

# Agenda for Standards Committee

## Tuesday, 19 April 2016; 10.00am



### [Members of the Committee](#)

**Venue:** Council Chamber, Knowle, Sidmouth, EX10 8HL

[View directions](#)

**Contact:** [Chris Lane](#), 01395 517544 (or group number 01395 517546): Issued 11 April 2016

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- 1 [Public speaking](#)
- 2 Minutes for 26 January 2016 (page 3 - 5)
- 3 Apologies
- 4 [Declarations of interest](#)
- 5 [Matters of urgency](#) – none identified
- 6 To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.

### **Part A Matters for Decision**

- 7 **Recording Councillor attendance at Committee meetings** (pages 6 - 10)  
Strategic Lead - Legal, Licensing & Democratic Services & Monitoring Officer
- 8 **Complaints update (May 2015 – date)** (pages 11-16)  
Strategic Lead - Legal, Licensing & Democratic Services & Monitoring Officer

The Committee is asked to note the update on new Code related cases received since the last meeting.

- 9 **Lobbying and Code of Good Practice for Officers and Councillors dealing with Planning Matters** (pages 17 - 20)  
Strategic Lead – Legal Licensing & Democratic Services & Monitoring Officer
- 10 **Forward Plan** (page 21)

This meeting is being audio recorded by EDDC for subsequent publication on the Council's website.

Under the Openness of Local Government Bodies Regulations 2014, members of the public are now allowed to take photographs, film and audio record the proceedings and report on all public meetings (including on social media). No prior notification is needed but it would be helpful if you could let the democratic services team know you plan to film or record so that any necessary arrangements can be made to provide reasonable facilities

for you to report on meetings. This permission does not extend to private meetings or parts of meetings which are not open to the public. You should take all recording and photography equipment with you if a public meeting moves into a session which is not open to the public.

If you are recording the meeting, you are asked to act in a reasonable manner and not disrupt the conduct of meetings for example by using intrusive lighting, flash photography or asking people to repeat statements for the benefit of the recording. You may not make an oral commentary during the meeting. The Chairman has the power to control public recording and/or reporting so it does not disrupt the meeting.

#### [Decision making and equalities](#)

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# **EAST DEVON DISTRICT COUNCIL**

## **Minutes of a meeting of the Standards Committee held at Knowle, Sidmouth on Tuesday, 26 January 2016**

**Attendance list at the end of the document**

The meeting started at 10.00am and ended at 10.45am

**\*9 Public speaking**

There were no questions asked.

**\*10 Minutes**

The minutes of the meeting of the Standards Committee held on 29 September 2015 were confirmed and signed as a true record.

**\*11 Declarations of interest**

There were none.

**12 Whistleblowing Policy Review**

Members noted that the Council's Whistleblowing Policy required updating to reflect a change in the law; it had also been given an overall review. The revised policy was presented to the Committee with a recommendation that it was referred to Audit & Governance Committee for adoption.

**RECOMMENDED:** that the revised Whistleblowing Policy be recommended to Audit & Governance Committee for adoption.

**\*13 Complaint update**

The Committee considered and noted the report of the Monitoring Officer, which provided an update for the Committee on new Code related cases received since 1 May 2015.

**RESOLVED:**

that the report be noted.

**\*14 Review of Code of Conduct for Employees and Relationship between Officers and Member Protocol**

The Strategic Lead Legal, Licensing and Democratic Services (and Monitoring Officer) presented a report on the Review of Code of Conduct for Employees and Relationship between Officers and Member Protocol.

Members noted that the Council regularly reviews the policies, codes and procedures that govern the way it operates. The report focused on two such documents, being (1) the Code of Conduct for Employees, and (2) Relationship between Officers and Member Protocol. As both of these documents formed part of the Council's Constitution they can only be amended, if required, by Full Council.

The Code of Conduct for Employees governs how staff must conduct themselves when working for the Council. It was a condition of employment that staff adhere to this Code. The Code was updated relatively recently to include reference to 'not acting as an agent for people pursuing planning matters within the Council's area', but otherwise has remained unchanged for a period of time. There have been no

reported issues, which would suggest that the Code was defective or ineffective at this time.

The Relationship between Officers and Member Protocol governs the way Members and Officers interact when carrying out their respective roles and governs a fairly wide range of topics. As with the Code of Conduct for Employees there have been no reported issues or incidents that would suggest that this protocol is ineffective or defective at this time.

There had not been any national changes (legislation or guidance) that would necessitate any changes being made to either the Code or Protocol. Accordingly, the recommendation was that the Code and Protocol be agreed as fit for purpose and left unchanged.

**RESOLVED:**

that the Code of Conduct for Employees and the Relationship between Officers and Members protocols are considered fit for purpose; no changes need to be recommended.

**15 Review of Public Speaking Arrangements**

The Committee considered the report of the Monitoring Officer, which reviewed the public speaking arrangements introduced to Development Management Committee in October 2014. The arrangements were being trialled in order to try to address the length of meetings and the waiting time experienced by representatives wishing to speak on an item.

A member requested that further information be provided in the report to Development Management Committee on review of public speaking arrangements on the length of previous Committee meetings.

**RECOMMENDED:** that the success of the trial be acknowledged and that the public speaking arrangements be continued unchanged for a further year (to see whether the new Local Plan adoption had an effect on the number of applications referred to the Committee) but with a view to permanent adoption thereafter if the arrangements continue to be fit for purpose. .

**16 Review of Code of Conduct of Complaints Procedures**

The Committee consider the report of the Monitoring Officer which reviewed the Code of Conduct procedures and considered whether any changes were required.

**RECOMMENDED:**

that there be no change to the Councillor Complaint Procedure, but that the revised Sub Committee Hearing Procedure be adopted.

**\*17 Forward Plan**

The Committee noted the contents of the forward plan and future meeting dates.

The following items would be included for consideration at the March meeting:

- Review of Code of Practice on planning matters and lobbying.
- Recording of councillor attendance at meetings
- Complaints update
- Forward Plan.

First Committee post 1 May 2016:

- Annual report
- Complaints update
- Forward Plan.

### **Attendance list**

#### **Present:**

Councillors:

Stuart Hughes (Chairman)

Graham Godbeer

Douglas Hull

Dawn Manley

Pauline Stott

Co-opted non-voting members:

Cllr Courtney Richards, Co-opted Parish/Town Council member

Ray Davison, Co-opted Independent member

Cllr David Mason, Co-opted Parish/Town Council member

#### **Also present:**

Alison Willan, Independent Person

Councillors:

Susie Bond – substitute Committee member

Roger Giles

Alan Dent – substitute Committee member

#### **Officers:**

Henry Gordon Lennox, Monitoring Officer and Strategic Lead - Legal, Licensing & Democratic Services

Anita Williams, Deputy Monitoring Officer and Principal Solicitor

Chris Lane, Democratic Services Officer

#### **Apologies:**

Tim Swarbrick, Co-opted Independent member

John Walpole, Independent Person

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

**Report to:** **Standards Committee**

**Date of Meeting:** 19 April 2016

**Public Document:** Yes

**Exemption:** None

**Review date for release** None



**Agenda item:** 7

**Subject:** **Recording Councillor attendance at committee meetings**

**Purpose of report:** At its 20 January 2015 meeting, a serving councillor asked the Standards Committee to support the idea of publishing an annual report on Councillor attendance at Committee meetings. This report explores the practicality of the suggestion and what it might achieve.

**Recommendation:** **To consider the practicalities of monitoring Councillor attendance at meetings.**  
**To be clear about what this information, when gathered, will be used for and its value.**

**Reason for recommendation:** The Committee is being asked to consider the value of monitoring councillor attendance at meetings and whether it is feasible to do so.  
The Chamber recording systems investigated have useful functionality, including vote logging. These systems will log those entitled to vote but not councillors present who are observers and not entitled to vote. The systems do not seem to have been designed to record attendance. They do not appear to meet the needs of this Council in monitoring councillor attendance at meetings in an easy and straightforward way.

**Officer:** Debbie Meakin, Democratic Services Officer 01395 517540  
[dmeakin@eastdevon.gov.uk](mailto:dmeakin@eastdevon.gov.uk)

**Financial implications:** There are no direct financial implications from the recommendations in this report

**Legal implications:** There are no direct legal implications arising from the report

**Equalities impact:** Low Impact

**Risk:** Low Risk

**Links to background information:** • [Standards Committee minutes 20 January 2015](#)

**Link to Council Plan:** Continuously improving to be an outstanding Council.

## Report in full

### 1. Background

- 1.1. Standards Committee discussed the possibility of logging attendance of councillors at its January 2015 meeting. This followed a suggestion by former Councillor Tony Howard that Councillor attendance records be published as public information in the interests of transparency and democracy.
- 1.2. The recommendation from the Standards Committee to find a suitable system for recording attendance, and the length of attendance, with a view to introduction from the Annual Council meeting was agreed by Council in February 2015.
- 1.3. Early research quickly indicated that introducing a system to supplement the existing signed attendance books needed to be properly researched and practices adopted by other Devon authorities fully investigated. The research has been time consuming due to the need to co-ordinate any new system with the requirements of the planned new office space; any outlay for new equipment has to be justified by making sure it can be transferred to the new site(s).

### 2. Existing recording system

- 2.1. The existing EDDC system relies on councillors recording their attendance in the paper registers, against the relevant committee or signing the “also present” book. Democratic Services Officers (DSO) serving the meetings also make a note of who is present, because not all Councillors remember to sign in. A DSO will also keep an eye on the number present at a committee meeting to ensure that it is quorate throughout, but does not make a note of who has left the meeting before its conclusion unless the Councillor leaving the meeting asks for this to be noted in the minutes.
- 2.2. Councillors on Development Management Committee must stay for the full discussion on an application, or they cannot vote on that application.
- 2.3. Attendance by each councillor at individual meetings could be compiled from the existing paper registers and published, either as an annual report or as part of the councillor profile page – see appendix attached. However, it would not show the detail of how long a councillor was present at a meeting and it would be a significant administrative task.

### 3. Electronic recording system

- 3.1. Teignbridge District Council has just replaced existing Chamber equipment.
- 3.2. Public-i, a provider of audio and webcam based applications won the tender to install a new system at Teignbridge that provides improved facilities including:
  - Microphones
  - Audio recording
  - Webcam for users of the public gallery to view councillors speaking
  - Electronic voting that gives real-time display to the public gallery
- 3.3. Officers from this Council have visited the offices to see a demonstration of the equipment which is now in place and fully operational. At the time of writing this report, the equipment still needs full evaluation.

3.4. Strata have undertaken research on equipment for council chambers and have advised that the service provided by Public-i offers a facility, through a desktop application, for councillors to register in order to use voting options. This functionality, from discussions, appears to be flexible enough to permit councillors to register as attending. However, it would seem that if a councillor is present as an observer and not entitled to vote, their attendance cannot be recorded on the system. Neither is it clear at this stage if the system will also permit councillors to register that they have left a meeting. Further discussion will take place with Strata and Public-i when the system at Teignbridge has been evaluated.

3.5. EDDC's existing chamber equipment needs to be replaced prior to our office relocation due to the age and increasing unreliability of the existing equipment. Officers are keen to establish if the system installed at Teignbridge will cover requirements here and be portable enough to effectively transferred and used at our new locations. However, the main purpose of the equipment will be to facilitate meetings and audio record them – there is doubt that the functionality will meet a requirement to record all present at a meeting.

#### 4. Public data on attendance

4.1. As set out in paragraph 2.3, with some administration, the attendance could be published on the council's website.

4.2. There are authorities who publish attendance online, some as part of an automated system that handles agendas and minutes – an example of this is the software Modern-Gov, where attendance is calculated from the attendance recorded in the minutes.

4.3. The Committee is being asked to consider the value of publishing attendance at meetings – we have no evidence on public opinion about the value of publishing this data. Recording attendance at meetings will not record individual contribution at meetings or reflect the work carried out by councillors within their own wards; providing statistical information on one aspect of a Councillor's role could be very misleading and unrepresentative.

4.4. In considering this data, clarity is needed from the committee as to whether this information should be published and, if so, what level of detail should be provided. Is the increased administration involved justified in bringing added value to the public? Could the committee consider:

- The period of time that data covers on attendance. For example, is a year sufficient, much along the lines of the annual publication of expenses? Would there be any added value in adding the detail to a councillor profile page, or more frequent reporting on attendance at half yearly or quarterly publication?
- Should attendance at a meeting by a councillor not on that committee also be monitored and published?
- Is there value in publishing data on attendance if the councillor only attended part of the meeting? Providing information on why a councillor only attended part of the meeting would not be administratively feasible.



**COUNCILLORS – attendance at meetings from 1 June to end November (6months)**

<b>COUNCILLOR</b>	<b>Attended as member of committee</b>	<b>Attended to observe and contribute</b>
Mike Allen	12	3
Megan Armstrong	11	11
Brian Bailey	11	8
David Barratt	13	16
Dean Barrow	15	5
Susie Bond	13	2
Matthew Booth	12	5
Peter Bowden	8	12
Colin Brown	17	5
Peter Burrows	13	4
Paul Carter	13	5
David Chapman	4	1
Maddy Chapman	12	5
Iain Chubb	12	4
Matt Coppel	8	-
Alan Dent	14	6
Paul Diviani	12	5
John Dyson	6	4
Jill Elson	12	13
Peter Faithfull	9	14
David Foster	7	-
Cathy Gardner	8	2
Steve Gazzard	8	3
Roger Giles	10	8
Graham Godbeer	11	6
Pat Graham	12	2
Alison Greenhalgh	14	3
Simon Grundy	15	3
Maria Hale	6	1
Ian Hall	9	9
Steve Hall	16	10
Marcus Hartnell	6	7
Mike Howe	11	2
Stuart Hughes	6	-
Douglas Hull	8	2
John Humphreys	4	5
Ben Ingham	12	10

<b>COUNCILLOR</b>	<b>Attended as member of committee</b>	<b>Attended to observe and contribute</b>
Geoff Jung	7	15
David Key	11	-
Jim Knight	13	3
Rob Longhurst	8	2
Dawn Manley	5	7
Andrew Moulding	11	10
Bill Nash	12	5
Cherry Nicholas	12	5
John O'Leary	9	5
Helen Parr	5	6
Christopher Pepper	15	2
Geoff Pook	11	1
Val Ranger	8	5
Marianne Rixson	10	6
Philip Skinner	10	5
Pauline Stott	9	17
Brenda Taylor	7	2
Ian Thomas	10	3
Phil Twiss	12	2
Mark Williamson	16	4
Eileen Wragg	12	3
Tom Wright	12	13

# Standards Committee, 19 April 2016

## Item 8 - Code of Conduct complaints update

This paper provides an update for the Committee on Code related cases since the 1<sup>st</sup> May 2015 to date (any new cases or cases where there has been a change since the last update are marked with '\*'):

Case #	TC/PC or EDDC member	Relevant paragraphs in Code of Conduct and outcome following consultation with Independent Person	Detail of complaint
MO-C075	Town Councillor	<p>Allegation that Town Councillor had made inappropriate comments relating to actions of the Town Clerk.</p> <p>4a – you must treat others with courtesy and respect</p> <p><b>The Sub Committee found the Councillor to have breached the Code of Conduct and recommended;</b></p> <ul style="list-style-type: none"> <li>➤ that the Town Council censure the Councillor for his breach of the Code of Conduct;</li> <li>➤ that the Town Council publish the findings of the Hearing Sub Committee.</li> <li>➤ that the Town Council instruct EDDC's Monitoring Officer to arrange training for the Councillor in respect of Code of Conduct and Councillor conduct – such training to be completed by the end of the current financial year.</li> </ul>	The Town Councillor issued a document concerning the funding of a community project. The statement made a number of claims about the legality and propriety of a loan obtained by the Town Council and, by referring to the Town Clerk, failed to treat them with respect.
MO-C083	District Councillor	<p>Complaint regarding tone and appropriateness of comments from Councillor in a letter published in the local press.</p> <p>4a - you must treat others with courtesy and respect</p> <p>5h – you must not conduct yourself in a manner or</p>	A letter had been published in the local press questioning the complainant's right to express his views on the new Party, East Devon Alliance.

		<p>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>No findings of breach. Case closed.</b></p>	
MO-C084	District Councillor	<p>Complainant alleges that the Councillor used their position improperly in relation to a planning matter.</p> <p>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</p> <p>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>No findings of breach. Case closed.</b></p>	<p>Objected to a planning application to provide quality care home accommodation for dementia sufferers. Used their official position to pursue their own interests and those of their immediate neighbours and did not consider the wider public interest.</p>
*MO-C085	Parish Councillor	<p>Complaint raised regarding a tweet on Twitter.</p> <p>Relevant paragraphs of the code;</p> <p>4a - you must treat others with courtesy and respect</p> <p>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 referred for investigation.</b></p>	<p>The posting of a tweet that contained a link to a site with pornographic content.</p>
*MO-C086	Parish Councillor	<p>Complaint regarding the way the Chairman had dealt with various issues relating to an Extraordinary Council meeting.</p> <p>Relevant paragraphs of the code;</p> <p>4a - you must treat others with courtesy and respect</p> <p>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>Case closed – Resignation received.</b></p>	<p>The parish council was brought into disrepute by the way the Chairman had dealt with an Extraordinary Council meeting relating to the A35 improvements and the lack of respect and courtesy the Chairman had shown towards the complainant.</p>

*MO-C087	Parish Councillor	<p>Complaint regarding the lack of respect shown to fellow councillors.</p> <p>Relevant paragraphs of the code;</p> <p>4a - you must treat others with courtesy and respect</p> <p>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>Case closed – Resignation received.</b></p>	<p>Acted in a bullying and disrespectful manner towards the Clerk and showed lack of respect to the Chairman and fellow Parish Councillors during a parish council meeting.</p>
*MO-C088	Parish Councillor	<p>Complaint regarding the lack of respect shown to fellow councillors.</p> <p>Relevant paragraphs of the code;</p> <p>4a - you must treat others with courtesy and respect</p> <p>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>Case closed – Resignation received.</b></p>	<p>Acted in a bullying and disrespectful manner towards the Clerk and showed lack of respect to The Chairman and fellow Parish Councillors and made inappropriate comments about a councillor during a parish council meeting.</p>
*MO-C089	District Councillor	<p>Complaint raised regarding a Facebook post.</p> <p>Relevant paragraphs of the code;</p> <p>4a - you must treat others with courtesy and respect</p> <p>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>No findings of breach. Case closed.</b></p>	<p>The post was a joke and depicted Hitler and the Nazi party making a joke about the recent VW vehicle scandal. Complaint made on 6<sup>th</sup> November raised the issue of inappropriate timing given proximity to Remembrance Sunday.</p>
MO-C089a	Parish Councillor	<p>Complaint regarding lack of respect shown to fellow councillors.</p> <p>Relevant paragraphs of the code;</p> <p>4a - you must treat others with courtesy and respect</p> <p>5h – you must not conduct yourself in a manner or</p>	<p>Acted in a bullying and disrespectful manner and showed lack of respect to The Chairman and fellow Parish Councillors and made inappropriate comments about a councillor during a parish council meeting.</p>

		<p>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>Case closed – Resignation received.</b></p>	
MO-C090	District Councillor	<p>Complaint regarding the failure to make a declaration of interest.</p> <p>Relevant paragraphs of the code;</p> <p><b>Passed to MO for assessment.</b></p>	The subject member's business related to matters being discussed at a meeting of the Council.
MO-C091	District Councillor	<p>Complaint regarding the failure to make a declaration of interest and representing the views of customers/staff at the same meeting.</p> <p>Relevant paragraphs of the code;</p> <p><b>Passed to MO for assessment.</b></p>	Did not declare an interest at a Consultative Committee meeting.
*MO-C092	Parish Councillor	<p>Complaint regarding the lack of respect shown to an individual at a parish council meeting.</p> <p>Relevant paragraphs of the code;</p> <p>4a - you must treat others with courtesy and respect</p> <p>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>Case closed – Resignation received.</b></p>	Did not treat a member of the public with respect or courtesy who attended a parish council meeting to discuss the A35 Feasibility Study.
MO-C093	District Councillor	<p>Complaint regarding showing a pre-determined interest at a DMC meeting.</p> <p>Relevant paragraphs of the code;</p> <p>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 and paragraphs that relate to the declaration of interests and participation at meetings.</p> <p><b>No findings of breach. Case closed.</b></p>	The subject member had declared an open mind on an application, advised they would join in the debate but would not vote but throughout the meeting purportedly vigorously spoke against the proposal.
MO-C094	Town	Complaint regarding not declaring a pecuniary or	The subject member took part and voted on a

	Councillor	personal interest. <b>Passed to MO for assessment</b>	proposal to allocate funds on the maintenance of a building. The subject member is an executive officer of the TIC, a tenant of the building and thus a recipient of benefit from the town council who support the TIC.
MO-C095	Town Councillor	Complaint regarding not declaring a personal interest. Relevant paragraphs of the code; 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 and paragraphs that relate to the declaration of interests and participation at meetings. <b>No findings of breach. Case closed.</b>	The subject member is President of Cloakham Hall Sports Centre and took part in discussions about the closure of a footpath at Cloakham Lawns.
MO-C096	Town Councillor	Complaint regarding not declaring a personal interest. Relevant paragraphs of the code; 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 and paragraphs that relate to the declaration of interests and participation at meetings. <b>No findings of breach. Case closed.</b>	The subject member is Chairman of Cloakham Hall Sport Centre and took part in discussions about the closure of a footpath at Cloakham Lawns.
MO-C097	District Councillor	Complaint raised regarding a tweet on Twitter. Relevant paragraphs of the code; 4a - you must treat others with courtesy and 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. <b>No findings of breach. Case closed.</b>	Retweeted a tweet originating from EDDC @eastdevon containing the hashtag #play containing a collection of images including ones that are pornographic, offensive and which contain further links to violent and offensive material.
MO-C098	Town Councillor	Complaint regarding not declaring a personal interest. <b>Passed to MO for assessment</b>	The subject member is a member of Axminster Lodge of Honour & Virtue and participated in and voted upon an approved payment for Axminster Freemasons.





**Report to:** **Standards Committee**

**Date of Meeting:** 19<sup>th</sup> April 2016

**Public Document:** Yes

**Exemption:** None

**Review date for release** None



**Agenda item:** 9

**Subject:** **Lobbying and Code of Good Practice for Officers and Councillors Dealing with Planning Matters**

**Purpose of report:** To consider the issue of lobbying in respect of consideration of planning applications, being an issued which is covered in the Code of Good Practice for Officers and Councillors Dealing with Planning Matters. To consider whether any changes are required and, if any are considered necessary, to make appropriate recommendations in that regard. If changes to the Code are required then only Full Council can make the changes as they are Constitutional amendments.

**Recommendation:**

1. **That Members endorse the content of the report,**
2. **That the Development Management Committee be reminded of the requirements on lobbying as set out in the Code of Good Practice for Officers and Councillors Dealing with Planning Matters**

**Reason for recommendation:** To ensure that the Members of Development Management Committee are fully aware of what is expected of them as set out in the Code of Good Practice for Officers and Councillors Dealing with Planning Matters

**Officer:** Henry Gordon Lennox, Monitoring Officer

**Financial implications:** There are no direct financial implications arising from the content of the report.

**Legal implications:** There are no direct legal implications arising from the content of the report.

**Equalities impact:** Low Impact

If choosing High or Medium level outline the equality considerations here, which should include any particular adverse impact on people with protected characteristics and actions to mitigate these. Link to an equalities impact assessment form if necessary.

**Risk:** Medium Risk

Lobbying can adversely affect the lawful consideration of planning applications and so, if the guidance in the Code is not followed, it is not possible for the Council to take appropriate action to ensure that there is not undue influence exerted in the planning process.

**Links to background information:**

- Code of Good Practice for Officers and Councillors Dealing with Planning Matters – see Part 5.3 of [Constitution](#)

## **Report in full**

1. It was requested that the Standards Committee look into the issue of lobbying, more specifically in relation to the operation of the planning process at the Council.
2. It is a requirement of the Members Code of Conduct (see paragraph 1.3(i) of Part 5.1 of the Constitution) that Members '*must have regard to the Codes and protocols forming part of the Council's Constitution*'. The Code of Good Practice for Officers and Councillors Dealing with Planning Matters is such a Code (it can be found at Part 5.3 of the Constitution).
3. There is a lot of guidance in the Code of Good Practice about how Councillors and Officers should deal with planning applications and related activities and there is a degree of overlap with the specific guidance on lobbying. However, and for ease, the specific sections relating to lobbying are set out in full below;

### **'8. LOBBYING OF COUNCILLORS**

☐ **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may prejudice your impartiality and therefore your ability to participate in the Committee's decision making to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.

☐ **Do** remember that your overriding duty is to the whole community not just to the people in your Ward and, taking account of the need to make decisions impartially, should not improperly favour, or appear to improperly favour, any person, company, group or locality.

☐ **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and remember to register the gift or hospitality where its value is over £25 (in accordance with the authority's rules on gifts and hospitality).

☐ **Do** copy or pass on any lobbying correspondence you receive to the Development Control Manager at the earliest opportunity.

☐ **Do** promptly refer to the Development Control Manager any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.

☐ **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.

☐ **Do** note that, unless you have disclosable pecuniary interest or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:

- listening or receiving viewpoints from residents or other interested parties;

- making comments to residents, interested parties, other Members or appropriate officers, making clear that you must keep an open mind when it comes to making the decision ;

- seeking information through appropriate channels; or

- being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or Ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

☐ **Do** note that 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

### **9. LOBBYING BY COUNCILLORS**

**❑ Don't become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is your intention to openly campaign on the matter and will therefore step away from the Committee when it comes to make its decision.**

**❑ 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**

**❑ Do join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, but you should normally seek to disclose that interest on the grounds of transparency where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.**

**❑ Do register your membership of any lobby group. If you speak on behalf of a lobby group at a committee you should withdraw from the meeting once the public speaking on the item has been completed to avoid any suggestion of improper influence on the committee.**

**❑ Do declare the existence and nature of your interest in any lobby group at planning meetings so that members of the public are informed about interests that may relate to your decisions. Often this will be a personal interest and you can continue to participate but note that it can sometimes lead to allegations of bias or predetermination and in those circumstances you must withdraw from the meeting.**

**❑ Do weigh up the following factors where your lobby group has expressed a public view on a matter and consider whether a reasonable member of the public, knowing the relevant facts, would think that you appear biased. The factors are:**

- the nature of the matter to be discussed
- the nature of your involvement with the lobby group
- the publicly expressed views of the lobby group
- what you have said or done in relation to the particular issue

**❑ Do not become a member of an organisation whose primary purpose is to promote or oppose specific planning proposals or those within a limited geographical area, as you may be perceived as having fettered your discretion.**

**❑ Do remember that if the local branch of a general interest group has been vociferous or active on a particular issue or you are closely associated with the management or decision making process of that organisation such as its Chairperson or a member of the planning meeting, it will become increasingly difficult to demonstrate your ability to judge the matter with an open mind and you may appear biased and therefore you should consider whether it is appropriate for you to take part in the decision making process.**

**❑ Do not publicly support a particular outcome on a proposal within your Ward or actively campaign for it if you wish to take part in the decision making process. It would be very difficult for you to demonstrate that you had the necessary degree of impartiality to properly weigh the arguments presented and the decision would be open to challenge. You must not have a closed mind. This would, however, not prevent you from expressing the views of your constituents provided you are capable of determining the application in accordance with the law.**

**❑ Don't excessively lobby fellow councillors about your concerns or views and don't attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken**

**❑ Don't decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.'**

4. At this juncture it is worth noting that it is clear from the above that there is guidance for Members who are subject to lobbying but also Members who may wish to lobby. Lobbying isn't defined in the Constitution or the Code but a normal interpretation would be that it comprises a concerted attempt by an individual or group to seek to influence decision makers to achieve a particular outcome.
5. Part of the reason for a report into lobbying being sought was due to a concern about developers / applicants seeking to influence the Members of the Development Management Committee and whether there should more openness about when lobbying was occurring and

who was carrying out the lobbying. It is important to note that lobbying is not prohibited in law and nor is it exclusively conducted by developers and applicants, it can also come from pressure groups and those opposed to development (as occurred in respect of the Council's recent applications in Exmouth that were considered at Development Management Committee in February). To that end the guidance set out in the Code applies to all forms of lobbying and would apply to those supporting and those opposing any particular application.

6. Notwithstanding the above, the critical aspect from the Council's perspective is about ensuring that decisions taken by Members at Development Management Committee are sound and that any risk of challenge to the decision, from a perspective of undue influence or bias / predetermination, is minimised.
7. As will be self evident, the Council (through the appropriate officers, being the Development Control Manager and / or the Monitoring Officer depending on the level of lobbying) will only be aware if lobbying is occurring if they are informed by the Members. As is clear from Section 8 of the Code (as set out in full above) there is an expectation that appropriate officers are informed of lobbying that occurs. Discussions with the current and former Development Control Managers have confirmed that the reporting lobbying is not a regular occurrence. Of course, this does not indicate that there is any failing in respect of non adherence to the Code, rather it could simply be that lobbying is not a common occurrence. The difficulty is that officers are simply not in a position to say either way. In addition, and as already mentioned, lobbying is not prohibited and, as is clear from the Code generally, Members solely are responsible for ensuring that where they are lobbied that they are able to give all the necessary warnings and caveats to those lobbying to ensure that they are able to continue to consider applications openly and without having fettered their discretion.
8. Accordingly, it is the view of officers that the Code does provide sufficient safeguards from the Council's perspective in terms of ensuring an awareness of lobbying activity but of course this is dependent on Members following the guidance of the Code. Given this, it seems that at this time the most prudent course of action is to provide a training session to the Development Management Committee to ensure they are aware of the requirements of the Code (and provide, or incorporate into existing training, further refreshers at regular intervals thereafter).

## Agenda Item 10

Standards Committee

19 April 2016



Standards Committee

Forward Plan 2015/16

1.

19 July 2016

Annual report  
Complaints update  
Forwards plan

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