s77 of the Town and Country Planning Act 1990). If the officers' report recommends approval of such a departure, the justification for this should be included, in full, in that report.



## Committee site visits

National standards and local codes also apply to site visits. Councils should have a clear and consistent approach on when and why to hold a site visit and how to conduct it. This should avoid accusations that visits are arbitrary, unfair or a covert lobbying device. The following points may be helpful:

- visits should only be used where the benefit is clear and substantial; officers will have visited the site and assessed the scheme against policies and material considerations already
- the purpose, format and conduct should be clear at the outset and adhered to throughout the visit
- where a site visit can be 'triggered' by a request from the ward councillor, the 'substantial benefit' test should still apply.
- keep a record of the reasons why a site visit is called.

A site visit is only likely to be necessary if:

- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers
- the comments of the applicant and objectors cannot be expressed adequately in writing or
- the proposal is particularly contentious.

Site visits are for observing the site and gaining a better understanding of the issues. Visits made by committee members, with officer assistance, are normally the most fair and equitable approach. They should not be used as a lobbying opportunity by objectors or supporters.

This should be made clear to any members of the public who are there.

Once a councillor becomes aware of a proposal they may be tempted to visit the site alone. In such a situation, a councillor is only entitled to view the site from public vantage points and they have no individual rights to enter private property. Whilst a councillor might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the councillor is no longer impartial.

## Annual review of decisions

It is good practice for councillors to visit a sample of implemented planning permissions to assess the quality of the decisions and the development. This should improve the quality and consistency of decision-making, strengthen public confidence in the planning system, and can help with reviews of planning policy.

Reviews should include visits to a range of developments such as major and minor schemes; upheld appeals; listed building works and enforcement cases. Briefing notes should be prepared on each case. The planning committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

Scrutiny or standards committees may be able to assist in this process but the essential purpose of these reviews is to assist planning committee members to refine their understanding of the impact of their decisions. Planning committee members should be fully engaged in such reviews.

## Complaints and record keeping

All councils should have a complaints procedure which may apply to all council activities. A council should also consider how planning-related complaints will be handled, in relation to the code of conduct adopted by the authority.

So that complaints may be fully investigated and as general good practice, record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it had been reached. This applies to decisions taken by committee and under delegated powers, and to applications, enforcement and development plan matters.

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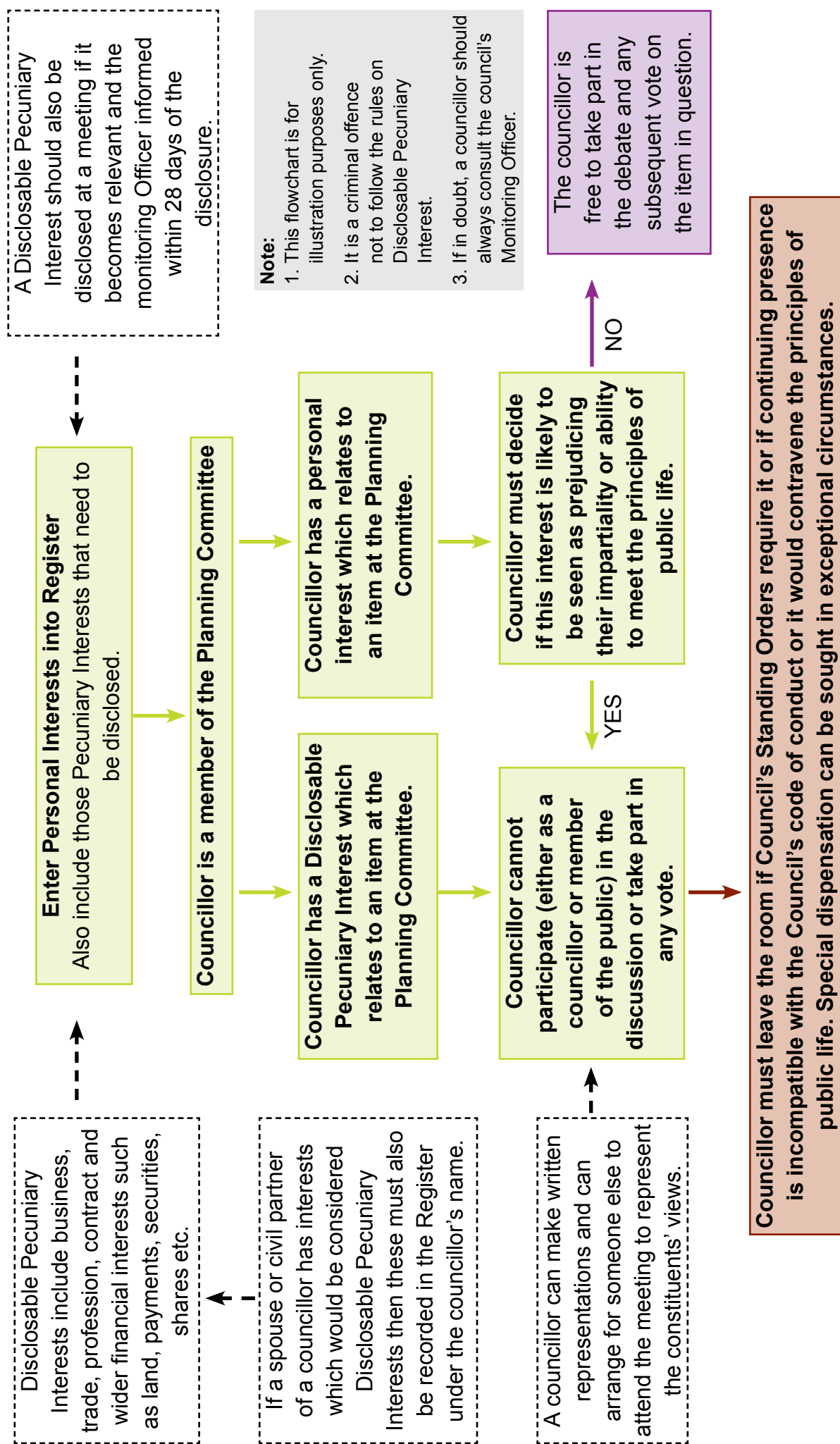
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# Flowchart of councillors' interests





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We consider requests on an individual basis.

## **Agenda Item 12**

**Standards Committee**

**18 June 2013**



### **Standards Committee**

#### **Forward Plan 2013/14**

29 October 2013	Complaints update Member Development update Forward Plan
21 January 2014	Complaints update Forward Plan
8 April 2014	Complaints update Forward Plan

These are the main items, but there may be other matters arising through the year that members want to include too.