

Agenda for Standards Committee

Tuesday, 28 October 2014; 10.00am



[Members of the Committee](#)

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

[View directions](#)

Contact: [Hannah Whitfield](#), 01395 517542 (or group number 01395 517546): Issued 17 October 2014

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- 1 [Public speaking](#)
- 2 Minutes for 8 April 2014 (page 4 - 8)
- 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 **Guidance /advice on Councillors meeting with developers update** (page 9)
At the previous meeting, the Committee was presented with advice/guidance on councillors meeting with developers. This had been circulated to town and parish councils by the Monitoring Officer in consultation with the Devon Association of Local Councils. The Committee agreed that the Monitoring Officer should review the last paragraph of the advice to town and parish councils in light of the Committee's discussions at the meeting and report back with any changes to the next Committee meeting. The interim Monitoring Officer has reviewed the advice and amended the last sentence.
- 8 **Probity in planning and lobbying by and of councillors** (page 10 - 34)
Deputy Monitoring Officer and Corporate Legal and Democratic Services Manager

At the Council meeting on 26 February 2014, Members agreed that a motion on lobbying be referred to the next meeting of the Standards Committee for clarification and debate.

The motion was:

"Openness and transparency in the planning process is vital. This Council therefore agrees to include an item on the agenda of all Development Management Committee and Planning Inspections Committee meetings, requiring Members of those committees to declare if and who they have been lobbied by, about items on the agenda."

The Committee discussed the issue of lobbying at length at their last meeting (28 April) and agreed that a report on lobbying, specifically in relation to Councillors and the planning process, be brought to the next Committee meeting. The meeting scheduled for June was subsequently cancelled.

The Committee is asked to consider the report on probity in planning and lobbying by and of councillors.

9 Approach to induction/welcome following 2015 elections (page 35 - 37)
Democratic Services Manager

On the 30 September, the Member Development Working Party met to consider:

- What pre-election information should be provided to prospective candidates – local and district councils – prior to the May 2015 elections.
- The welcome/refresher programme following the May 2015 elections.
- The information provided to newly elected councillors.

The minutes from the meeting are included in the Committee's paperwork for information.

The Committee is asked note the minutes of the Working Party and feedback any comments/suggestions.

10 Open and accountable local government (page 38 - 70)
[A guide for the press and public on attending and reporting meetings of local government](#) - The Committee is asked to note new rights to allow members of the public, including citizens and professional journalists, to:

- use modern technology and communication methods such as filming, audio-recording, blogging and tweeting to report the proceedings of the meetings of their councils and other local government bodies
- see information relating to significant decisions made outside meetings by officers acting under a general or specific delegated power.

11 Review of public speaking arrangements introduced in Feb 2014

At their meeting February 2014 Council agreed the following changes, endorsed by to the 'public question time' element of the public speaking arrangements (excluding Licensing and Enforcement and Development Management Committees):

- a) Public Question Time be amended to 'Public Speaking' and statements to be accepted as well as questions. All contributions to be limited to a total of 3 minutes;
- b) Where a question is put, this to be put first, with any explanation or background to follow;
- c) Where the public wish to raise a question on an issue which is not included as an agenda item for the meeting, this to be submitted in writing to Democratic Services in advance (two clear working days before the meeting) to enable a considered response to be given in writing at the meeting if time permits. The speaker who has submitted the question two clear days in advance to be able to ask a supplementary question relevant to the original question. Two days' notice is not required if the question being put to the Committee relates to a subject already included as an agenda item. This change would be introduced

initially for a six month trial period and then reviewed by the Standards Committee;

- d) Where questions are submitted in advance they should be displayed on a screen together with the written answer, if available (otherwise a verbal reply would be given). This approach to help Committee and the public better understand the issue(s);
- e) Questions (or statements) to be limited to those that relate to matters within the remit of the Council or related to matters the Council is able to influence.

Members are asked to consider whether the revised arrangements, which have been trialled for the past 7 months, have been effective. To date there have been no questions submitted in advance of a committee meeting on an issue which does not relate to an item on the agenda.

12 **Complaint update** (page 71 - 75)

The Committee is asked to note.

13 **Forward Plan** (page 76)

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.

Members of the public exercising their right to speak on an application, but do not wish to be recorded, need to inform the Chairman who will instruct those taking a recording to cease while they speak.

[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, 8 April 2014

- Present:** Councillors:
Graham Godbeer (Chairman)
Susie Bond
Peter Bowden
Graham Chamberlain
Frances Newth
Co-opted non-voting members:
Cllr Courtney Richards, Co-opted Parish/Town Council member
Ray Davison, Independent member
Tim Swarbrick, Co-opted Independent member
- Also present:** Alison Willan, Independent Person
- Councillors:
Ray Bloxham
Alan Dent, substitute Committee Member
Paul Diviani
Roger Giles
Douglas Hull, substitute Committee Member
Claire Wright
- Officers:** Denise Lyon, Monitoring Officer and Deputy Chief Executive
Hannah Whitfield, Democratic Services Officer
- Apologies:** Councillor David Mason, Co-opted Parish/Town Council member
John Walpole, Reserve Independent Person

The meeting started at 9.30 am and ended at 10.46am

*37 **Public question time**

There were no questions asked.

*38 **Minutes**

The minutes of the meeting of the Standards Committee held on 21 January 2014 were confirmed and signed as a true record subject to options 2, 3 and 4 in the guidance on how the Monitoring Officer will deal with complaints being amended to read:

'The subject member has the option to request that details of the complaint and outcome be published on the EDDC website. If not, details of the complaint remain confidential.'

*39 **Declarations of interest**

There were none.

***40 Standards review 2013/14**

Members considered the review of the work of the Standards Committee during 2013/14, which outlined:

- the key areas of work for committee members
- the standards training
- local review of our processes since the Localism Act 2011 changes
- analysis of Code of Conduct complaints.

Members noted the increase in the complaints' caseload. The report gave a useful breakdown of complaints into categories and outcomes. The Committee noted the wide range of development opportunities undertaken by Councillors including specific Code of Conduct training sessions. The Monitoring Officer advised that a repeat Code of Conduct training session was scheduled for May 2014 and the invitation to attend was extended to parish and town council clerks. The report also included a table of annual events in the life of the Standards Committee – this was a useful prompt for key activities in the normal cycle of Committee work.

The Committee, at its previous meeting, had enquired about the cost of assessing complaints - this information was included in the report. The annual cost for assessing Monitoring Officer type complaints was £64,934 and had been calculated based on an estimate of officers' time spent assessing, investigating and administrating complaints as part of their role.

The Monitoring Officer advised that she had approached the Standards Exchange (the body that supported Monitoring Officers) for information on the caseloads of other authorities. The Standards Exchange had provided details of a survey they had undertaken, however there had unfortunately been a low return and the results were not felt to be robust enough to allow a comparison to be made.

In response to a question, the Monitoring Officer clarified that Ombudsman complaints were separate from Code of Conduct complaints. A customer might refer a complaint to the Ombudsman after they have exhausted the Council's internal complaints process but still felt that a resolution was required. Historically East Devon's figure for complaints being made to the Ombudsman had been one of the highest in the area largely due to the size of the district, its population and demographics. The Committee was advised that the Ombudsman's decisions rarely found against the Council.

The Chairman thanked the Monitoring Officer for her report.

RESOLVED: that the review of the 2013/14 year and the annual events schedule be noted.

***41 Definition of a friend or close associate**

The Committee noted the clarification of the term 'friend or close associate' within the context of the Code of Conduct, namely:

'a person with whom you have a close association is someone that you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts.'

***41 Definition of a friend or close associate cont...**

Questions used by Investigators into Code of Conduct complaints worked to that definition and in practice asked questions such as:

- How long have you known each other?
- In what context?
- Do your families know each other?
- Do you socialise with each other?
- Are they someone who you would pop round to have a cup of tea with?
- Are they someone you feel loyalty towards?
- Would you be invited to their daughter's wedding?

These questions helped to differentiate between an acquaintance and a close associate/friend in the context of the Code of Conduct.

The Committee discussed the definition and particularly the inclusion of the reference to 'disadvantage'. Some members of the Committee questioned whether someone would try to disadvantage a friend or close associate. The Monitoring Officer advised that the word 'friend' was sometimes used loosely and gave the example of Facebook friends.

RESOLVED: that the clarification of the term 'friend or close associate' within the context of the Code of Conduct, be noted.

***42 Guidance/advice on Councillors meeting with developers**

At its last meeting the Committee had requested that the Monitoring Officer circulate the guidance/advice regarding Councillors meeting with developers; this had now been done. The Committee was now presented with advice given to town and parish councils by the Monitoring Officer in consultation with the Devon Association of Local Councils.

Members' discussions focussed on the last paragraph of the advice which referred to the Information Commissioner's decision that 'pre-application' meetings between the District Council and developers were confidential until the application was actually made. At that point, any notes of the pre-application meetings were included on the public documents. The Monitoring Officer's advice was that the same principles applied to parish and town councils, although it was acknowledged that they were not in a position to be advising professionally and may not have taken notes given the nature of the meetings, which were usually more akin to a briefing. A non-member of the Committee raised that parish and town councils should be taking notes of any meetings with developers and these should be published when an application was made. Points raised during discussion on this issue included:

- Meetings without notes created suspicion;
- The actual application made might be very different from the initial discussions with the parish/town council;
- A record of any meetings protected the council;
- Last couple of sentences of the advice were ambiguous and should be clarified;
- Taking notes should be mandatory as transparency and openness in the planning process was essential;

*42 **Guidance/advice on Councillors meeting with developers cont...**

- Suggestion that a disclaimer be added to notes to advise that they were parish/town councils' preliminary views based on the information before them;
- It was not appropriate or the role for the Monitoring Officer to mandate that parish/towns take notes of meetings/briefings;
- There were situations where taking notes would not be practical, such as site visits.

In light of the Members' discussion, the Monitoring Officer advised that she would review the last paragraph of the advice.

RESOLVED: that the Monitoring Officers review the last paragraph of the advice to town and parish councils in respect of meeting with developers in light of the Committee's discussions on whether parish and town councils should take notes of any meetings with developers. The Monitoring Officer to report back with any changes to the next Committee meeting.

*43 **Lobbying**

At the Council meeting on 26 February 2014, Members agreed that a motion on lobbying be referred to the next meeting of the Standards Committee for clarification and debate.

The motion was proposed by Councillor Claire Wright, seconded by Councillor Roger Giles and supported by Susie Bond, Ben Ingham and Trevor Cope.

"Openness and transparency in the planning process is vital. This Council therefore agrees to include an item on the agenda of all Development Management Committee and Planning Inspections Committee meetings, requiring Members of those committees to declare if and who they have been lobbied by, about items on the agenda."

Councillor Douglas Hull had proposed that the motion be referred to the next meeting of the Standards Committee to discuss and clarify its intention.

The Committee was advised that there had not been sufficient time to prepare a report for this Committee meeting and that it would be referred to the June meeting. Members' views were invited on what should be included in the report.

Members discussed the definition of lobbying at length and the proposal that an agenda item be added to the agendas of Development Management and Planning Inspections Committee requiring Members of those Committees to declare if they had been lobbied. It was suggested that the report to the Committee should include the guidance already available to Councillors, for example in the Council's constitution, and it should be explored whether any other authorities provided additional guidance on lobbying in relation to the planning process.

RESOLVED: that a report on lobbying, specifically in relation to Councillors and the planning process, be brought to the next Committee meeting.

*44 **Complaints update**

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

The Monitoring Officer reported that the current level and complexity of complaints received continued to be high. The Committee raised frustration at the limited sanctions that could be imposed under the new standards arrangements.

RESOLVED: that the complaints update report be noted

*45 **Forward Plan**

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

The Chairman corrected that the meeting listed as 7 September 2014 should be 7 October 2014.

Chairman Date

Item 7

Meeting with Developers – Monitoring Officer advice to Town and Parish Councils

“It is up to each Town/Parish Council to determine whether circumstances exist to justify holding a meeting in private and EDDC has no authority to intervene in this internal process. I would say though, that the advice from the Devon Association of Local Councils and myself at the District Council is that it is helpful for town and parish councils to be briefed privately by developers in the early stages of their thinking. This allows the Council to clearly communicate known community objectives and needs to the developer, so that they can consider these in the (sometimes lengthy and expensive) process of developing the detail of the application.

I think there are two issues which are particularly relevant. One is that the plans may well be commercially sensitive if they are at a very early stage, and so not appropriate for public viewing. The second is that once developers make their minds up to actually apply for permission, the whole process is then open to the public. I think it would be confusing for the public if the early stage plans, which are likely to change, and are often put on hold, were shown in public as a step prior to the actual public consultation process.

We all, I think, would like to see a sensible way for community representatives to steer developers to well designed, well thought out development which come into the public domain as a considered and informed application. I understand that some people can jump to the conclusion that somehow these are ‘secret’ meetings with inappropriate motive, but I don’t think that is a reasonable position to take if you consider my previous paragraph. I would also point out that even in private meetings, councillors are still bound by the Code of Conduct as they are acting in their official capacity.

The Information Commissioner has recently judged that ‘pre-application’ meetings between the District Council Planning Team and developers are confidential until the application is actually made. At that point, any notes of the pre-application meetings are included on the public documents. ~~My advice to town and parish councils is that the same principle applies to them, although clearly, they are not in a position to be advising professionally and may well not have notes given that the nature of the meetings is usually more akin to a briefing. In the interests of transparency, my advice to parish and town councils where they have had pre-application discussions with developers is to make this know at the time they submit their planning application consultation response to the local planning authority.~~”

Interim Monitoring Officer
October 2014

Report to: **Standards Committee**

Date of Meeting: 28 October 2014

Public Document: Yes

Exemption: None

Review date for release None



Agenda item: 8

Subject: **Probity in planning and lobbying by and of councillors**

Purpose of report: To consider whether any changes are required in the current council arrangements to deal with lobbying.

Recommendation: **Members are asked to:**

- 1. Review the current legal and constitutional safeguards currently in place as regards lobbying by and lobbying of councillors and**
- 2. Consider the motion referred to Standards Committee by full Council on 26 February 2014 concerning lobbying and make any recommendation the committee considers appropriate for the future**
- 3. Give their views on minor revisions to the members' Planning Code of Good Practice following recent work undertaken by the body Lawyers in Local Government**

Reason for recommendation: To consider the motion referred to Standards Committee by full Council

Officer: Rachel Pocock Corporate Legal and Democratic Services Manager
rpocock@eastdevon.gov.uk 01395 517401

Financial implications: No financial implications have been identified.

Legal implications: Set out in the report

Equalities impact: Low Impact

Impact: It is considered that all sections of the community are equally affected by probity issues.

Risk: Low Risk

The risk of a member of Development Management Committee casting their vote without regard to proper planning considerations, having been lobbied, is considered to be low. Current constitutional arrangements provide for a member who is lobbied to refer correspondence to the Development Manager and to refer excessive lobbying to the Monitoring Officer for consideration

Links to background information:

- Strengthening Transparency around Lobbying, Committee for Standards in Public Life, November 2013
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336925/2901376_LobbyingStandards_WEB.pdf

Link to Council Plan:

Living and working in this outstanding place

Background

Full Council/its Committees have considered a number of reports recently which relate to probity in planning:

Date	Where considered	Subject	Decision
23.10.13	Full Council	Councillors/officers acting as agents for planning Applicants in East Devon	Code of Conduct and planning Code of Good Practice (both in the Constitution) amended to prohibit this.
21.1.14	Standards	Updated Code of Conduct and Planning Code	Council was recommended to approve an amendment to the Code of Conduct to require councillors to have regards to the Codes and protocols forming part of the Constitution (subsequently approved by full Council).
26.2.14	Full Council	Motion considered by Council: “Openness and transparency in the planning process is vital. This Council therefore agrees to include an item on the agenda of all Development Management Committee and Planning Inspections Committee meetings, requiring Members of those committees to declare if and who they have been lobbied by, about items on the agenda”	Referred to Standards Committee for consideration

The law, members’ Code of Conduct and the Council’s Planning Code of Good Practice

1. The Localism Act 2011

- 1.1 Under section 27 of the Localism Act 2011 the Council has the duty to promote and maintain high standards of conduct by members and co-opted members of the authority. The Council must also adopt a Code of Conduct, which it has done. The Localism Act provides that breaches of the Code of Conduct are to be dealt with under local arrangements and do not automatically affect the lawfulness of a council decision.

- 1.2 Lobbying is not of itself unlawful; it is a fact of political life. As political and democratic representatives of the community, councillors will receive pressure from many quarters. Members are not expected to insulate themselves from what happens in their community or in the local press. However, in the context of development management, where both the local community (including ward councillors) and developers may wish to lobby members of the Development Management Committee personally, detailed safeguards are in place to manage this process.
- 1.3 This report does not deal with possible criminal wrongdoing. These are matters for the police and Crown Prosecution service.
- 1.4 The member Code of Conduct and in the Council's Code of Good Practice for councillors and officers dealing with planning matters make detailed provision directing and guiding members and officers. These provisions are set out below so Standards Committee members may review them and consider whether anything further is needed.

2. The member Code of Conduct

- 2.1 The Code refers to the General Principles of Public Life which include selflessness, honesty/integrity, objectivity, accountability, openness and leadership.
- 2.2 When acting as a member, the following requirements of the Code are particularly relevant to lobbying:
 - (a) you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate;
 - (b) you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;
 - (c) when carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;
 - (d) you are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office;
 - (e) you must be as open as possible about your decisions and actions and the decisions and actions of the Council and should be prepared to give reasons for those decisions and actions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council or contained in its Constitution,
 - (f) you must declare any private interests, whether disclosable or personal, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out at Part 2 of this Code;

- (h) you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or any similar Communications Protocol or Code produced by the Council;
- (i) you must have regard to the Codes and protocols forming part of the Council's Constitution
- (j) you must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

The requirement at (i) means that members must have regard to the Code of Good Practice for Councillors and Officers Dealing with Planning Matters.

2.3 The general obligations on members found in the Code of Conduct include:

You must:

4(c), when reaching decisions on any matter, do so on the merits of the circumstances and in the public interest and have reasonable regard to any relevant advice provided to you by an officer of the Council.

You must not:

5(a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage

5(e) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council;

5(h) 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 or the Council into disrepute.

5(i) act as agent for people pursuing planning matters within the Council's area

2.4 Members are at the heart of local democracy. They represent people in their area and take forward the concerns of individuals, neighbourhoods and interest groups, drive change, participate in community and action groups, and make decisions for the benefit of the community as a whole. Sometimes these roles and responsibilities conflict and members have to strike a balance between representations, driving change and ensuring the council can even-handedly decide matters on their merits - and be seen to be doing so. Planning decisions are subject to a further layer of specific administrative rules, including what is a material planning consideration that can be taken into account in reaching a decision whether or not to grant planning permission. Development Management Committee members receive specialist training before they can sit and make decisions on the Committee.

2.5 Councillors cannot act as paid lobbyists and vote at committee on matters that they have an interest in. That is because they cannot vote when they have a disclosable pecuniary interest – see paragraph 7 of the Code of Conduct. Employment or businesses, and those of spouses/civil partners and those members live with as if they were civil partners, have to be included on the member's register of interests. Failure to register or disclose a pecuniary interest or participating at a meeting where a member has a disclosable pecuniary interest is a criminal offence if done without reasonable excuse. Such criminal matters fall within the ambit of the Director of Public Prosecutions, not the Council.

- 2.6 Councillors must register as personal interests any membership of bodies whose principal purposes include influence of public opinion. Examples of such bodies include the National Trust and Greenpeace. Members must declare a personal interest if they are a member of a group that lobbies or campaigns about an issue that comes up for discussion or decision at East Devon. The nature of the interest needs to be declared at the meeting so members of the public are informed about members' interests that relate to the decision. If members are part of the membership of a planning committee making a decision where they have a personal interest due to membership of a lobbying group, they should contact the Monitoring officer for advice whether they should participate in the decision making following an assessment of possible predetermination or bias in decision making.
- 2.7 In all cases where a member declares a personal interest and remains in a meeting, the member Code of Conduct provides that member should not seek to influence improperly any decision about that business.(Para 8.2 (d) of the member Code of Conduct)
- 2.8 The Committee on Standards in Public Life, when considering lobbying and the General Principles of Public Life has said:
- All the principles apply when considering lobbying. In particular, the principle of honesty requires holders of public office to be truthful. Objectivity requires that holders of public office must act and take decisions impartially, fairly and on merit using best evidence and without discrimination or bias. Openness requires that decisions are taken in an open and transparent manner. Integrity requires holders of public office to declare and resolve any interests and relationships, whilst Leadership requires them to exhibit all the seven principles in their own behaviour. These principles need to underpin the actions and behaviour of public office holders when making decisions on which they may be lobbied. More than that, we think they can be applied to both the lobbied and the lobbyists¹.
- 2.9 The Committee on Standards in Public Life (CSPL) has reflected on the key lessons that have been learnt since the Nolan Committee first reported in 1995 on how to improve ethical standards in public life. They concluded the basic building blocks for promoting high standards remain much as identified in the Committee's First Report:
- a set of broadly expressed values which everyone understands;
 - codes of practice elaborating on what the principles mean in the particular circumstances of an organisation;
 - effective internal processes to embed a culture of high standards, leadership by example; and
 - proportionate, risk-based external scrutiny.
- 2.10 Recently, the CSPL has emphasised the importance of ethics training in councillor induction. This has been part of the member welcome/induction here at East Devon for at least the last ten years, and will be revisited for the Member Welcome programme following the May 2015 district elections.

¹ Strengthening Transparency around Lobbying, Committee for Standards in Public Life, November 2013, p.15

3 Code of Good Practice for councillors and officers dealing with planning matters

3.1 The relevant parts are reproduced in full below:

7. CONTACT WITH APPLICANTS, DEVELOPERS AND OBJECTORS

- *Do refer those who approach you for planning, procedural or technical advice to officers.*
- *Don't agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Development Manager to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.*
- *Do otherwise:*
 - *follow the rules on lobbying;*
 - *consider whether or not it would be prudent in the circumstances to make notes when contacted; and*
 - *report to the Development Manager any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file;*
 - *ask relevant questions for the purpose of clarifying your understanding of the proposals but do not express any strong view or state how you or other Councillors might vote.*

In addition in respect of presentations by applicants/developers:

- *Don't attend a planning presentation unless an officer is present and/or it has been organised by officers.*
- *Do ask relevant questions for the purposes of clarifying your understanding of the proposals.*
- *Do remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.*
- *Do be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other Members might vote.*

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 Manager at the earliest opportunity.
- **Do** promptly refer to the Development 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, 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, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
 - 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

- 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 disclose a personal interest 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. Again it is a question of maintaining the fine balance between a predisposition where your mind is not totally made up and a predetermination. 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.*
- 3.4 As can be seen, the Code provides a number of safeguards to manage lobbying in a transparent way. These include providing for a member who is lobbied to refer correspondence to the Development Manager and to refer excessive lobbying to the Monitoring Officer for consideration. The current guidance to members is detailed to help members know what action should be taken as a result.

3.5 Clearly, the planning system is not intended to run in such a way as to ban all contact between members of the public, developers and councillors on the Development Management Committee. This can be seen from section 7 of the Planning code of Good Practice set out above. Lobbying may become a matter of concern if it is excessive, or subjects a member to undue pressure or persistence, or results in communications intended to influence the outcome of a submitted planning application without becoming part of the public record.

3.6 The motion referred to Standards Committee by full Council reads:

“Openness and transparency in the planning process is vital. This Council therefore agrees to include an item on the agenda of all Development Management Committee and Planning Inspections Committee meetings, requiring Members of those committees to declare if and who they have been lobbied by, about items on the agenda”

As it stands the motion, if adopted by full Council, would require all lobbying contact to be reported to committee. This would include lobbying by a developer, a local objector/supporter or ward councillor who had contacted a member of Development Management committee about a planning application or policy. It is important to note that lobbying should not be automatically equated with wrong doing; there is no law that prohibits it unless it includes an associated criminal act.

3.7 One danger of lobbying is that members receive information which has not been subject to officer advice and scrutiny and/or that other members do not have; however if all correspondence is passed to officers and Development Management Committee and members concentrate on the information in the committee report it is unlikely any member will take into account something that is irrelevant in planning terms. In addition, the training planning committee members receive equips them to deal with this situation and in any case it is not possible to deal with planning applications in a hermetically sealed way as councillors live within, and are part of their communities. The Planning Code also contains provisions to regulate member meetings with developers, to ensure these involve officers and are properly recorded.

3.8 If the Standards Committee considers existing safeguards in the Constitution need to be strengthened, members are asked to give consideration to:

- (i) identifying the particular conduct issue which should be tightened up, and
- (ii) how this could best be documented in guidance terms

Members may wish to consider whether to set up a public central register to record all lobbying approaches received by Development Management Committee members. That would put the information in a permanent form.

3.9 Lawyers in Local Government [LLG] , a national body, has recently updated the model planning Code on which East Devon’s Code is based. This followed consultation and comment from the Local Government Association, the Local Government Ombudsman and the Audit Commission. Some minor changes are suggested as result of the LLG work as regards the wording of the lobbying section, and these are shown as tracked changes in the Appendix to this report for members’ consideration.

4. Updating the Planning Code of Good Practice generally

- 4.1 The EDDC Planning Code covers a range of issues for members, other than lobbying. These include the registering of interests and the need for a member on Development Management Committee not to have a closed mind when weighing up material planning considerations. Further minor amendments to the Code, in the light of the the LLG work mentioned in the last paragraph are also suggested. These are also shown as tracked changes in the Appendix. The amendments include further clarification on the effect of the Localism Act 2011 on bias and predetermination. It will mean that standards Committee has reviewed and made recommendations as appropriate on the Code as a whole.

Appendix

5.3 CODE OF GOOD PRACTICE FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS

Contents

- 1 General role and conduct of Councillors
- 2 Relationship to the Members' Code of Conduct
- 3 Development proposals and interests under the Members' Code and those submitted by officers
- 4 Fettering discretion in the planning process
- 5 Membership of Parish Councils and Outside Bodies
- 6 Cabinet Members
- 7 Contact with applicants, developers and objectors
- 8 Lobbying of councillors
- 9 Lobbying by councillors
- 10 Site visits
- 11 Public speaking at meetings
- 12 Officers
- 13 Decision making
- 14 Training
- 15 Involvement in section 106 (Planning) agreements
- 16 Breaches of the Planning Protocol
- 17 Further guidance on lobby groups, dual-hatted Members and the Code of Conduct

1. GENERAL ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

1.1 **The aim of this code of good practice:** to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

One of the key purposes of the planning system is to regulate the development and use of land in the public interest. Your role as a Member of the Planning Authority is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

1.2 The Council first adopted a Local Code of Conduct with regard to Planning Matters on the 13 December 2000, and revised in 2002, 2006, 2011, and 2013 and 2014. This Code of Good Practice continues the Council's commitment to the highest possible standards of behaviour in its operation of the planning system.

1.3 **The key purpose of Planning:** to control development in the public interest.

1.4 **Your role as a Member of the Planning Authority:** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

1.5 **When the Code of Good Practice applies:** this code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

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

1.7 Whilst this Code of Good Practice deals primarily with planning applications the principles it endorses apply with equal vigour to consideration of the Local Plan, Development Briefs, enforcement cases and all other planning matters.

1.8 Officers involved in the processing and determination of Planning matters must also act impartially and in accordance with the Council's Code of Conduct for Council Employees. In addition those that are members of the Royal Town Planning Institute are required to comply with the relevant sections of the Royal Town Planning Institute's Code of Professional Conduct.

1. RELATIONSHIP TO THE MEMBERS' CODE OF CONDUCT

- **Do** apply the rules in the Members' Code of Conduct first, which must always be complied with. [This is both the rules on interest, Disclosable Pecuniary Interests\(DPIs\) and any other interests identified by your Authority, and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.](#)

- **Do** then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning management. If you do not abide by this Code of Good Practice, you may put:
 - the Council at risk of proceedings on the legality or maladministration of the related decision; and

 - yourself at risk of either being named in a report made to ~~the Standards Committee or Council or, if the failure is also likely to be a breach of the Code of Conduct, a complaint being made to the Monitoring Officer.~~ [Council or, if the failure is also likely to be a breach of the interest provisions of Localism Act 2011, a complaint being made to the police to consider criminal proceedings.](#)

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3. DEVELOPMENT PROPOSALS AND PERSONAL INTERESTS UNDER THE MEMBERS' CODE

- **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter.

- **Do take into account when approaching a decision that the Principle of Integrity is defined in terms that**
["Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material](#)

benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships”.

It is therefore advisable that you:

- ❑ Don't seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
- ❑ Do note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that your role as a councillor may place additional limitations on you in representing the proposal in which you have a personal interest.
- ❑ **Do not** act as agent for people pursuing planning matters within the Council area, even if you are not involved in decision making on it.
- ❑ **Do** then act accordingly.

In addition, Where you have a disclosable pecuniary interest [DPI]

- ❑ **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority;
- ❑ **Don't** try to represent Ward views, or comment on the planning proposal as Ward Member, but get another Ward Member to do so instead.
- ❑ **Don't get** involved in the processing of the application.
- ~~❑ **Don't** make written representations to members of the committee considering the application~~
- ~~❑ **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. You should avoid discussing an application in which you have a disclosable pecuniary interest with any member of the authority, in order to prevent any appearance of improper influence. This would include, where you have a disclosable pecuniary interest in a proposal, using your position to discuss that proposal with Officers or Councillors when other members of the public would not have the same opportunity to do so.~~
- ~~❑ **Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a disclosable pecuniary interest to an appropriate officer, in person or in writing, the Code places greater limitations on you than would apply to a normal member of the public.~~
- ❑ **Do** notify the Monitoring Officer and Head of Economy in writing of your own planning, listed building or conservation area consent application (and that of any close relative or friend of which you are aware) and note that:

- notification to the Monitoring Officer and Head of Economy should be made no later than submission of the application;
- the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers;
- it is may be advisable that you employ an agent to act on your behalf on the proposal in dealing with officers and any public speaking at Committee;
- you should take no part in the application's consideration or processing
- you do have a right to make written representations to officers about the proposal and but may not address the planning meeting unless you have obtained a dispensation from the Monitoring Officer or Standards Committee.

Officers' planning applications – the same rules apply as for councillors except that you may address the Development Management Committee/Planning Inspections Committee. You should not act as agent for people pursuing planning matters within the Council's area.

4. **FETTERING DISCRETION IN THE PLANNING PROCESS (Natural justice, predisposition and predetermination)**

- ~~□ – Don't fetter your discretion by approaching the decision with a closed mind, and therefore your ability to participate in planning decision making at this Council by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to its formal consideration at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides.~~
- Do be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011.
- Do keep at the front of your mind that, when you come to make the decision, you -
 - are entitled to have and to have expressed your own views on the matter, provided you are prepared to reconsider your position in the light of all the evidence and arguments;
 - must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice as well as the arguments from all sides;
 - are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a Member, in giving fair consideration to points raised;
- are only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and

-are to come to a decision after giving what you feel is the right weight to those material considerations.

Having a closed mind~~Fettering your discretion in this way~~ and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

- ❑ **Do** be aware that you can be biased ~~are likely to have fettered your discretion~~ where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- ❑ **Do not** use any political group meetings prior to the planning meeting to determine how you or other Councillors should vote. There is no objection to a political group having a predisposition, short of predetermination, for a particular outcome or for you to begin to form a view as more information and opinions become available but decisions can only be taken after full consideration of the Planning Officer's report and information and consideration at the planning meeting. The use of political whips to influence the outcome of a planning application is likely to be regarded as maladministration.
- ❑ **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a Member of the Parish Council, for example, or both a district and county councillor), provided:
 - the proposal does not affect the well being or financial standingposition of the consultee body and is not the consultee's own planning application and
 - you make it clear to the body carrying out the consultation that:
 - your views are expressed on the limited information before you only;
 - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, Ward or Parish, as and when it comes before the Committee and you hear all of the relevant information; and
 - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
- you disclose the personal interest regarding your membership or role when the Committee comes to consider the proposal.
- ❑ ~~Don't speak and vote on a proposal where you have fettered your discretion. You do not also have to withdraw, but you may prefer to do so for the sake of appearances.~~

- ❑ **Do** explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
- ❑ **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member where you have represented your views or those of local electors and fettered your discretion, provided you do not have a disclosable pecuniary [or other personal conflict of](#) interest.. Where you do exercise these speaking rights:
 - advise the proper officer or Chairman that you wish to speak in this capacity before commencement of the item;
 - remove yourself from the Member seating area for the duration of that item; and
 - ensure that your actions are recorded.
- ❑ **Do** take advantage of the Council's Ward Member consultation processes. The local knowledge of councillors means they have an important contribution to make to the planning process. The scheme of delegations [elsewhere in the Constitution] sets out the processes for Ward Member involvement in the planning process.

❑

5. MEMBERSHIP OF PARISH COUNCILS AND OUTSIDE BODIES

- ❑ **Do** be aware that when deciding on a planning application at district council level, in matters which relate to the organisations mentioned below, you must exercise your discretion in deciding whether or not to participate in each case and where:
 - you have been significantly involved in the preparation, submission or advocacy of a planning proposal on behalf of :
 - (a) another local or public authority of which you are a member; or
 - (b) a body to which you have been appointed or nominated by the Council as its representative; or
 - (c) you are a trustee or company director of the body submitting the proposal and were appointed by the Council
 - you should always disclose a personal interest and may speak on the issue. You may also vote on the application provided you have not predetermined the application.

6. CABINET MEMBERS

- ❑ There is no constitutional or legal reason why a Cabinet Member should not also be a member of the planning committee and take part in the decision-making processes which are not part of the executive function.

- ❑ **Be** aware that you should not speak or vote on any matter which you have discussed at Cabinet unless you have demonstrated there and can do so at the relevant planning meeting that you have not predetermined the application.
- ❑ **Do not** take part in any planning meeting on a matter in which you may have been seen as advocating a proposal as a Cabinet Member.

7.CONTACT WITH APPLICANTS, DEVELOPERS AND OBJECTORS

- ❑ **Do refer those who approach you for planning**, procedural or technical advice to officers.
- ❑ **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Development Manager to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- ❑ **Do** otherwise:
 - follow the rules on lobbying;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - report to the Development Manager any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file;
- ask relevant questions for the purpose of clarifying your understanding of the proposals but do not express any strong view or state how you or other Councillors might vote.

In addition in respect of presentations by applicants/developers:

- ❑ **Don't** attend a planning presentation unless an officer is present and/or it has been organised by officers.
- ❑ **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- ❑ **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.
- ❑ **Do** be aware that a presentation is a form of lobbying and whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other members would intend to vote at a committee. you must not express any strong view or state how you or other Members might vote.

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 Manager at the earliest opportunity.
- ❑ **Do** promptly refer to the Development 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 [a 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 provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind](#);
 - 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~~disclose a personal interest~~ 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. Again it is a question of maintaining the fine balance between a predisposition where your mind is not totally made up and a predetermination.~~ 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.

10. SITE VISITS

- ❑ **Do** try to attend site visits organised by the Council where possible.
- ❑ **Do** explain to the Planning Inspections Committee why you are requesting a site visit. The reasons for a site visit will be recorded at Committee and a site visit should normally only take place where:
 - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
 - details of the proposed development cannot be ascertained from plans and any supporting information to Councillors satisfaction at the planning meeting; or
 - where design considerations are of the highest importance particularly in relation to the surrounding locality.
- ❑ **Do** ensure that any information which you gained from the site visit is reported back to the Committee, so that all Members have the same information.
- ❑ **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- ❑ **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- ❑ **Don't** hear representations from any other party, with the exception of the Ward Member(s) or statutory consultees who must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- ❑ **Don't** express opinions or views to anyone.

- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
 - you feel it is essential for you to visit the site other than through attending the official site visit,
 - you have first spoken to the Development Manager about your intention to do so and why (which will be recorded on the file) and
 - you can ensure you will comply with these good practice rules on site visits.

11. PUBLIC SPEAKING AT MEETINGS

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

12. 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. Their relationship is based upon mutual trust and understanding and this must never be abused or compromised. Instructions to officers concerning individual planning decisions can only be given through a decision of the Council or the Development Management Committee and not by individual Councillors acting outside those powers. There is also a scheme of officer delegations which includes planning decisions where the matter is not referred to committee.

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

- **Do not do anything which compromises, or is likely to compromise the officers' impartiality or professional integrity.**
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

- ❑ **Do** be aware of the Protocol for Relationships between Members and officers.

13. **DECISION MAKING**

- ❑ **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your reasons are recorded and repeated in the report to the Committee.
- ❑ **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- ❑ **Do** comply with section [38 of the Planning and Compulsory Purchase Act 2004](#)~~70 of the Town and Country Planning Act 1990~~ and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- ❑ **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- ❑ **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- ❑ **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/ decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.
- ❑ **Do** delegate to the Head of Economy the detailed drafting of specific conditions that the Planning meeting may wish to add or amend when considering an application, ensuring that an explanation of why the change or addition is required is given to the planning meeting.
- ❑ **Do** have recorded the reasons for Committee's decision to defer any proposal
- ❑ **Do**, where necessary, consider the drafting of conditions for sensitive applications that the planning meeting wish to approve against Officer recommendation at the next meeting of the planning meeting to allow Officers to formulate appropriate conditions and provide the planning meeting with any relevant further information.

14. **TRAINING**

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

15. INVOLVEMENT IN SECTION 106 AGREEMENTS

The guidance in respect of planning obligations is similar to that of planning conditions in that they must be relevant to planning and directly related to the proposed development if they are to be taken into account in making a decision on a planning application. Local Planning Authorities should not grant planning permission for unacceptable development because of unrelated benefits offered by the applicant and should not be unduly influenced by any benefits offered.

- ❑ **Do** remember that requirements to be included within Section 106 Agreements should be considered and discussed at pre-application stage. The Officers will provide advice on general requirements, but if you are aware of any additional potential requirements please refer these to the Development Manager as soon as you become aware of them.
- ❑ **Do** remember that the purpose of Section 106 Agreements is to help make acceptable, development which would otherwise be unacceptable in planning terms, by prescribing the nature of the development, or compensating for loss or damage created by the development, or to mitigate a development's impact. They must therefore be relevant to planning and relate fairly and reasonably to the development.
- ❑ **Do** include the potential content of Section 106 Agreements in the debate that takes place at planning meetings, whether you are a member of the planning meeting or a visiting Member who wishes to speak on the application.
- ❑ **Don't** hold formal or informal meetings with Applicants, Developers and Objectors over the contents of potential Section 106 agreements. If you feel that a meeting would be useful to clarify the issues, you should ask the Head of Economy to arrange such a meeting. In this way the relevant Officers can be at the meeting, and those present can be made aware that the discussions will not bind the authority, and that the meeting can be properly recorded on the application file and the record of the meeting disclosed when the application is considered.
- ❑ **Do** remember that it is imperative that a Ward Councillor's role continues after the completion of the Section 106 Agreement, by assisting Officers in ensuring that Section 106 Agreements are complied with. This includes noting when development is being undertaken and assisting Officers in ensuring triggers within Section 106 Agreements are complied with. Ward Councillors should contact Officers for any information on completed Section 106 Agreements.

16. BREACHES OF THE PLANNING PROTOCOL

Maintaining high ethical standards enhances the general reputation of the Council, its Councillors and its officers. Open and transparent decision making enhances local democracy and should lead to better informed citizens. This Planning Protocol, along with the Members' Code of Conduct are intended to promote these standards.

- ❑ **Do** be aware of your responsibilities under this Code and the Members Code of Conduct.

- ❑ **Do** report any apparent breaches of either the Code of Conduct or the Planning Protocol to the Monitoring Officer.
- ❑ **Do** seek advice if you are in doubt.
- ❑ Failure to comply with the Members Code of Conduct may lead to a complaint to the Monitoring Officer and its being referred to the Council's Standards Committee, which has the power to impose sanctions for breach. Failure to comply with this Planning Protocol may lead to a finding of Maladministration by the Ombudsman or could lead to a decision being challenged in the courts.
- ❑ Allegations on any breach of this Planning Protocol by Members may be referred to the Monitoring Officer, the relevant Leader and/or Chief Whip of the political group.

17. FURTHER GUIDANCE ON PROBITY IN AND THE CODE OF CONDUCT

The Monitoring Officer and Deputy Monitoring Officer will be pleased to assist with councillors' individual queries on the application of the Code of Conduct or this Planning Code of Good Practice.

Probity in Planning, September 2013, issued by the Local Government Association and the Planning Advisory Service

Openness and Transparency on Personal Interests: Guidance for Councillors, Department for Communities and Local Government, March 2013. [Note this is general guidance and does not reflect any additional requirements East Devon has chosen to include in its Member Code of Conduct].

<https://www.gov.uk/government/publications/openness-and-transparency-on-personal-interests-guidance-for-councillors>

Item 9

EAST DEVON DISTRICT COUNCIL

Report of a Meeting of the Member Development Working Party held at Knowle, Sidmouth on 30 September 2014

Present:

Councillors:
Maddy Chapman (Chairman)
Pat Graham
Stephanie Jones

Also present:

Councillor Andrew Moulding, Portfolio Holder – Strategic Development and Partnerships
Ray Bloxham
Deborah Custance Baker
Susie Bond
David Chapman
Alan Dent
Paul Diviani
Martin Gammell
Roger Giles
Graham Godbeer
John O’Leary
Frances Newth
Phil Twiss

Mark Williams, Chief Executive
Diana Vernon Democratic Services Manager
Hannah Whitfield, Democratic Services Officer

Apologies

Councillors
Trevor Cope
David Cox
Christine Drew
Pauline Stott
Peter Sullivan
Phil Twiss, Portfolio Holder – Corporate Services

The meeting started at 4.30 pm and ended at 5.45 pm.

1. **Purpose of the meeting**

To consider:

- What pre-election information should be provided to prospective candidates – local and district councils – prior to the May 2015 elections.
- The welcome/refresher programme following the May 2015 elections.
- The information provided to newly elected councillors.

2. **Papers provided with the agenda for consideration:**

- Information sheet prepared for prospective candidates
- To be a Councillors booklet (2011) – district and parish/town elections
- 2011 welcome and refresher programme
- 2011 welcome day programme
- Feedback following 3-month programme
- 2012 refresher programme
- Contents page of the information pack.

The Chairman invited Councillors to comment on the papers provided and to review the 2011 approach based on their own experiences.

3. **General principles to keep in mind:**

- Avoid information overload
- Provide information in bite-sized pieces
- Avoid full days of training
- Most effective learning is through problem solving and working examples – making sure that councillors are fully engaged and learn through experience
- Include ‘meet the team’ events so that councillors have a better understanding of services
- Recognise the value of experienced councillors mentoring newly elected councillors – this to include shadowing of ward work
- Before they leave ask retiring councillors to support the new intake of councillors and share their experience
- For all councillors to take part in the welcome/refresher programme – this is a good opportunity to refresh and update knowledge as well as to be a support to newly elected councillors
- Emphasise the importance of continual learning through observation and attending meetings

4. **Information pack for pre-election candidates**

Information (also be provided on line) to include:

- List of useful contacts including electoral services team (who will be able to give any clarification needed in respect of election rules and ward details), EDDC democratic services, the National Association of Local Councils (NALC) and Councillor associations for political parties
- Up-dated councillor booklets (district and parish/town) based on the information from www.beacouncillor.org.uk (Local Government Association)
- Explanation (ideally an illustration) of role of parish/town, district and county councils and areas of responsibility
- Emphasise the support given to new councillors
- Recommend that prospective candidates attend Council meetings for information
- Code of Conduct
- Link to Local Government Association guide for newly elected councillors

5. **Welcome Day**

- This to be 2 evening sessions – the first being during the week following the election
- The first evening session to be a general overview of the council and its services as at this point councillors will not know to which committees they have been allocated
- Presentations by experienced councillors are helpful and relevant - include ‘myth busting’.
- Include Chief Executive briefing on council structure – as previously.

6. **Welcome Programme**

- As soon as possible after the election, newly elected councillors to meet with a member of the democratic services team to go through information and processes, have a tour of the building and a virtual tour of the Council's website. (Note – councillors who need the most support are those in single-councillors wards)
- To include 'meet the team' events – planning, building control, housing, recycling, home safeguard etc – to get the feel of the work of the service and to see how they fit into the council as a whole (seen as more effective than having a showcase of services at welcome day). These to be arranged during the 6-month period following the May elections
- To include opportunities to meet the planning teams by area.
- Hold planning delegations in the Chamber so that Councillors can observe the process
- Include tours/visits – such as Cranbrook, Wetlands, sheltered housing, recycling centre
- Early in the programme – code of conduct/standards training, IT and planning from perspective of ward member
- Arrange mandatory training on planning, licensing, audit and governance, standards and licensing early in the programme as councillors serving on those committees are required to undertake committee specific training before they can contribute to the meeting
- Include Chief Executive briefings before annual council and first ordinary council to explain procedures and what to expect from the meeting.
- Include mock debate before October meeting to help clarify rules of debate.

7. **Information pack – contents**

Provide most information electronically as the default position but also make some information available as a printed copy, this to include:

- Officer contact list – including Democratic Services – with photographs, areas of work, etc
- Council structure
- Councillor photos with ward and contact numbers
- Include explanation of role of portfolio holders, champions, chairmen and vice-chairmen
- Code of Conduct
- Map of Knowle and location of services/officers.
- Link to Local Government Association guide for newly elected councillors

Provide empty folders that councillors can use for filing information that they find most helpful. (Note – make sure that any training handouts are hole-punched).

Office 365 information available to councillors needs to be fully populated and up to date.

The Chairman thanked members of the Working Party and other member attendees for their valued contribution and thoughtful comments.

Item 10



Department for
Communities and
Local Government

Open and accountable local government

A guide for the press and public on attending and reporting meetings of local government

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About this Guide

The national rulesⁱ have been changed to make councils, including parish and town councilsⁱⁱ, and other local government bodies such as fire and rescue authorities, more transparent and accountable to their local communities. A full list of bodies to which the rules apply is at **annex A**.

This plain English Guideⁱⁱⁱ gives practical information about what these new rules mean for members of the public attending meetings of local government bodies, including meetings of a body's committees, sub-committees and any joint committees involving two or more bodies. The Guide also covers meetings of any council's executive (i.e. the council's cabinet^{iv}), including any committees and sub-committees of the executive.

In particular, this Guide gives practical information about how members of the public can use modern technology and communication tools to report on meetings they are attending, and about how to access information on decisions taken by a body's officers or individual members. This Guide will also help the public to know when they can attend meetings of local government bodies, and what documents and information are available to them. It should also help councillors and officers to comply with the new rules.

As the Guide explains, different rules apply to different meetings, particularly meetings of a parish council or parish meeting, and the meetings of a council's executive, its committees or sub-committees.

- **Part 1** focuses on the use of various communication tools for reporting the proceedings of any meeting of a local government body which is open to the public.
- **Part 2** explains how the public can access meetings of a council's executive, its committees and sub-committees, and records of executive decisions taken by individual members or officers.
- **Part 3** explains how the public can access all other meetings of a local government body, other than parish and town councils, and records of certain other decisions taken by officers.
- **Part 4** explains how the public can access meetings of parish and town councils, parish meetings and the Council of the Isles of Scilly, and records of certain decisions taken by those councils' officers.
- **Part 5** focuses on other rights that the public have to access information.

This Guide now replaces the Guide titled "Your council – going to its meetings, seeing how it works" that the department issued in June 2013.

All footnotes are listed at the end of the Guide.

Part 1 Your rights to attend and report meetings

This part of the Guide applies to all the local government bodies listed at annex A.

Why are there new national rules?

We now live in a modern, digital world where the use of modern communication methods such as filming, tweeting and blogging should be embraced for enhancing the openness and transparency of local government bodies. This will ensure we have strong, 21st century, local democracy where local government bodies are genuinely accountable to the local people whom they serve and to the local taxpayers who help fund them.

Who do these rules help?

These rules help any members of the press and public who want to know about, view or report the work of local government bodies. The “press” is defined in the widest terms – including traditional print media, filming crews, hyper-local journalists and bloggers.

The new national rules^v have increased your rights to film, audio-record, take photographs, and use social media such as tweeting and blogging to report the proceedings of all such meetings that are open to the public.

Are all meetings of a local government body open to the public?

All meetings must be open to the public except in limited defined circumstances where the national rules require or allow the meeting to be closed to the public – see Part 2 for the rules for a council’s executive, Part 3 for the rules for other local government bodies, other than parish and town councils, and Part 4 for the rules for parish and town councils.

Can I film or audio-record the meeting?

Yes, councils and other local government bodies are required to allow any member of the public to take photographs, film and audio-record the proceedings, and report on all public meetings. While no prior permission is required to carry out this activity, it is advisable that any person wishing to film or audio-record a public meeting let their local government staff know so that all necessary arrangements can be made for the public meeting. This is important because the rules require local government bodies only to provide reasonable facilities for any member of the public to report on meetings.

There is no legal requirement for councils to webcast their meetings, but where councils and other local government bodies webcast any of their public meetings, they should, as a matter of good practice, notify the public.

Do I need to have advance permission to report the meeting?

No. Whilst we would encourage people to contact staff in advance if they want to film or record, equally, we would discourage any system which “vetted” journalists or restricted reporting to “approved” journalists. Councils should support freedom of the press within the law and not seek to restrict those who may write critical comments.

Can I film or audio-record a private meeting^{vi}?

The rules on the use of communication methods, such as filming and audio-recording, only require local government bodies to allow the reporting of meetings open to the public. The relevant council or local government body may not allow you to film or audio-record its private meetings. You may also not be allowed to leave recording equipment in the room where a private meeting is held for the purpose of reporting on the meeting.

Can I tweet or blog a council or local government body meeting?

Yes, the new rules^{vii} allow for reporting of meetings via social media of any kind. Therefore bloggers, tweeters, and for example, Facebook, YouTube users and individuals with their own website, should be able to report meetings. You should ask your council for details of the facilities they are providing for reporting.

If I am a councillor, can I tweet or blog during council meetings?

The national rules do not prevent councillors from tweeting and blogging at meetings, so they should be able to do so provided it is not disruptive and does not detract from the proper conduct of the meeting. Whilst councillors are expected to comply with their body’s code of conduct, this should not prevent councillors from tweeting or blogging when appropriate.

What sort of facilities will my council or local government body provide?

Councils or local government bodies are required to provide “reasonable facilities” to facilitate reporting. This should include space to view and hear the meeting, seats, and ideally a desk. Councils and local government bodies should use their common sense to determine the range of reasonable facilities they can actively provide to support the free press in all its forms.

To facilitate public scrutiny and public reporting, local authorities should not conduct their meetings in foreign languages.

Will I be allowed to film, tweet, blog or audio-record the meetings of other bodies not listed in annex A?

The Government message is that all public bodies should adopt maximum openness and transparency. This is also essential for bodies or groups making decisions for their local area because they are expected to be open and transparent in their decision-making. While the new national rules do not apply to some local groups such as neighbourhood forums and Local Enterprise Partnerships, such groups are encouraged, when having public meetings, to embrace the use of modern technology and should allow the same filming, audio-recording, taking of photographs, tweeting and blogging as applied to local government bodies, particularly if they are in receipt of public funds. This will give local people the opportunity to see how decisions are being made that affect their community.

Are there any limits to what I can say in a tweet or video I publish?

The law of the land applies – including the law of defamation and the law on public order offences (see the Crown Prosecution Service guidance on social media^{viii}).

Freedom of speech within the law should also be exercised with personal and social responsibility – showing respect and tolerance towards the views of others.

Are there other limits that I should be aware of?

The council or local government body should consider adopting a policy on the filming of members of the public, and ensure that they protect children, the vulnerable and other members of the public who actively object to being filmed, without undermining the broader transparency of the meeting.

Will I be able to provide commentary during the meeting?

Any person can provide written commentary during a meeting, as well as oral commentary outside or after the meeting. The new rules do not permit oral commentary to be provided during a meeting as this would be disruptive to the good order of the meeting.

Can I be asked to leave a meeting because I'm taking photographs, filming or audio-recording the meeting or using social media?

Generally, people attending public meetings must be readily able to film, audio-record, take photographs or use social media. Councils and other local government bodies must take steps to ensure this is the case. However, those undertaking these activities must not act in a disruptive manner, which could result in being excluded from the meeting.

What is disruptive behaviour?

Essentially, this could be any action or activity which disrupts the conduct of meetings or impedes other members of the public being able to see, hear or film etc the proceedings. Examples can include:

- moving to areas outside the areas designated for the public^{ix} without the consent of the Chairman,
- excessive noise in recording or setting up or re-siting equipment during the debate/discussion,
- intrusive lighting and use of flash photography; and
- asking for people to repeat statements for the purposes of recording.

You may be excluded from a meeting if you act in a disruptive manner.

Can I leave recording equipment in a public meeting room and record without being present?

There is no legal prohibition, however, under the national rules, the local government body may require any such recording to stop if at any stage the meeting becomes a private meeting.

But the local authority says reporting is a breach of its Standing Orders?

It is a legal duty for the local government body to follow the new provisions. If a local government body's existing Standing Orders are not fully in line with the new legislation, in the short-term, we recommend they simply waive the relevant provisions of those old Standing Orders which could be taken to inhibit the new reporting rules, and then take steps to update formally its Standing Orders.

Part 2 Access to meetings and documents of a council's executive

This Part explains how the public can access meetings of a council's executive, its committees and sub-committees, and records of executive decisions taken by individual members or officers. A council's executive (i.e. the council's cabinet) is its main decision making body consisting of an elected mayor or leader and a number of councillors. This Part applies to councils with either a leader and cabinet or elected mayor and cabinet. It does not apply to councils operating the committee system or other local government bodies listed in Annex A.

What are the national rules for access to meetings and documents of a council's executive?

The national rules are principally provided by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 which introduced significantly greater transparency and openness into the meetings of a council's executive, its committees and sub-committees. The rules also strengthen the rights of councillors to access information about items to be discussed at a public or private meeting of their council's executive.

Who can make an executive decision in my council?

The decision maker can be the executive, its committees and sub-committees, joint committees, joint sub-committees, individual councillors, and officers who have delegated responsibility from the executive to make executive decisions. Your council may have local rules^x that will explain who may make a decision.

Attending the meetings of your council's executive

How will I know about a forthcoming public meeting of my council's executive?

Your council must give a notice of the meeting at least 5 clear days before it takes place. The details of the meeting must be published at your council's offices and on its website where practicable. The agenda must be published with any background papers. No item can be considered if the item is not available for inspection by the public with 5 clear days' notice.

Where an item is added to the agenda within 5 days before the meeting is scheduled to take place, a revised agenda, public report and background papers must be published as soon as the item is added to the agenda. In some circumstances, the whole or part of a

report may not be available for public inspection because it contains either confidential or exempt information. In this case, the report should bear the phrase 'not for publication' and state that it contains confidential information or set out the description of the exempt information.

Can I obtain a copy of the agenda and other relevant papers for a public meeting of my council's executive?

Yes, your council must provide you with a copy of the agenda, and other relevant papers once you have made payment of postage and/or copying charge. There are also additional legal rights to access information, outlined in Part 5 of this Guide.

Can a council's executive choose to meet in private?

All meetings of an executive including meetings of its committees or sub-committees must be open to the public, except in limited defined circumstances where the national rules require or allow the meeting to be closed to the public.

The rules require a meeting of an executive to be closed to the public in two specific circumstances:

- If the presence of the public is likely to result in the council breaching a legal obligation to third parties about the keeping of confidential information; or
- a lawful power is used to exclude the public in order to maintain orderly conduct or prevent misbehaviour at a meeting.

In addition, a meeting can also be closed to the public where the executive so decides (by passing a resolution of its members) because exempt information would otherwise be likely to be disclosed. It is open to the executive if it chooses to consider in public matters involving exempt information. There is no over-riding legal requirement forcing councils to discuss exempt information in private.

What is confidential information?

Confidential information means:

- information provided to the council by a Government department on terms which forbid the disclosure of the information to the public; and
- information which is prohibited from being disclosed by any enactment or by a court order.

What is exempt information?

The descriptions of exempt information are set out in Schedule 12A to the Local Government Act 1972. The descriptions are listed at **Annex B** of this Guide.

Can I be asked to leave a public meeting?

Yes. As a member of the public you can be asked to leave a meeting so that the executive, its committees or sub-committees can discuss matters in private, but only in the limited circumstances that are already explained.

How will I know about a private meeting of my council's executive?

Prior to holding a private meeting, your council must have published on its website and at its offices at least 28 clear days' notice of its intention to consider a matter in private and the reasons for the private meeting. This is to ensure that members of the public have reasonable opportunity to make representations as to why the proposed private meeting should not be held in private.

At least 5 clear days before the meeting, your council must confirm its intention to go ahead with the private meeting through another notice on its website and at its offices. This second notice has to include details of any representations received and the council's response to them.

Can a private meeting of my council's executive be held if 28 days' notice is not given to the public?

A private meeting can only be held without 28 days' notice after the agreement of the Chairman of the Overview and Scrutiny Committee has been obtained that the meeting is urgent and cannot reasonably be delayed. In the absence of the Overview and Scrutiny Committee Chairman, the permission of the Council Chairman (or, in their absence, the Vice Chairman) must be obtained. If this agreement is granted the council must publish a notice about why the meeting is urgent and cannot be deferred. This notice must be available at its offices and on their website. If agreement is not given then the meeting must either be held in public, or the council must comply with the 28 day notice requirements.

Can I attend an executive's pre-briefing meeting with local authority officers?

No. The rules apply only to when councillors meet as a decision making body to exercise their statutory executive responsibilities. The rules do not apply to political groups' meetings or to informal briefing meetings for councillors.

Recording of decisions of public meetings

If I am not at the meeting, how will I know of any decisions made?

The fact that you are unable to attend a public meeting of your council's executive, its committees or sub-committees does not mean you cannot find out about the decisions made there. The national rules require a council to keep records of any executive decisions^{xi} made as soon as reasonably practicable after any public meeting. The written records must reflect the following information:

- Details of the decision and the date it was made;
- reasons for the decision;
- any other options considered and why those options were rejected;
- details of any conflict of interest of an executive member of the decision-making body; and
- a note of dispensation granted by the Head of Paid Service in respect of any declared conflict of interest.

You can then inspect the records and any reports considered at the meeting at your council's offices and on the council's website if it has one. All of these documents can be inspected for six years beginning from the date of the meeting apart from background papers which can be inspected for four years beginning from the date of the meeting. These records may be kept in electronic format.

Apart from information about meetings, are there other means of knowing about decisions likely to be made by a council's executive, its committees and sub-committees?

Yes. The national rules require a council to publish its intention to make a key decision^{xii} in a document at least 28 clear days prior to when the decision is intended to be made. The notice has to include details of the individual or executive body that will make the decision, the matter that is subject to a decision, other documents to be considered, and where these other documents are available. This notice document must be available at the council's offices and on its website before the decision is made.

This allows you to have sufficient knowledge in advance of those decisions that will be of genuine concern to you and your local communities.

Can a key decision of a council's executive^{xiii} be made without giving the 28 days' notice?

Yes, provided the following requirements are met:-

- the relevant Overview and Scrutiny Committee Chairman is informed in advance and in writing (or all the members of the Overview and Scrutiny Committee) about what the decision is concerning;
- a notice about the key decision to be made is made available for inspection at the council's offices and published on the website; and
- 5 clear days elapse following the day a notice is published about the key decision to be made.

If there is a case of special urgency, for example an urgent decision on a negotiation, expenditure or contract, the decision must only be made if the agreement of the Overview and Scrutiny Committee Chairman is received. In the absence of the Overview and Scrutiny Committee Chairman, the permission of the Council Chairman (or in their absence the Vice Chairman) must be obtained. If agreement is given, a notice explaining why the decision is urgent and cannot reasonably be deferred, must be published and should be available at the council's offices and on its website as soon as reasonably practicable.

Can 28 days' notice of a key decision also provide 28 days' notice required for a council executive's private meeting?

It is up to your council to decide whether the 28 day key decision document should contain the details required for a private meeting notice. Where there is an intention to make a key decision at a private meeting, your council must comply fully with all the national rules.

Can my council's executive make key decisions and not follow the national rules?

No. Councils must comply with all the national rules since they are prescribed by law. Should a decision be made without applying the key decision rules because the council thinks that the decision is not a key decision, but subsequently the Overview and Scrutiny Committee decides the decision is a key decision, the executive may be asked to submit a report to the full council.

Executive decisions by an individual member or officer

Can an individual member or an officer of a council's executive take decisions on matters that are the executive's responsibility?

Yes, where the rules of your council allow this. Decision makers can be individual councillors, and officers who have delegated responsibility from the executive to make executive decisions.

How will I know about an executive decision taken by a member or officer?

When a member or officer takes a decision on matters that are the responsibility of the council's executive, this must be recorded in writing. The form of the written record is for the council to decide, but the following should be included:

- details of the decision and the date it was made;
- reasons for the decision;
- any other options considered and why those options were rejected;
- details of any conflict of interest declared by any executive member consulted in relation to the decision; and
- a note of dispensation granted in respect of any declared conflict of interest.

Are all decisions made by councils' officers to be so recorded?

No. The requirement to record decisions extends only to "executive decisions". Executive decisions can sometimes be defined in your council's rules. Decisions which are taken by officers under specific delegations from a meeting of their council's executive are clearly executive decisions. However, many administrative and operational decisions officers take on how they go about their day to day work will be delegated within the council's rules and are not in this "executive decisions" category; as such they do not need to be recorded.

The decisions that should be not recorded might include the following examples:

- Decisions to allocate social carers to particular individuals, or for example, to provide walking aids;
- decisions to allocate a social housing unit to an applicant or to send someone to carry out repairs;
- decisions to review the benefit claims of an individual applicant and
- decisions to allocate market stalls to individual traders.

Where officers have been empowered to act on behalf of their council's executive, examples of decisions that should be recorded could include:

- Decisions about awarding contracts above specified individual or total values;
- decisions to exercise powers of Compulsory Purchase;
- decisions on disposal of and/ or provision of allotment land and green spaces;
- awarding of Discretionary Rate Relief
- the opening hours of local libraries; and
- the holding of car boot sales/markets on council-owned land.

This is not intended to be an exhaustive list, rather a series of examples to illustrate that, in the interests of maximum transparency, these Regulations require more than just key decisions to be recorded.

Ultimately it is for local decision makers to decide what information should be recorded on the basis of the national rules.

How can I see any records of decisions taken by executive members or officers?

Once a record of executive decisions taken by an executive member or officer has been made, you should be able to inspect the record at the council's offices and on its website as soon as reasonably practicable.

However you will not be able to see some of the information if it is considered to be either confidential or exempt information.

Can I ask for a copy of any records of executive decisions?

Yes. You can ask for a copy of any documents relating to executive decisions and your council should supply the information once you have paid for the postage, copying or any other necessary charge for transmission which will be determined by your council. There are also additional legal rights to access information, outlined in Part 5 of this Guide.

Your rights as a councillor

If I am a councillor, do I have any right to access meeting documents?

As a councillor, you can inspect any document that contains material to be discussed at least 5 days before a public meeting is held. In case of a private meeting or decision made by an individual executive member or officer, you can inspect the document within 24 hours of the conclusion of the meeting or the decision being made.

In addition, if you are a member of an overview and scrutiny committee, you can ask for any document that contains business transacted at a meeting of the executive, its committees or sub-committees or officer of the authority. The executive must provide the

document within 10 days after it (the executive) receives the request. In an instance where the executive cannot release the whole or part of the document, the executive must provide you with a written explanation.

What other rights do councillors have to inspect documents of their councils?

In addition to the rights conferred on councillors by these Regulations in relation to executive decision making, councillors also have statutory rights to inspect documents of the council and its committees under Part 5A of the Local Government Act 1972. Councillors may also request information held by their council under the Freedom of Information Act 2000 (or the Environmental Information Regulations 2004 in relation to environmental information). Councillors may have rights under the common law to inspect such documents held by their council as are reasonably necessary for them to perform their duties.

What happens if documents relating to executive decisions are not made public?

It is a criminal offence if, without a reasonable excuse, a person who has in his or her custody a document^{xiv}, which the national rules require to be made available to the public, refuses to supply the whole or part of the document or intentionally obstructs any other person/s from disclosing such a document.

If a person is found guilty of such a criminal offence, he/she can be fined up to £200^{xv}.

Part 3 Access to non-executive meetings and documents of a local government body, other than parish and town councils

This Part explains how the public can access all meetings (other than those of a council's executive) of a council or other local government body, other than parish and town councils. These meetings include those of a body's committees, sub-committees and any joint committees involving two or more local government bodies. It also explains how to access the records of certain non-executive decisions taken by the officers of local government bodies, other than parish and town councils.

Attending the meetings

How will I know about a forthcoming meeting of my council or local government body which will be open to the public?

Your council or local government body must give a notice of the meeting at least 5 clear days before a public meeting is held. The details of the meeting, such as the time and place, must be published at your council or local government body's offices. The notice may also be published on the body's website where practicable. You can also inspect the agenda and any background papers at least 5 clear days before the meeting.

Where an item is added to the agenda within 5 days before the meeting is scheduled to take place, a revised agenda and background papers must be published as soon as the item is added to the agenda.

An item that is not on the agenda can only be considered in special circumstances if the chairman is of the opinion that the item should be considered at the meeting as a matter of urgency. Any such special circumstances should be specified in the minutes.

How can I obtain a copy of the agenda and other relevant papers for a public meeting?

If you are representing a newspaper, your council or local government body must provide you with a copy of the agenda and any background upon payment of postage and/or copying charge. Councils and local government bodies are encouraged to provide a similar service to other members of the public upon request and payment of postage and/or copying charge.

In some circumstances, the whole or part of a report may not be available for public inspection if it contains either confidential or exempt information. In this case, the report should bear the phrase 'not for publication' and state that it contains confidential information or set out the description of the exempt information.

There are also additional legal rights to access information, outlined in Part 5 of this Guide.

Can a meeting be held in private?

The rules require a meeting of a council or local government body to be closed to the public in two circumstances:

- If the presence of the public is likely to result in the council or local government body breaching a legal obligation to third parties about the keeping of confidential information; and
- if the council or local government body decides (by passing a resolution of its members) because exempt information would otherwise be likely to be disclosed. It is open to the council or local government body if it chooses to consider in public matters involving exempt information. There is no over-riding legal requirement compelling the body to discuss exempt information in a private meeting.

The rules do not prevent the chairman from excluding any member of the public in order to maintain orderly conduct or prevent genuine misbehaviour at a meeting.

What is confidential information?

Confidential information means:

- information provided to the council or local government body by a Government department on terms which forbid the disclosure of the information to the public; and
- information which is prohibited from being disclosed by any enactment or by a court order.

What is exempt information?

The descriptions of exempt information are set out in Schedule 12A to the Local Government Act 1972. The descriptions are listed at **Annex B** of this Guide.

Can I be asked to leave a public meeting?

Yes. As a member of the public you can be asked to leave a meeting so that the council or local government body, its committees or sub-committees can discuss matters in private, but only in the limited circumstances that are already explained. The rules do not prevent the chairman from excluding any member of the public in order to maintain orderly conduct or prevent genuine disruption at a meeting.

How will I know about a private meeting of my council or local government body?

The rules do not require your council or local government body to notify the public if a meeting will be held in private. However, where part of a public meeting will be held in private, it should be explained when the public is notified of the meeting.

Can I attend a pre-briefing meeting with local authority officers?

No. The rules do not apply to political groups' meetings or to informal briefing meetings for councillors.

Recording of decisions of public meetings

If I am not at the meeting, how will I know of any decisions made?

The fact that you are unable to attend a public meeting of your council or local government body, its committees or sub-committees does not mean you cannot find out about the decisions made there. The national rules require the council or local government body to make the following documents available for inspection after a public meeting:

- a copy of the minutes;
- a summary of the proceedings, where applicable;
- a copy of the agenda;
- a copy of any report for the meeting as relates to any item during which the meeting was open to the public; and
- a copy of a list of the background papers for any report for the meeting.

You can then inspect the records and any reports considered at the meeting at your council or local government body's offices and on the council or local government body's website if it has one. All of these documents can be inspected for six years, apart from background papers which can be inspected for four years beginning from the date of the meeting.

Decisions by officers

Can an officer take decisions on matters that are the council or local government body's responsibility?

Yes, where the council or local government body's rules^{xvi} allow this.

How will I know about decisions made by officers?

The new national rules require the recording of certain decisions^{xvii} taken by officers acting under powers delegated to them by a council or local government body, its committees or sub-committees or a joint committee. The written record must be available for inspection at the council or local government body's offices and on the website if it has one^{xviii}, as soon as reasonably practicable, and should include:

- The decision taken and the date the decision was taken;
- the reason/s for the decision;
- any alternative options considered and rejected; and
- any other background documents.

Where a decision is taken under a specific express authorisation, the names of any member of the council or local government body who has declared a conflict of interest must be recorded.

The relevant council or local government body must retain and make the written record of their officers' decisions available for inspection for six years beginning from the date of the meeting. The background papers should also be available for inspection for four years beginning from the date of the meeting. These may be kept in electronic format.

Can I see all decisions made by my council or local government body's officers?

No. The requirement to record applies to all decisions taken by officers whilst acting under a specific express authorisation and to only three categories of decision taken whilst acting under a general authorisation. These categories cover decisions to "grant a permission or licence"; that "affect the rights of an individual" (i.e. to change an individual's legal rights)^{xix}; or to "award a contract or incur expenditure which, in either case, materially affects^{xx} that relevant local government body's financial position".

Officers take many administrative and operational decisions about how they go about their day to day work within the council's or local body's rules. These decisions will not need to be recorded.

You will not be able to inspect some recorded decisions if the whole or part of the records contains confidential or exempt information.

Examples of decisions that should be recorded could include:

- Decisions about awarding contracts above specified individual or total values (the values will vary according to the relevant council or local government body);
- a decision to carry out major road works;
- determination of licencing applications, building control decisions and notices; and
- decisions to give listed building consents.

Where decisions are already required to be published by other legislation, they do not need to be recorded again provided the record published includes the date the decision was taken and the reasons for the decision.

Decisions that do not need to be recorded might include the following examples:

- Routine administrative and organisational decisions such as giving permission to a local society to use the authority's premises;
- decisions on operational matters such as day to day variations in services;
- decisions to give business relief to individual traders;
- decisions to review the benefit claims of an individual applicant; and
- decisions taken in response to requests under the Data Protection Act 1998 or the Freedom of Information Act 2000.

These are a few selected examples and not an exhaustive list. It is for the council or local government body to decide what information should be recorded on the basis of the national rules.

Can I ask for a copy of any records of decisions taken by an officer of my council or local government body?

Yes. You can ask for a copy of any documents relating to decisions taken by an officer acting under specific or general delegated powers once you have paid for the postage, copying or any other necessary charge for transmission which will be determined by your council or local government body.

There are also additional legal rights to access information, outlined in Part 5 of this Guide.

What happens if documents relating to decisions are not made public?

It is a criminal offence if, without reasonable excuse, a person with custody of a document^{xxi} (which is required by the national rules to be made available to the public),

refuses to supply the whole or part of the document, or intentionally obstructs any other person/s from disclosing such a document.

If a person is found guilty of such a criminal offence, he/she may be fined up to £200^{xxii}.

Part 4 Access to meetings and documents of parish and town councils

As a member of the public, you have the right to attend the annual parish and town meeting, as well as the meetings of parish and town councils^{xxiii}, and of the Council of the Isles of Scilly. This Part explains how the public can access meetings of these councils and records of certain decisions taken by those council's officers.

Attending meetings of parish councils and the Council of the Isles of Scilly

How will I know about a forthcoming meeting of a parish or town council or the Council of the Isles of Scilly which is open to the public?

Parish and town councils and the Council of the Isles of Scilly must give notice of their meeting at least 3 clear days before it takes place. Where a parish meeting^{xxiv} is called, at least 7 clear days' notice must be given.

Notice of the meeting specifying the business to be discussed must be placed in a central conspicuous place within the parish or area at least 3 clear days before the meeting. These councils are also encouraged to place copies of the agenda, meeting papers and notice of meetings at offices and on their website, if they have these facilities.

Can a parish or town council or the Council of the Isles of Scilly choose to meet in private?

All meetings of these councils must be open to the public, except in limited defined circumstances. These councils can only decide, by resolution, to meet in private when discussing confidential business or for other special reasons where publicity would be prejudicial to the public interest.

What is confidential information and publicity prejudicial to the public interest?

Though not an exhaustive list, we expect this to cover matters such as discussing the conduct of employees, negotiations of contracts or terms of tender, or the early stages of a legal dispute.

Can I be asked to leave a public meeting?

Yes. As a member so the public you can be asked to leave a meeting so that the council can discuss matters in private, but only in the limited circumstances described above. The rules also do not prevent the chairman from excluding any member of the public in order to maintain orderly conduct or prevent genuine disruption at a meeting.

Recording of decisions of public meetings

If I am not at the meeting, how will I know of any decisions made?

The fact that you are unable to attend a public meeting of your parish and town council, its committees or sub-committees does not mean you cannot find out about the decisions made there. The national rules require the parish and town councils to make a copy of the minutes available for inspection after a public meeting.

You can inspect the minutes at your council's offices and on the council website if it has one.

Decisions by officers

Can an officer take decisions on matters that are the parish or town council's responsibility?

Yes, where the parish or town council's rules allow this.

Are there means of knowing about decisions made by individuals?

Yes. The rules require the recording of certain decisions^{xxv} taken by officers acting under powers delegated to them by a parish or town council, its committees or sub-committees or a joint committee. The written record should include:

- The decision taken and the date the decision was taken;
- the reason/s for the decision;
- any alternative options considered and rejected; and
- any other background documents.

You can see these records of decisions made by officers along with any other background papers because they have to be available for inspection at the council's offices and on its website as soon as is reasonably practicable after the decisions are made^{xxvi}.

The relevant parish or town council must retain and make the written record of their officers' decisions available for inspection for six years beginning from the date of the meeting. The background papers should also be available for inspection for four years beginning from the date of the meeting. These may be kept in electronic format.

Can I see all decisions made by my parish or town council's officers?

No. The requirement to record applies to all decisions taken by officers whilst acting under a specific express authorisation, and only to three categories of decision taken whilst acting under a general authorisation. These categories cover decisions to “grant a permission or licence”; that “affect the rights of an individual”(i.e. to change an individual's legal rights)^{xxvii}; or to “award a contract or incur expenditure which, in either case, materially affects^{xxviii} that relevant local government body's financial position”.

Officers take many administrative and operational decisions on how they go about their day to day work within the council's rules. These decisions will not need to be recorded.

You will not be able to inspect some recorded decisions if the whole or part of the records contains confidential information or any other information, which its publicity would be prejudicial to the public interest.

Examples of decisions that should be recorded could include:

- Decisions about awarding contracts above specified individual/total values (the values will vary according to the relevant parish or town council); and
- decision to renew a lease to an Allotment Association.

Where decisions are already required to be published by other legislation, they do not need to be recorded again provided the record published has the date the decision was taken and the reasons for the decision.

Decisions that do not need to be recorded might include the following examples:

- Routine administrative and organisational decisions such as the purchase of office supplies or repairs;
- a decision to sign an allotment tenancy agreement;
- decisions to allocate burial plots; and
- decisions to book rooms or sports grounds; and decisions to approve works undertaken by a contractor.

These are a few selected examples and not an exhaustive list. It is for the council to decide what information should be recorded on the basis of the national rules.

Can I ask for a copy of any records of decisions taken by an officer of my parish or town council?

Yes. You can ask for a copy of any documents relating to decisions taken by an officer acting under specific or general delegated powers once you have paid for the postage,

copying or any other necessary charge for transmission which will be determined by your parish or town council.

There are also additional legal rights to access information, outlined in Part 5 of this Guide.

What happens if documents relating to decisions are not made public?

It is a criminal offence if, without reasonable excuse, a person with custody of a document^{xxix} which is required by the national rules to be made available to the public, refuses to supply the whole or part of the document, or intentionally obstructs any other person/s from disclosing such a document.

If a person is found guilty of such a criminal offence, he/she may be fined up to £200^{xxx}.

Part 5 Your other rights of access to information

Are there other rights I can exercise?

The Local Government Transparency Code sets out the minimum datasets that your local authority should publish. These include spending transactions valued over £500, salaries of senior staff, organisational charts, contracts and the location of public land and assets. The Code applies to local authorities, including parish councils with annual income or expenditure (whichever is the higher) over £200,000^{xxxi}. Local authorities with annual income or expenditure of above £6.5m will soon be statutorily required to comply with Part 2 of the Code when the relevant regulations are in place. You can obtain further information on this from:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/308185/Local_Government_Transparency_Code_2014_Final.pdf

You can inspect a council's detailed financial accounts, ledgers and records under section 15 of the Audit Commission Act 1998. In addition, the Accounts and Audit (England) Regulations 2011^{xxxii} cover checking not just the accounts, but also "all books, deeds, contracts, bills, vouchers and receipts related to them". More information on this right is available at: <https://www.gov.uk/government/policies/making-local-councils-more-transparent-and-accountable-to-local-people/supporting-pages/peoples-rights-to-see-council-accounts>

Also, you have the right to request information held by your council by submitting a Freedom of Information Act request to your council (a similar regime exists in relation to environmental information under the Environmental Information Regulations 2004). Information on the Freedom of Information Act and data protection is available on the Information Commissioner's Office website at: <http://ico.org.uk/>

You have certain rights to re-use for your own purposes documents held by the council under the Re-use of Public Sector Information Regulations 2005. These Regulations provide that any request for re-use must be in writing, and where possible and appropriate the council must make the document concerned available for re-use by electronic means. More information is available at:

<http://www.legislation.gov.uk/ukSI/2005/1515/introduction/made>

Where can I find the legislation relating to access to local government bodies' and council's executive meetings and information?

The relevant legislation about access to local government body meetings and information is in Section 40 of the Local Audit and Accountability Act 2014. The relevant provisions are available at the following link:

<http://www.legislation.gov.uk/ukpga/2014/2/section/40>

The detailed provisions on how any person can report on the meetings of a local government body are in The Openness of Local Government Bodies Regulations 2014 which can be found at:

<http://www.legislation.gov.uk/id/uksi/2014/2095>

The legislation relating to access to information regarding decisions made by council executives, and their committees, sub-committees and joint committees is Part 1A of the Local Government Act 2000 – see sections 9G and 9GA. This part was inserted as a result of amendments made by the Localism Act 2011 and the relevant provisions are available at the following link:

<http://www.legislation.gov.uk/ukpga/2011/20/schedule/2/part/1>

The detailed provisions on the rights to attend meetings and obtain information of an executive are in the secondary legislation made under the 2000 Act, that is the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 which can be found at:

<http://www.legislation.gov.uk/uksi/2012/2089/contents/made>

The legislation relating to access to meetings and documents of a council and other local government bodies can be found in Part VA of the Local Government Act 1972, available at the following link:

<http://www.legislation.gov.uk/ukpga/1972/70/part/VA>

The legislation relating to access to meetings of a parish or town council can be found at section 1 the Public Bodies (Admission to Meetings) Act 1960, available at the following link:

<http://www.legislation.gov.uk/ukpga/Eliz2/8-9/67/section/1>

Annex A – Description of the local government bodies that are covered by the new rules

- (a) a district council,
- (b) a county council in England,
- (c) a London borough council,
- (d) the London Assembly (Greater London Authority),
- (e) the Common Council of the City of London in its capacity as a local authority or police authority,
- (f) the London Fire and Emergency Planning Authority,
- (g) Transport for London,
- (h) a joint authority established under Part 4 of the Local Government Act 1985,
- (i) an economic prosperity board,
- (j) a combined authority,
- (k) a fire and rescue authority in England constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
- (l) a National Park Authority for a National Park in England,
- (m) the Broads Authority,
- (n) the Council of the Isles of Scilly,
- (o) a parish council, and
- (p) a parish meeting.

The new national rules also apply to the committees, sub-committees and joint committees of these local government bodies.

Annex B – Descriptions of Exempt Information

The exempt information set out at Schedule 12A to the Local Government Act 1972 Act is as follows:

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes—
 - a. to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - b. to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

The qualifications to the list of exempt information are as follows:

- A.** Information falling within number 3 above is not exempt information by virtue of that paragraph if it is required to be registered under--
[the Companies Acts (as defined in section 2 of the Companies Act 2006)];
the Friendly Societies Act 1974;
the Friendly Societies Act 1992;
the *Industrial and Provident Societies Acts 1965* [Co-operative and Community Benefit Societies and Credit Unions Acts 1965] to 1978;
the Building Societies Act 1986; or
[(f) the Charities Act 2011.
- B.** Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

C. Information which—

falls within any of numbers 1 to 7 above; and
is not prevented from being exempt by virtue of number A or B above,

is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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- ⁱ The new national rules are in The Openness of Local Government Bodies Regulations 2014 (S.I. 2014/...) and The Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 (S.I. 2012/2089).
- ⁱⁱ A parish or town council may also be called a city, community, neighbourhood or village council. Any reference to parish council in this Guide also refers to these bodies.
- ⁱⁱⁱ The Guide should not be taken as providing any definitive interpretation of the statutory requirements on councils, members, officers, or of public rights: those wishing to address such issues should seek their own legal advice.
- ^{iv} A council's cabinet is its main decision making body, consisting of an elected mayor or leader and a number of councillors.
- ^v Part 2 of the Openness of Local Government Bodies Regulations 2014 (S.I. 2014/...)
- ^{vi} "Private meeting" is a meeting or part of a meeting during which the public are excluded for limited and certain circumstances described in the Local Government Act 1972 and the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012
- ^{vii} Regulation 4 of The Openness of Local Government Bodies Regulations 2014
- ^{viii} http://www.cps.gov.uk/legal/a_to_c/communications_sent_via_social_media/
- ^{ix} Any area designated for the public should be appropriate for filming, audio-recording and photographing.
- ^x Each council has its own rules for doing business - its constitution and standing orders- which must be in line with any national rules.
- ^{xi} An "executive decision" means a decision made or to be made by a decision maker in connection with the discharge of a function which is the responsibility of the executive of a local authority.
- ^{xii} "key decision" means an executive decision which, is likely—
to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.
- ^{xiii} All references to 'a council executive' should be construed to include the executive's committees and sub-committees, joint committees, and joint sub-committees.
- ^{xiv} A document can be the written record of executive decisions made by an executive member or officer or any other background papers.
- ^{xv} This fine could change to reflect any future changes in legislation and/or national policy.
- ^{xvi} Each council or local government has its own rules for doing business - its constitution and standing orders- which must be in line with any national rules.
- ^{xvii} Regulation 7(2) of the 2014 regulations.
- ^{xviii} If a local government body does not have offices or a website, other appropriate means should be used to allow you to access these documents, such as publishing the information on a website of another local authority body in the area.
- ^{xix} These decisions do not include decisions taken pursuant to an existing framework of rights.
- ^{xx} As the financial position of bodies affected by these rules varies, what constitutes the material threshold is a judgement that should be made by individual bodies.
- ^{xxi} A document can be the written record of decisions made by an officer, or any background papers.
- ^{xxii} This fine could change to reflect any future changes in legislation and/or national policy.
- ^{xxiii} A parish or town council may also be called a city, community, neighbourhood or village council. Any reference to parish council in this Guide also refers to these bodies.
- ^{xxiv} A parish meeting is a meeting for all of the local government electors of the parish. This can be in the case of an annual meeting in an area where there is a separate parish council, or any meeting of local government electors where there is no separate parish council.
- ^{xxv} Regulation 7(2) of the 2014 regulations.
- ^{xxvi} If a parish or town council does not have offices or a website, other appropriate means should be used to make the papers accessible to the public, such as publishing the information on the website of the local principal authority.
- ^{xxvii} These decisions do not include decisions taken pursuant to an existing framework of rights.
- ^{xxviii} As the financial position of bodies affected by these rules varies, what constitutes the 'material threshold' is a judgement that would be made by individual bodies.
- ^{xxix} A document can be the written record of decisions made by an officer, or any background papers.
- ^{xxx} This fine could change to reflect any future changes in legislation and/or national policy.

^{xxxi} The government has recently consulted on a new transparency code for certain authorities with a turnover not exceeding £25,000 pa, which will act as a substitute for routine external audit. The draft code is available at: <https://www.gov.uk/government/consultations/draft-transparency-code-for-parish-councils>

^{xxxii} Under the new Audit framework, this right is restated in Section 26 of the Local Audit and Accountability Act 2014. The Government will be consulting shortly on draft regulations in relation to the new arrangements. Some changes are proposed to the framework for exercising public rights, but broadly the aim is to simplify and clarify arrangements. The intention is for the regulations to be in place for the accounting period 2015-16.

Standards Committee, 28 October 2014

Item 12 - Code of Conduct complaints update

This paper provides an update for the Committee on outstanding Code related complaint cases and new Code related cases received since the last Standards Committee meeting (8 April) to date:

Case #	TC/PC or EDDC member	Relevant paragraphs in Code of Conduct and outcome following consultation with Independent Person
Outstanding 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>Referred for investigation. Final report issued – Investigator Officer finds that subject member was acting in official capacity at the time of the exchange and had failed to follow paragraph 4(a) of the Code of Conduct. Local resolution achieved. Public notice published on the Council’s website: http://new.eastdevon.gov.uk/council-and-democracy/councillor-conduct/recent-decisions-on-councillor-complaints/</p>
MO-C020	Town Councillor	<p>Complaint alleges that the subject member was disrespectful to the Chairman at a public meeting.</p> <p>Investigation undertaken. Local resolution not achieved. Hearing held on 24 April 2014. Findings:</p> <ul style="list-style-type: none"> ➤ Councillor was discourteous and disrespectful to another Councillor and therefore failed to follow Paragraph 4(a) of the Town Council’s Code of Conduct - You must treat others with courtesy and respect. ➤ Councillor brought their office into disrepute and therefore failed to follow Paragraph 5(h) of the Town Council’s Code of Conduct – 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>Sanctions recommended to the Town Council:</p> <ul style="list-style-type: none"> ➤ Censure and reprimand Councillor. Councillor to be asked to give an apology at a meeting of the Town Council for her breaches of the Code of Conduct;

		<ul style="list-style-type: none"> ➤ Publish the findings of the Hearing Sub Committee. (EDDC will anyway publish the findings on its own website as a matter of procedure.) ➤ The Clerk to contact EDDC's Monitoring Officer to arrange for the Town Council to receive guidance and training on Code of Conduct issues. <p>The full decision notice can viewed here: http://new.eastdevon.gov.uk/council-and-democracy/councillor-conduct/recent-decisions-on-councillor-complaints/</p> <p>Case closed.</p>
MO-C021	Parish Councillor	<p>Complaint submitted by the Parish Council. Number of allegations made about the Subject Member's behaviour and conduct relating to a planning application in the village.</p> <p>Investigation undertaken. Local resolution not achieved. Hearing held on 15 May 2014. Finding: At Parish Council meetings on 13 May and 24 June 2013, the Councillor had a personal interest in a planning application being considered and, by speaking and voting, sought to influence improperly the decisions on them. The Councillor therefore failed to follow paragraph 8.2(d) of the Code of Conduct.</p> <p>Sanctions recommended to the Parish Council:</p> <ul style="list-style-type: none"> ➤ EDDC publish its findings on its website in respect of the Councillor's conduct. (EDDC will anyway publish the findings on its own website as a matter of procedure) ➤ Report its findings to the Parish Council for information (This is done as a matter of procedure) <p>The Sub Committee did not feel it was appropriate to impose any sanctions specifically in respect of the Councillor, however it wished to make the following recommendation to the Parish Council:</p> <ul style="list-style-type: none"> ➤ That training be arranged for all Parish Councillors on governance issues including Code of Conduct generally and specifically in relation to planning issues. <p>The full decision notice can be viewed here: http://new.eastdevon.gov.uk/media/181964/150514-moc021-decision-salter.pdf</p> <p>Case closed.</p>

MO-C031	Parish Councillor	Complainant alleges that the Subject Member brought the Council into disrepute by writing and circulating emails which contained false information. 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. No further action. Case closed.
MO-C046	Town Councillor	Complainant alleges that subject member made a slanderous comment about them at a Council meeting. 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. No further action. Case closed.
MO-C047	Town Councillor	Complainant alleges that the subject member behaved improperly at Council meetings preventing other Members from speaking. 4a – you must treat others with respect No further action. Case closed.
MO-C048	Town Councillor	Complainant alleges that the subject member behaved improperly at Council meetings preventing other Members from speaking. 4a – you must treat others with respect No further action. Case closed.
MO-C049	Town Councillor	Complainant alleges that the subject member behaved improperly at Council meetings preventing other Members from speaking. 4a – you must treat others with respect No further action. Case closed.
MO-C051	Town Councillor	Complainant alleges that the subject member disclosed confidential staffing matters with a member of the public, and accused the complainant of 'libel' in communication between them. 4a – you must treat others with respect 5f – you must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature... No further action. Case closed.
MO-C054	Parish Councillor	Complainant alleges that Parish Councillors trespassed on their land and were partial in their deliberations. Complaint withdrawn.

MO-C055	Parish Councillor	Complainant alleges that subject member's behaviour towards them was an attempt to intimidate them regarding a planning matter. 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 5c – you must not bully any person... No further action. Case closed.
MO-C056	Parish Councillor	Complainant alleges that the subject member breached the Code of Conduct when they recorded a meeting of the Parish Council. 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. No further action. Case closed.
New complaints:		
MO-C057	EDDC Councillor	Complainant alleges that the subject member was not objective when dealing with an issue and failed to treat the complainant with respect. 4(a) of the Members' Code of Conduct – you must treat others with courtesy and respect and 5(a) – you must not attempt to use your position as a Member to improperly to confer on or secure for yourself or any other person, an advantage or disadvantage. No further action. Case closed.
MO-058	Parish Councillor	Complainant alleges that the subject member failed to declare an interest in land at Parish Council meetings, when the land was discussed for inclusion in EDDC's Village Development Plan Document. 5(a) – you must not attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage and paragraphs that relate to the declaration of interests and participation at meetings. Other action. Case closed.
MO-C059	District Councillor	Complainant alleges that the subject member misinformed a member of the public about details of a planning application. No further action. Case closed.
MO-C060	Parish Councillor	Complaint alleges that the subject member failed to act appropriately at a Parish Council meeting and failed to declare a relevant interest. 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. No further action. Case closed.

MO-C061	Town Council	Complainant alleges that the subject member made disrespectful comments at a Town Council meeting. 4(a) of the Members' Code of Conduct – you must treat others with courtesy and respect. No further action. Case closed.
MO-C062	Town Council	Complainant alleges that the subject member behaved inappropriately and brought the Town Council into disrepute. 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 No further action. Case closed.
MO-C063	Town Councillor	Complainant alleges that the subject member had behaved inappropriately and failed to declare a relevant interest. Paragraphs that relate to the declaration of interests and participation at meetings. No further action. Case closed.
MO-064	Town Councillor	Complainant alleges that the subject member failed to treat others with respect. 4(a) of the Members' Code of Conduct – you must treat others with courtesy and respect. Other action. Case closed.
MO-C065	District Councillor	Complainant alleges that the subject member was disrespectful and made false comments about another Councillor at a Council meeting. 4(a) of the Members' Code of Conduct – you must treat others with courtesy and respect No further action. Case closed.

There are currently **six** new complaints, which are being assessed by the interim Monitoring Officer and have therefore not been logged as Code or non-Code/other complaints.

Agenda Item 13

Standards Committee

28 October 2014



Standards Committee

Forward Plan 2014/15

20 January 2015	Hoey Ainscough article on disclosing pecuniary interests (<i>Hearings Sub Committee have recommended that the Standards Committee consider the article</i>) Complaints update Forward Plan
7 April 2015	Annual report 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.