
Part 5

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**LINCOLNSHIRE COUNTY COUNCIL
STANDARDS & VALUES (JULY 2007)****BACKGROUND**

Lincolnshire County Council comprises:

- the Councillors and added members who form the Council;
- the Officers of the Council;

POLITICAL ORGANISATION

The way in which Councillors of relevant authorities organise themselves must fall within the statutory framework under the Local Government Act 2000. In Lincolnshire County Council at present the features of the organisation are:

- a Leader and Cabinet form of Executive;
- strong political grouping;
- proactive Leader, Deputy Leader, Chairmen and Vice-Chairmen.

OFFICER ORGANISATION

Ultimately the Head of the Paid Service is responsible to the Council for the way in which the Council's officers are managed and organised. However, the Council strongly influences the organisational structure for Officers because the Council defines Chief Officers' delegated powers and Councillors appoint the Chief Officers. In Lincolnshire County Council at present the features of the organization are:

- a corporate approach to management;
- Chief Officers with broad functional responsibilities.

CULTURE AND VALUES

It is recognised that the structure of the organisation may be less influential on the ultimate outcomes of the Council than the underpinning culture and values. Consequently, it is essential to define the values within which Councillors, added elected members and Officers work.

VALUES STATEMENT

For everyone ...

- the basis of all working is Honesty, Openness and Trust and respect for others;
- we uphold the law and act with personal integrity;
- we are working for the benefit of all people in Lincolnshire and exercise good stewardship;
- we treat staff fairly and support them in their roles.

In the relationships between Officers and Councillors ...

- there is mutual respect for the distinctive roles of Officers and Councillors and added members;
- Officers serve the whole Council;
- Officers assist all Councillors and added members of the Council in their various roles and groups;
- Councillors, added members and Officers act in a co-operative manner;
- Officers diligently implement the lawful wishes of the Council.

Councillors and Non-elected Members ...

- respect the rights of fellow Councillors and added members of all political views;
- value Officers' impartiality;
- recognise that actions must accord with approved policies and procedures;
- adhere to the Councils adopted Code of Conduct.

The Corporate Management Board ...

- offers independent, professional advice to the Council;
- supports team working;
- promotes innovation, high performance and public service;
- the Chief Executive will Chair the Corporate Management Board and all Officers will share corporate responsibility.

Maintaining these values and standards ...

These values need to be lived and not just written down. Positive steps need to be taken to ensure that the culture of the County Council reflects these aspirations.

Therefore, the Corporate Management Board will:

- seek the views of Councillors and added members and Officers to establish how well the County Council lives up to these ideals;
- make assessments of how well the stated values are being implemented;
- prepare action plans to correct any failings;
- undertake development programmes within the Council to promote these values.

LINCOLNSHIRE COUNTY COUNCIL

GOOD PRACTICE GUIDE TO MEETING THE VALUES OF THE AUTHORITY

The County Council operates within codes of conduct and practice that are backed by law and are supervised by the Audit Committee of the County Council. This Good Practice Guide is not intended to replace those rules, but to be illustrative of how its values would be demonstrated.

Values	Illustrative good practice
...the basis of all working is honesty, openness and trust and respect for others.	<ul style="list-style-type: none"> • <i>There is commitment to maximising transparency.</i> • <i>People feel confident to contribute in the knowledge that their contributions will be respected.</i> • <i>People speak openly without fear of retribution.</i>
...we uphold the law and act with personal integrity.	<ul style="list-style-type: none"> • <i>People do not put themselves in situations where their honesty and integrity could be questioned.</i> • <i>Officers are valued for their integrity.</i>
...we are working for the benefit of all people in Lincolnshire and exercise good stewardship.	<ul style="list-style-type: none"> • <i>There is a focus on how outcomes will affect our Members of the Public rather than the organisation.</i> • <i>Services are delivered within approved policies.</i> • <i>Actions of the Council are socially inclusive.</i> • <i>Resources are used prudently.</i> • <i>Actions promote social, economic and environmental well being.</i> • <i>Equal opportunities standards are achieved.</i>
...treats staff fairly and support them in their roles.	<ul style="list-style-type: none"> • <i>The principles of Investors in People are evident.</i> • <i>Officers are confident in taking on their responsibilities.</i> • <i>Officers feel they are able to talk openly with their managers and vice-versa.</i> • <i>Personnel policies are applied fairly.</i>
...there is mutual respect for the distinctive roles of Officers and Councillors and added members.	<ul style="list-style-type: none"> • <i>Officers are conscious of Councillors' unique position as elected representatives of the people.</i> • <i>Officers respect different political viewpoints.</i> • <i>Officers act as advocates for Council policies.</i> • <i>Councillors respect professional viewpoints.</i> • <i>Councillors and Officers value and understand the roles of the Head of the Paid Service, Monitoring Officer and Section 151 Officer.</i>

...Officers serve the whole Council.	<ul style="list-style-type: none"> • <i>Officers provide impartial, professional advice. Acces to information should be maximized.</i>
...Officers assist all Councillors and added members in their various roles	<ul style="list-style-type: none"> • <i>Officers assist Councillors and added members in all aspects of their duties, including informed opposition.</i>
...Councillors, added members and Officers act in a co-operative manner.	<ul style="list-style-type: none"> • <i>Officers work with Councillors in their role as community representatives.</i> • <i>Officers work with Councillors to implement the programme approved through the Council.</i> • <i>Officers work with all Councillors and added members in the roles of policy development and scrutiny.</i>
...Officers will diligently implement the lawful wishes of the Council.	<ul style="list-style-type: none"> • <i>Officers are working to implement all decisions diligently whether or not their advice was taken.</i> • <i>Officers are aware of the decisions of the County Council in areas that are not their direct responsibility.</i>
<p><u>Councillors and non-elected members</u></p> <p>...recognise rights of fellow Councillors and added members.</p>	<ul style="list-style-type: none"> • <i>Councillors and added members show each other mutual respect.</i> • <i>Councillors and added members co-operate to deal with Council business openly and efficiently.</i>
...recognise Officers' Impartiality.	<ul style="list-style-type: none"> • <i>Councillors and added members respect duties and confidentiality owed by Officers to other Councillors and added members.</i>
...recognise that actions must accord with approved policies and procedures.	<ul style="list-style-type: none"> • <i>Councillors and added members do not put pressure on Officers to work outside the Council's policies and procedures.</i>
<p><u>Corporate Management Board</u></p> <p>...offers independent, professional advice to the Council.</p>	<ul style="list-style-type: none"> • <i>CMB Chief Officers give balanced and complete advice including that which may be unwelcome.</i> • <i>All Officers work within their professions' codes of conduct.</i>

<p>...supports team working.</p>	<ul style="list-style-type: none"> • <i>CMB Chief Officers support one another at all times and work co-operatively within the Board.</i> • <i>CMB Chief Officers respect each other's views and welcome contributions to debate.</i> • <i>Cross-directorate teams are resourced and supported actively by CMB.</i> • <i>CMB Chief Officers encourage team working within their own Directorates.</i>
<p>...promotes innovation, high performance and public service.</p>	<ul style="list-style-type: none"> • <i>Change is seen as an opportunity.</i> • <i>Measures are in place to monitor and manage performance.</i> • <i>Risks associated with innovation are carried by the organisation rather than by individuals.</i>

MEMBERS CODE OF CONDUCT**Lincolnshire County Council Members' Code of Conduct**

The activities of all in public life should be guided by the 7 principles of Public Life, also known as the Nolan Principles. These are set out below:-

1. Selflessness

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

2. Integrity

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

3. Objectivity

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

4. Accountability

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

5. Openness

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

6. Honesty

Holders of public office should be truthful.

7. Leadership

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

The County Council has adopted this Code of Conduct setting out the expected behaviours required of its members and added members, acknowledging that they have a shared commitment to representing the community and working constructively and in a spirit of mutual respect and co-operation with each other, Council staff and partner organisations to secure better social, economic and environmental outcomes for all.

As the Nolan Principles are the standards expected of all in public life the Code is closely based on but not identical to the Nolan Principles. In particular compliance with the Code does not in itself guarantee that member conduct is consistent with the Nolan Principles. The Code does not therefore detract from the need for members always to have regard to the Principles in guiding their conduct.

In accordance with the Localism Act provisions, when acting in their capacity as Councillors, all Councillors must be committed to behaving in a manner that complies with the following Code.

THE CODE

SELFLESSNESS:

Councillors must act solely in terms of the public interest. This means they must not act in order to gain financial or other material benefits for themselves, their family, or their friends. They must not use their position improperly to confer an advantage or disadvantage on any person.

INTEGRITY:

Councillors must not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Councillors must comply with the Gifts and Hospitality Protocol in Part 5 of the Constitution.

OBJECTIVITY:

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, Councillors must make choices on merit.

ACCOUNTABILITY:

Councillors are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

This means Councillors will co-operate with the Monitoring Officer or Local Hearing Panel in the course of consideration, investigation or determination of any complaint brought under this Code of Conduct.

OPENNESS:

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

A Councillor must not, without the consent of the Council or as required by law, disclose information which is

- Contained within an exempt or confidential report within the meaning of the Local Government Act 1972; or
- Which is otherwise confidential to the Council or shared with the Councillor under conditions of confidentiality

Councillors must not disclose any information given to them under conditions of confidentiality by any other person except to the extent that such a disclosure is permitted by law – e.g. due to overriding public interest.

HONESTY:

Councillors have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

This means Councillors will comply with the law relating to disclosable pecuniary interests.

Councillors should be aware that the requirement to resolve conflicts arising in a way that protects the public interest may on occasion require them to disclose interests other than disclosable pecuniary interests and to take no part in debates or votes which engage those interests.

RESPECT:

Councillors must at all times show respect to each other, staff and members of the public and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government. Councillors may not always agree with the political views of their member colleagues, but they respect the right for those views to be held.

This means in particular that Councillors will not bully or harass any person. This means, for example, that they will not:-

- use offensive intimidating malicious or insulting behaviour or abuse or misuse power to undermine, humiliate, criticise unfairly or injure any person; or
- be guilty of unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.

Section D3 of Part 5 of the Constitution – Protocol on Harassment Intimidation and Unacceptable Behaviour gives more detail on these behaviours and applies between members and officers.

LEADERSHIP:

Councillors promote and support these principles by leadership and example.

NOTE ON SOCIAL MEDIA

Councillors should note that this Code of Conduct governs their activities on social media in the same way that it governs other activities and councillors should be mindful that the ease of use and very public nature of social media may carry additional risks of breaches of the Code.

NOTE ON PLANNING DEVELOPMENT CONTROL

Section D4 of Part 5 of the Constitution – Planning Development Control Process sets out supplementary requirements in relation to planning which shall form part of this Code of Conduct.

NOTE ON DISCLOSABLE PECUNIARY INTERESTS

The Localism Act 2011 further provides for registration and disclosure of interests and in Lincolnshire County Council this will be done as follows:

On taking up office a member or added member must, within 28 days of becoming such, notify the Monitoring Officer of any 'disclosable pecuniary interests', as prescribed by the Secretary of State.

On re-election or re-appointments, a member or added member must, within 28 days, notify the Monitoring Officer as if for the first time of any 'disclosable pecuniary interests' whether or not such 'disclosable pecuniary interests' were already included in his or her previous register of interests.

If a member or added member is aware that they have a 'disclosable pecuniary interest' in a matter they must not participate in any discussion or vote on the matter at a meeting and if present at the meeting must leave the room during discussion of the matter.

If a member or added member is aware of a 'disclosable pecuniary interest' in a matter under consideration at a meeting but such an interest is not already on the Council's register of interests or in the process of entry onto the register having been notified to the Monitoring Officer, the member or added member must disclose the 'disclosable pecuniary interest' to the meeting and register it within 28 days of the meeting at which it was first disclosed.

GIFTS AND HOSPITALITY PROTOCOL

1. CONTEXT

- 1.1 The Council's Members' Code of Conduct sets out the expected behaviours of its members and co-opted members. They are required to serve the public interest rather than act in order to gain financial or other benefits for themselves. They must not place themselves under any financial or other obligation to anyone who might seek to influence them in their official duties.

2. CAN GIFTS OR HOSPITALITY BE ACCEPTED?

- 2.1 There may be occasions when members of the Council are offered gifts or hospitality during the course of Council business. Before accepting such gifts or hospitality members should consider whether this would put at risk the integrity and reputation of the member, or the Council.
- 2.2 If gifts or hospitality are offered and their value is £50 or over for a single gift/hospitality or £100 or over for all gifts/hospitality from a single source in any year, members and co-opted members must register this on the form available from Democratic Services) within 28 days of receiving the offer of a gift or hospitality. The entry in the register should include the date, source and value of the gift or hospitality and whether or not the gift or hospitality was accepted. Any entries will be published on the Council's website.
- 2.3 The Monitoring Officer can advise on the matters to be taken into account in deciding whether a gift or hospitality can be accepted, taking into account any connection the member has with the person or organisation making the offer, but it will be a matter for the member to make the decision as to whether to accept or decline.
- 2.4 In deciding whether it is proper to accept any gift or hospitality members should:
- **Never accept a gift or hospitality as an inducement or reward for anything they do as a Member**
Members must not be influenced in the discharge of their duties by the offer of a gift.
 - **Only accept a gift or hospitality if there is a commensurate benefit to the Council**
Unless the benefit to the Council is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for the Member's benefit.
 - **Never accept a gift or hospitality if acceptance might be open to misinterpretation**

Perceived impropriety can be just as damaging as actual impropriety. Members should take care to ensure that the impression is not given that they or the Council are under any improper obligation because of the gift or hospitality.

- **Never accept a gift or hospitality that puts them under an improper obligation**
Members must not give the impression that commercial organisations and private individuals can buy influence.
- **Never solicit a gift or hospitality**
Members must not invite an offer of a gift or hospitality in connection with their position as a member and they should take care to avoid giving any indication that they might be open to such an improper offer.

Note: Regardless of the requirements of the Council in relation to gifts and hospitality, under the Bribery Act 2010 the acceptance of a gift or other advantage as an inducement to behave in a certain way in a Council transaction is a criminal offence, with a maximum sentence of ten years in jail.

3. GIFTS

- 3.1 As a general rule gifts should be refused tactfully, this includes all such offers from organisations or persons who do, or might, provide work, goods or services to the Council, or who need some decision from the Council. These rules also apply to discounts offered to an individual member going beyond those offered to the general public (other than those available to all Members and Officers).
- 3.2 As general guidance, the following small gifts worth under £50 may occasionally be accepted (providing that they do not conflict with the General Principles listed in 2 above):
- (a) Office equipment or stationery given by way of trade advertisements or for use in the office. Examples would be pens, mugs, calendars or diaries. (NB: Members should take care not to display any such branded items when this might be taken as an endorsement or indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise).
 - (b) Gifts of only token value given on the conclusion of an official courtesy visit, for example, a commemorative plaque from a visiting delegation. A box of chocolates or flowers valued less than £50 could be accepted provided they are given as a genuine show of appreciation of work undertaken, but they should never be accepted if it could give rise to an appearance of influence or reward.

4. HOSPITALITY

- 4.1 Offers of hospitality should always be approached with caution and offers of hospitality where any suggestion of improper influence is possible must be refused.
- 4.2 Where hospitality is accepted it must be on a scale appropriate to the occasion or the circumstances. Acceptance may make it difficult to avoid some obligation to the party offering it and may later be thought to have affected a member's impartiality in dealing with official matters.
- 4.3 Examples of hospitality that should always be refused include offers of holiday accommodation. Others will need to be considered on their facts. For example invitations to sporting events, evenings at the theatre or similar entertainment, should only be accepted when they are required for the conduct of Council business or can properly be considered to provide a commensurate benefit to the Council, **not the individual member**.
- 4.4 It will not always be possible to reject offers of hospitality. Acceptable hospitality is that not exceeding £50 in value, such as official hospitality at a function organised by a public authority; a drink and sandwich following a site visit; or a working lunch of modest standard to enable business discussions. Members should never accept hospitality that may give rise to appearance of influence or reward.

5. WILLS AND BEQUESTS

- 5.1 If there is a connection between the work of a member and them being a beneficiary under a will they will need to consider that benefit carefully in accordance with the General Principles listed in 2 above. Members should discuss this matter fully with the Monitoring Officer before a decision is taken on acceptance or refusal.

6. GIFTS TO THE COUNCIL

- 6.1 Members may be offered gifts for the Council rather than in their individual capacity as a member. In such cases the offer should be reported immediately to the Monitoring Officer who will determine in accordance with normal Council processes whether the Council should or should not accept the gift.
- 6.2 The Monitoring Officer will notify the person or organisation offering the gift whether it is accepted or not and will:
- Record the acceptance or non-acceptance
 - Record the outcome for audit purposes
 - Ensure the gift, if accepted, is properly applied for the benefit of the Council

7. GIFTS TO THE CHAIRMAN

- 7.1 Gifts received by the Chairman of the Council in his or her official capacity are deemed to be gifts to the Council. The Chairman should record the receipt of all such gifts in the Register and in consultation with the Monitoring Officer determine how best they could be used for the benefit of the Council.

8. DECLARATIONS AT MEETINGS

- 8.1 If a matter under consideration at a meeting is likely to affect a person or organisation who has given a member a gift or hospitality, the member must declare the existence and nature of the gift or hospitality, the source who gave it to them and how the business under consideration relates to that source.

LOCAL ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT MEMBERS UNDER THE LOCALISM ACT 2011

1. Introduction

- 1.1 These "arrangements" set out how you may make a complaint that an elected or co-opted member of Lincolnshire County Council (the Council) has failed to comply with the Council's Code of Conduct. They also set out how the Council will deal with any complaints of a failure to comply with the Code of Conduct.
- 1.2 The Council must appoint at least one Independent Person, whose views must be sought by the Council before it makes a decision on an allegation that it has decided to investigate. The Independent Person may also be consulted by the Monitoring Officer at any stage of these arrangements and may be consulted by a Member. References to the Independent Person in this document are references to any person appointed by the Council as an Independent Person at the given time.
- 1.3 These arrangements reflect the commitment of Group Leaders to maintaining high standards of conduct and their wish to demonstrate that commitment by playing a leading role.

2. Making a Complaint

- 2.1 A complaint must be made in writing by post or e-mail to:

The Monitoring Officer
County Offices
Newland
Lincoln
LN1 1YS

E-mail: monitoring.officer@lincolnshire.gov.uk

- 2.2 Any complaint must provide sufficient detail about why the person complaining (the Complainant) considers that there has been a failure to comply with the Code of Conduct .
- 2.3 The Council will not consider anonymous complaints unless there is a clear public interest in doing so. In the interests of transparency and fairness, the identity of the Complainant will be made known to the subject of the complaint (the Subject Councillor) and those who have to deal with the complaint. When a Complainant requests confidentiality, this will be considered by the Monitoring Officer who retains ultimate discretion as to whether to release details to the Subject Councillor or other officers.
- 2.4 The Monitoring Officer's decisions at all stages are final and there is no right of appeal or review of their decision.

3. Initial Assessment of a Complaint

- 3.1 On receipt of a complaint the Monitoring Officer will acknowledge receipt within five working days and inform the Complainant what will happen next. The Monitoring Officer will also inform the Subject Councillor and relevant Group Leader that a complaint has been received. The Monitoring Officer will keep the Complainant, Subject Councillor and relevant Group Leader informed of progress at regular intervals.
- 3.2 The Monitoring Officer will then carry out an initial assessment of the complaint. At this initial assessment stage, the Monitoring Officer will review the complaint and may consult the Independent Person before making a decision about whether to take any further action concerning the complaint. The Monitoring Officer may require further information from the Complainant or Subject Councillor before making a decision on the initial assessment.
- 3.3 No further action will be taken on any complaint if, the opinion of the Monitoring Officer:-
 - 3.3.1 the behaviour complained of falls outside of the Code of Conduct; or
 - 3.3.2 the Subject Councillor was not acting in their capacity as a member of the County Council.
- 3.4 Whether the Subject Councillor was acting in their capacity as a member of the County Council is a judgment to be made in individual cases. Relevant considerations will include the degree to which the behaviour was public including whether it involved the use of publicly available social media and whether the Subject Councillor claimed to act or gave the impression that they were acting in their capacity as a member or representative of the County Council.
- 3.5 A complaint will not normally progress beyond the initial assessment stage if it is considered by the Monitoring Officer to be within any of the following criteria:-
 - 3.5.1 If the complaint is the same or substantially the same as a previous complaint (regardless of whether it is the same Complainant);
 - 3.5.2 If the time since the alleged behaviour is significant so as to be inequitable, unreasonable or otherwise not in the public interest to pursue;
 - 3.5.3 If the complaint (in the view of the Monitoring Officer) discloses only a minor or trivial breach of the Code of Conduct that it is not in the public interest to pursue;
 - 3.5.4 If the complaint is or appears to be (in the view of the Monitoring Officer) malicious or otherwise submitted with an improper motive and the complaint is not considered to disclose sufficiently serious potential breaches of the Code of Conduct to merit further consideration;

- 3.5.5 If the complaint is considered by the Monitoring Officer to be persistent and/or vexatious and is not considered (in the view of the Monitoring Officer) to disclose sufficiently serious potential breaches of the Code of Conduct to merit further consideration;
 - 3.5.6 If the Subject Councillor has remedied or made reasonable endeavours to remedy the subject matter of the complaint and the complaint does not (in the view of the Monitoring Officer) disclose sufficiently serious potential breaches of the Code of Conduct; and
 - 3.5.7 If the complaint is about a person who is no longer a member of the Council and there is (in the view of the Monitoring Officer) no overriding public interest in pursuing the complaint further.
- 3.6 The standards complaints process does not exist to determine how well a member or co-opted Member fulfils their role on the Council or determine dissatisfaction on the part of a resident as to the way a member has responded to their concerns. Examples would include delay or failure to respond. These are matters for the democratic process with which it would be inappropriate for the Monitoring Officer to become involved. If in the view of the Monitoring Officer a complaint relates to the Subject Councillor's fulfilment of their role they will refer the complaint to the relevant Group Leader to consider.
- 3.7 These arrangements are not intended to apply to allegations of criminal offences or other regulatory breaches which will be referred by the Monitoring Officer to the Police or other regulatory body. If the matter is referred to the Police or other relevant regulatory body the Monitoring Officer will take no further action on the complaint.
- 3.8 If, following the initial assessment, the Monitoring Officer determines that no further action should be taken, the Monitoring Officer will notify the Complainant of this fact and the reasons for their decision. The Monitoring Officer will also notify the Subject Councillor (copying the relevant Group Leader) with details of the decision made and the reasons for the same.
- 3.9 If, following the initial assessment, the Monitoring Officer determines that further action should be taken, the Monitoring Officer may
- 3.9.1 Arrange appropriate actions (e.g. mediation or training);
 - 3.9.2 Refer the complaint to the relevant Group Leader for informal action; or
 - 3.9.3 Arrange a formal investigation of the complaint.
- 3.10 The Monitoring Officer will inform the Complainant, the Subject Councillor and the relevant Group Leader of the result of the initial assessment within 15 working days of receipt of the complaint by the Monitoring Officer or if further

information is required under paragraph 3.2 above, within 15 working days of receipt of all such further information.

4. Where further action is required

- 4.1 Where the Monitoring Officer (in consultation with the Independent Person) considers that the complaint should progress beyond the initial assessment stage and that some form of action should be taken, they will inform the Subject Councillor and relevant Group Leader of their decision. The Monitoring Officer will seek representations from the Subject Councillor, will consult with the relevant Group Leader and may consult with the Independent Person before determining the next steps.
- 4.2 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Where the Subject Councillor makes a reasonable offer of informal resolution which the Complainant is not willing to accept, the Monitoring Officer will take this into account when deciding whether the complaint merits formal investigation.
- 4.3 In determining whether to proceed to a formal investigation the Monitoring Officer will consider:-
- 4.3.1 whether there is evidence to support the complaint;
 - 4.3.2 whether the subject matter is something that it is possible to investigate;
 - 4.3.3 whether an investigation would be proportionate; and
 - 4.3.4 whether the behaviour complained of has a sufficiently significant impact on public perception of or trust in the Council or local democracy that an investigation would be in the public interest.
- 4.4 Where the Monitoring Officer determines that a formal investigation is required, they will appoint a suitable person to investigate the complaint.
- 4.5 Where the Monitoring Officer, in consultation with the Independent Person, on the basis of the results of the investigation finds that there has not been a breach of the Code of Conduct, the Monitoring Officer will notify the Subject Councillor, Group Leader and Complainant of the outcome.
- 4.6 Where the Monitoring Officer, in consultation with the Independent Person, on the basis of the investigation, finds that a breach of the Code of Conduct has occurred, the Monitoring Officer may seek to resolve the matter informally or make arrangements for a Local Hearing.

5. A Local Hearing

- 5.1 A Local Hearing will be conducted by at least three non-Executive members of the Council from at least two political groups, drawn from the Audit Committee of the Council as nominated by the Chairman of the Audit Committee. The

Chairman of the Audit Committee will consult with Group Leaders on these nominations.

- 5.2 The Local Hearing will be conducted in accordance with the Hearing Process attached at Appendix A to these arrangements.
- 5.3 Where the Local Hearing determines that a breach of the Code of Conduct has occurred they will, except in the circumstances described in paragraph 5.4, make recommendations to the relevant Group Leader who will decide the appropriate actions and notify the Subject Councillor and the Monitoring Officer. The Monitoring Officer will notify the Complainant.
- 5.4 Where the Local Hearing, having consulted with the Independent Person, decides that a breach has occurred and that the breach is of extreme seriousness the Local Hearing may determine that a motion of censure or reprimand of the Subject Councillor be referred to the next full Council meeting.
- 5.5 The Monitoring Officer or Local Hearing have no power to suspend or disqualify the Subject Councillor, to withdraw Member's basic or special responsibility allowances or to recommend other outcomes.

6. Special Applications

- 6.1 In cases where the Subject Councillor complained about is not part of a recognised political grouping, the Monitoring Officer will proceed as detailed above save from liaison with any Group Leader.
- 6.2 In cases where the complaint is against a Member who is a Group Leader, the Monitoring Officer will proceed as detailed above save that the Monitoring Officer will consult a Senior Member from outside the Council (nominated for that purpose in advance of any complaint by the Group Leader) in all cases where they would have consulted a Group Leader. In such cases, the Local Hearing will consult that Senior Member in addition to the Independent Person. In such cases the Local Hearing will make recommendations as to the action to be taken under paragraph 5.3 above to the relevant Deputy Group Leader who will decide the appropriate action to be taken.
- 6.3 Where the Monitoring Officer is unable to act in relation to these arrangements by reason of any conflict of interest or otherwise he may appoint a Deputy Monitoring Officer for the purpose from within the Council or appoint an independent Monitoring Officer from another authority to act as Monitoring Officer for the purposes of this arrangement.

7. Revision of these Arrangements

- 7.1 The Council may by resolution agree to amend these arrangements and has delegated to the Monitoring Officer the right to depart from these arrangements where they consider that it is expedient to do so to secure the effective and fair consideration of any matter.

8. Appeals

- 8.1 There is no right of appeal for the Complainant or Subject Councillor against a decision of the Monitoring Officer or the decision or recommendations of the Local Hearing. If a Complainant believes that the Council has failed to deal with their complaint properly, they may submit a complaint to the Local Government Ombudsman.

LOCAL HEARING UNDER THE MEMBERS CODE OF CONDUCT

HEARING PROCESS

Introduction

- 1 This document sets out the Procedure to be followed at meetings of a Local Hearing Panel constituted under paragraph 5 of the Local Arrangements for Dealing with Standards Complaints under the Council's Constitution.
- 2 The role of the Panel is to consider the Investigators Report and representations, the Subject Councillor's representations and to consult the Independent Person and decide whether there has been a breach of the Members Code of Conduct.

Persons Attending

- 3 The following persons shall be in attendance at the Hearing which shall be conducted in private.
 - 3.1 the Panel;
 - 3.2 the Monitoring Officer;
 - 3.3 the Independent Person;
 - 3.4 a clerk to take notes of the Hearing
 - 3.5 the Subject Councillor";
 - 3.6 one person to accompany and assist the Subject Councillor; and
 - 3.7 the investigator.

Notice of the Hearing

- 4 At least 7 days' notice of the Hearing will be given to the Panel, the Subject Councillor and the investigator unless a shorter time is agreed at the request of the Subject Councillor. The notice shall be accompanied by the investigator's report and accompanying documents and a copy of this Hearing Process.

Process at the Hearing

- 5 The process at the Hearing will be as follows:-
 - 5.1 The Panel Chairman will make introduction and explain the process to be followed;

- 5.2 The investigator will present their Report and conclusions and the evidence on which it is based;
 - 5.3 The Subject Councillor will have an opportunity to ask questions of the investigator;
 - 5.4 The Panel and Independent Person will have an opportunity to ask questions of the investigator;
 - 5.5 The Subject Councillor presents his or her case;
 - 5.6 The investigator will have an opportunity to ask questions of the Subject Councillor;
 - 5.7 The Panel and Independent Person will have an opportunity to ask questions of the Subject Councillor;
 - 5.8 The investigator summarises the results of their investigation;
 - 5.9 The Subject Councillor summarises his or her response including making any representations as to the steps he or she would wish the Panel to take if it decides that there has been a breach of the Members Code of Conduct; and
 - 5.10 The Panel Chairman declares the Hearing to be closed.
- 6 When the Panel Chairman declares the Hearing closed the Councillor and the investigator will withdraw.
 - 7 The Panel will deliberate taking advice on issues from the Independent Person and on process from the Monitoring Officer.
 - 8 On reaching a decision the Subject Councillor and the investigator will be called in and the Panel Chairman will inform the Subject Councillor of their decision and, where their decision is that there has been a breach of the Members Code of Conduct, whether they will make recommendations to the relevant Group Leader or put a motion of censure to the Council.

After the Hearing

- 9 As soon as reasonably practicable after the Hearing the Monitoring Officer will prepare a formal decision notice in consultation with the Panel Chairman and send a copy to the Subject Councillor and (where applicable) the Subject Councillor's Group Leader. The decision notice will include the reasons for the decision.
- 10 The Monitoring Officer will send the decision notice to the complainant and make the decision notice available for public inspection on the expiry of two working days after the formal decision notice was sent to the Subject Councillor and (where applicable) Group Leader and will report the decision to the next convenient meeting of the Audit Committee.

OFFICERS' CODE OF CONDUCT

The purpose of the Code of Conduct is to supplement an employee's terms and conditions of employment and to support the Council's Vision, Purpose, Values and Behaviours, which can be found on the 'People Make it Happen' site on the Council's Intranet, George.

LINKS WITH OTHER POLICIES

The Code of Conduct draws together policies and requirements of the Council and aims to assist employees in performing their duties to the best of their ability.

Employees are required to familiarise themselves with the contents of the Code and the documents referred to therein. It cannot cover every eventuality and if in any doubt or any additional guidance is required, employees should consult their Manager/Human Resources/People Management contact.

The Code applies to all employees of the Council. A breach of the Code may lead to disciplinary action – see the disciplinary rules in the Council's Disciplinary Policy.

This Code of Conduct also encompasses guidelines from the National Code of Conduct. It is also based upon the key principles of public life recommended by the Committee on Standards in Public Life (The Nolan Committee) and a complementary set of guidelines are issued to County Councillors.

These principles are as follows:

1 HONESTY, INTEGRITY, IMPARTIALITY AND OBJECTIVITY

An employee must perform their duties with honesty, integrity, impartiality and objectivity.

Employees serve the Council as a whole and have individual responsibility as part of their job roles for implementing policy, delivery of services and operational management of the Council.

Those employees, where it is part of their duties, will work at senior level with political sensitivity to advise and support members, will ensure members have appropriate and timely information on key issues and decisions; and will give members independent and professional advice, not influenced by political views or preferences.

It is also vital that employees understand that it is not just about reality it is also about perception. The public has a right to expect the highest levels of integrity and responsibility from all employees. This must be capable of demonstration and therefore actions, which would lead to a loss of confidence through perceptions, are as critical as any others.

Political Neutrality

Employees serve the Council as a whole and are required to serve all councillors and not just those of the controlling group. Employees in their job may also be required to advise political groups. Employees should not be involved in advising any political group, nor in attending any of their meetings, without the express consent of their Manager/Director and must not compromise their political neutrality. As an employee of the Council employees are required to serve the Council and cannot, therefore, be accountable to individual Political Groups and must not allow their personal political opinions to interfere with their work.

Part 1 of the Local Government and Housing Act 1989 imposes certain restrictions on employees of local authorities if they hold what is known as a politically restricted post or are employed in a post which could be described as 'politically sensitive'.

These arrangements were changed slightly as a result of the Local Democracy, Economic Development and Construction Act 2009. The political restriction is now limited to the role of the employee rather than previously by salary level.

The terms of restriction constitute contractual provisions.

Employees seeking further details should check with their Manager/Human Resources/People Management contact or see the Council's Policy and Procedure on Politically Restricted Posts which incorporates advice on Local Authority Employees standing for Election.

2 ACCOUNTABILITY

An employee must be accountable to the authority for their actions.

Compliance with Legislation, Terms and Conditions of Service and other written guidelines

During the course of work employees should at all times be aware of and comply with all relevant legislation; for example the Health and Safety at Work Act 1974, the Equality Act 2010, the Data Protection Act 1998, Freedom of Information Act 2000, The Computer Misuse Act 1990 etc. and legislation relating to each service area. However this list is not exhaustive.

Safeguarding

Employees working with children and adults have a responsibility to safeguard and promote the welfare of children and adults during the course of their work.

Conditions of Service

Employees should also have read and understood the conditions of service under which they are employed, including all local policies, which take into account all legislation and the local and national schemes. These policies are contained within the Council's Employment Manual or for further information contact Human Resources/People Management. In particular employees should be aware of:

- The Grievance and Dignity at Work procedures in order to express individual and personal concerns
- The Disciplinary Policy which also contains the disciplinary rules

- Equality and Diversity in Employment – ‘It’s Only Fair’

All Council employees must ensure that policies relating to equality issues are complied with in addition to the requirements of the law. All members of the community, clients and other employees have the right to be treated with fairness and equity regardless of race, colour, nationality, ethnic or national origins, religion or belief, gender, gender reassignment, sexual orientation, marital status, civil partnership status, disability or age.

Employees should ensure that they are aware of and follow the advice and guidance about using ‘social media’ as contained in the Social Media Policy. The term ‘social media’ includes websites, online tools, blogs and other Interactive Communication Technologies (ICT). The Social Media Policy applies to all service areas, employees engaged on council business and employees’ personal use of social media where it could be deemed to have a negative impact on the Council’s reputation.

The Social Media Policy is available on the Council’s internet, and other related policies, including the IT and E-mail Policies, can be viewed via George. Employees should also comply with the related legislation and guidance that informs Information Governance.

Employees should be suitably dressed for their duties and responsibilities, including the wearing of appropriate safety clothing and equipment, in accordance with all Health and Safety regulations.

In addition, employees should be conscious of, and ensure that they are complying with, any other specific guidelines issued by their Service/Director Area. If an employee is a member of a professional institute or association they are also obliged to comply with any professional code and/or standards of practice pertaining to that organisation e.g. GTC Teachers code of conduct, accountancy professional bodies’ codes of conduct, social care codes of conduct.

3 RESPECT FOR OTHERS

An employee must:

- a) treat others with respect,**
- b) not discriminate unlawfully against any person; and**
- c) treat members and co-opted members of the authority Council professionally.**

Dignity at work

Employees

The working environment of the Council is one where all its employees are treated with dignity and respect. There should be mutual respect between all employees. The Council has procedures in place to deal with harassment, discrimination, victimisation and bullying.

Councillors

For some employees, their role is to give advice to councillors and all are there to carry out the business of the Council. Mutual respect between employees and

councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors, and should therefore be avoided. Employees who have or enter into a personal relationship with a councillor should declare this to their Line Manager.

The Local Community and Service Users

As a local government employee, employees are expected to give the highest possible standard of service to the public and where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality. In carrying out duties and responsibilities, an employee's honesty and integrity must be beyond question. Employees must never use their authority or position for personal gain, or to enable colleagues or others to gain personally. An employee's own Service or Director Area may have its own customer care policy in addition to these guidelines. Please also refer to the Council's Corporate Customer Service Policy.

Contractors

All relationships of a business or private nature with external contractors or potential contractors of the Council should be made known to the appropriate manager in the department. Orders and contracts must be awarded on merit in fair competition with other tenders and no part of the local community should be discriminated against or special favours shown.

Financial

If an employee discovers that a contract in which they have a financial or other interest has been or could be entered into by the Council they are required under Section 117 of the Local Government Act 1972 to advise their Manager/Director in writing.

4 STEWARDSHIP

An employee must:

- a) use any public funds entrusted to or handled by themselves in a responsible and lawful manner,**
- b) not make personal use of property or facilities of the Council unless properly authorised to do so.**

Patent and Copyright

Patent

Any matter, item or idea capable of being patented under the Patents Act, which is developed or discovered by an employee, alone or together with colleagues, in the course of their duties, must be disclosed to their manager, and subject to provisions of the Act belongs to the Council.

It is the responsibility of the Council in the first instance to decide whether to apply for patent or other protection in law for any invention, which belongs to the Council by virtue of the Patents Act.

Copyright

All records, documents and other papers relating to the finance and administration of the Council and which are compiled or acquired by an employee in the course of their employment are and will remain the property of the Council, and the copyright in all such cases belongs exclusively to the Council.

In the case of academic work, such as projects undertaken as part of a course to further their professional career, and including books, contributions to books, articles and conference papers, the copyright will belong to the employee.

Care and Use of Council Resources

Council resources, whether tangible assets such as materials, equipment and cash, or business information such as trade secrets, may not be used other than for the proper advancement of the business of the authority.

All equipment belonging to the Council should be treated with due care and respect. Any employee wishing to use an item of equipment, for example a photocopier, word-processor or printer, for business other than that of the Council, must gain permission from their manager in advance.

Security and Use of Computer Data/Equipment

The information stored and processed on the information technology systems operated by the Council is of paramount importance to its day to day activities. It is essential that data and systems are adequately secured against risks such as operator errors, theft of equipment, unauthorised access to or copying of programmes, use of unauthorised software on Council machines (which increases the risk of importing computer viruses) and natural hazards such as fire, flood and power failures.

Relevant legislation, in the form of the Data Protection Act 1998 and the Computer Misuse Act 1990 must be complied with. Copies of these Acts are available from Legal Services. Further advice is available from Information Governance.

Employees must ensure that no unauthorised person gains access to equipment/data, which is within their responsibilities. No data should be released unless finally approved and that conforms with Data Protection legislation. User identifications and passwords must not be disclosed to anyone, and passwords must be changed regularly to a previously unused password. For further guidance on computer security and Information Governance, please see the Council's Corporate Information Security Policy via George.

Council policies apply to e-mail use in the same way as normal mail and use of the telephone. Misuse and time wasting is unacceptable and personal messages should be kept to a minimum. E-mail must not be used to undertake personal business for monetary gain.

Under the law, if an e-mail message is sent during the course of an employee's employment which is defamatory, the employer is liable even if the message is sent between one employee and another. E-mails are not normally deleted from the system and are available for audit purposes. The tone and content of messages

should be appropriate and consistent with any other form of Council communication.

For further guidance on email use please refer to the Council's Email Policy contained in the Corporate Information Security Policy via George.

Personal use of the Internet, including Social Media, is permitted by employees provided that the Internet and Intranet Policy contained in the Corporate Information Security Policy and Social Media Policy are adhered to and it does not impact on their job or interfere with the performance of other staff doing their job. There should be no access to sites which have a terrorist, offensive, sexual or game playing/gambling content. Access to the internet is monitored on a regular basis.

Any breaches of the Corporate Information Security Policy may lead to disciplinary action being taken against the employee(s) involved.

Employees should have read and understood the Corporate Information Security Policy which is available on LCC Connects.

5 PERSONAL INTERESTS

An employee must not in their official or personal capacity:

- a) allow their personal interests to conflict with the Council's requirements; or**
- b) use their position improperly to confer an advantage or disadvantage on any person.**

Alcohol/Drugs

The Council has a policy on the Prevention of Alcohol and Drug misuse, which is aimed at ensuring that employees report fit for work and remain fit to perform their duties. The consumption of alcohol is not permitted on Council premises unless specifically approved by the Manager. The Council prohibits the use, possession, distribution or sale of drugs at the work-place, or when conducting Council business (see the Prevention of Alcohol and Drug Misuse Policy in the Health and Safety Manual).

Where it is established that there is an alcohol or drug dependency problem, this will be considered as a treatable illness and managers will provide assistance wherever possible. The Employee Support and Counselling Service is also available to provide counselling and advice. Where an employee refuses help or drops out of a treatment programme this will not be automatic grounds for dismissal; however any unacceptable behaviour or level of performance thereafter will be subject to appropriate action.

Other Personal Interests

Employees are also required to declare an interest if it comes to their attention that they have a connection or potential connection with any business or organisation (including voluntary bodies) which deals with the Council.

An employee's life away from work is their personal concern. An employee should not however, subordinate their work to their private interests or put themselves in a

position where their job, or the Council's interests and their own personal interests conflict. This includes behaviour, which because of the nature of employment would undermine the Council's confidence or trust in the employee.

An example of such behaviour relates to Council employees facing criminal charges. The Council requires all employees to notify their Manager/Director without delay of any criminal investigation, charge or caution imposed upon them, with the exception of minor driving offences if their job does not include the use of a car. These rules apply for charges incurred on or off duty. A minor driving offence for these purposes is an offence for which a police officer could issue a fixed penalty notice.

Additional Employment

The Council will not prevent an employee from undertaking additional employment providing it does not conflict with the interests of, or in any way weaken public confidence in the Council and does not in any way affect performance of their duties and responsibilities whilst they are at work, or where their current position could confer advantage to their private interest/personal gain. If there is a conflict the manager can ask for an employee to discontinue with the conflicting private business interests.

Employees have a duty to take reasonable care of their own health and safety. Employees must inform their Manager if they have/take up additional employment, particularly where this means that their total number of hours worked, exceed an average of 48 hours per week, or which could have a detrimental effect on their health and safety (see the Health and Safety Manual - Working Time Regulations).

Employees whose salary is above Pay Grade 8 are specifically required to obtain consent from their Manager if they wish to take up any additional employment.

A related issue concerns payment received by employees for work which arises principally as a result of work-related skills and is carried out for private purposes during working hours (by prior agreement) or using Council information, equipment or facilities.

Examples might be when an employee writes a book using Council-owned information and equipment, or an employee who produces computer software using skills or know-how gained from their employment by the Council which is capable of being marketed outside the Council for profit.

Copyright in such work is covered by the section on copyright above. However, the question also arises of who should retain payments for such work given the use of Council developed skills or time or information, equipment or facilities (i.e. the Council, the employee or a split between the Council and the employee).

Should an instance of this nature arise employees should consult Human Resources/ People Management, who will make a decision regarding the acceptability of the project and, if applicable, how resultant payments will be handled, prior to commencement of any such work.

6 REGISTRATION OF INTERESTS, GIFTS AND HOSPITALITY

Registration of Interests

- a) Employees must register any interest they or their spouse or partner have which may conflict with the Council's interests, by providing written notification to their line manager, using the Officer Interests Registration Form, of any employment by, substantial shareholding in, or membership of any external company or body, including voluntary organisations, which has or may enter into a contractual relationship with the Council or which is involved in campaigning or lobbying in respect of any Council activity. The line manager will then pass that information to the Democratic Services Manager who will enter it in a register of interests held for that purpose.
- b) If an employee lets contracts or are involved in any way in engaging or supervising contractors the employee must make a declaration to their manager immediately if either they or a relative or friend has any personal interest in respect of the contractor or potential contractor. That interest may arise through employment, by a substantial shareholding in or membership of the contracting company or body.
- c) The manager must then take steps to ensure any potential problems arising from the conflict of interests are addressed. This may be by identifying another employee to carry out the tendering process or deal with the contractor or potential contractor, or may involve putting in place any necessary safeguards to protect the Council's position and also to protect the employee's position.
- d) A 'significant interest' in a company is one where an employee, their relatives and members of the same household in total have more than a 20% shareholding in a company. However, it may be that a shareholding below 20% is 'significant' for example, where the individual has veto rights or exercises control/influence over the company in other ways. If in doubt, employees should seek further clarification from their line manager.
- e) A 'Relative' of the employee means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, cousin, or the spouse or partner of any of the preceding persons, and partner means a member of a couple who live together.
- f) A 'friend' can be regarded as someone well known to another and regarded with liking, affection and loyalty by that person. A closer relationship is implied here rather than mere acquaintance.

Registration of Gifts and Hospitality

Employees are expected to refuse personal gifts and hospitality offered to them or members of their family by any person or body that has or seeks dealings of any kind with the Council, subject to the following:

- gifts and hospitality of 'token value' may be acceptable, e.g. a pen, diary or a modest lunch, provided it is not a regular practice, and
- where the acceptance of refreshments or a meal would in any event be appropriate in the conduct of normal business

Particular care should be taken if an employee is purchasing goods or services on behalf of the Council. Where any gift or hospitality is offered, it should be recorded using the Officer Interests Registration Form in the Corporate Register in Democratic Services, whether or not it is to be accepted. Where it is to be accepted, approval should be obtained, preferably in advance, from the employee's manager.

In the case of an employee becoming a beneficiary in a service user's will, employees must refuse to accept the legacy/bequest regardless of its size or value if it is as a consequence of their employment. Employees must also report the legacy/bequest to their manager/executive director. Acceptance of such legacies/bequests will result in disciplinary action.

Acceptance of such legacies/bequests will result in disciplinary action.

Offers from companies of promotional sales should be declined. Employees should bring such matters to the attention of their manager in order that a decision can be made as to whether it is appropriate to inform the Director of Resources, who can write to the company concerned, indicating that improved discounts are the only form of promotion acceptable to the County Council.

It is unacceptable for employees to use their own, relatives or friends personal loyalty cards while making purchases on behalf of the Council or service users.

Any prizes won while on Council business or while using Council funds should be reported immediately to their manager/executive director who will make a decision on the acceptability of such a prize.

Where an external organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender negotiation or voluntarily, the conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

From time to time the Council sponsors or gives grants for sporting and cultural events such as exhibitions, plays or performances, or games. The general rule is that no employee, nor any partner, spouse or relative shall receive any benefit from such sponsorship or grant in a direct way without there being full disclosure to their manager/executive director of any such interest. Similarly, where the Council, through sponsorship, grant aid, financial or other means, gives support in the community, employees must ensure that impartial advice is given and that there is no conflict of interest involved.

Gifts

When deciding whether or not to accept an offer of a gift, the context is very important. An offer from a company seeking to do business with the Council made to an employee involved in letting a contract is unlikely ever to be acceptable, regardless of the value of the gift.

By contrast, a small gift given at Christmas by a service user as a gesture of appreciation to an employee will generally be acceptable and could cause offence if returned.

Employees must never accept monetary gifts of any kind, whether in the form of cash, or cheques, vouchers or coupons.

Employees must always record the reason for accepting any gift worth over £25. It may be that the manager agrees the gift is accepted on the basis it is shared by a staff group or, where appropriate, it is used as a raffle prize or for a fund-raising event to benefit service users. A series of gifts which altogether total more than £25 in value should be registered.

Hospitality

Examples of hospitality which can be accepted are:

- refreshments or a meal given during or at the conclusion of business
- invitation to a Society or Institute dinner

Examples of hospitality which are not acceptable

are:

- a holiday or business trip paid for by business contacts
- use of a company flat/hotel suite

Offers of free hotel accommodation/tickets for concerts or sporting events should be treated with extreme caution. These will invariably be valued substantially in excess of £25 and you must record why such hospitality has been accepted. If in doubt, any offer of hospitality should be declined. In addition, any prizes offered at a hospitality event and won by an employee must be entered in the Register as a separate item.

Any breaches of the requirements relating to interests, gifts and hospitality will result in disciplinary action being taken against the employee(s) involved.

If an employee is concerned about a particular gift or offer of hospitality, they should obtain advice on the operation of this guidance from the Democratic Services Manager or People Management Managers.

Guidance Notes

Registering/Declaring an Interest

The principles on which these requirements are based are that employees must ensure their personal interests do not conflict with their public duty or the interests of the Council, and the Council and the public must be able to be confident that decisions of whatever nature are made for good and proper reasons and are not influenced inappropriately by the interests of individual employees, their relatives or friends.

The requirement to enter an interest onto a register relates only to the employee's own interests, or those of their spouse or partner. The requirement to declare an interest during the course of employment is much wider and relates both to the employee's interests and those of their friends or relatives. An employee can only make a declaration of interest they themselves know about, and the requirement does not imply any obligation to make enquiries of an employee's friends and relatives as to the interests they hold.

The same principles apply to work carried out through partnerships, and care is needed to ensure that potential conflicts of interest are identified, declared and addressed appropriately.

If in doubt, employees should register and/or declare an interest. A helpful question to ask is; would a member of the public, knowing the facts; think that an employee's or their relatives' or friends' interests would influence the employee in their decision making?

The obligation to register an interest includes external employment which may conflict with the Council's interests. Whenever an employee is considering taking up employment outside the Council, the employee should always notify their manager as a matter of good practice.

Gifts and Hospitality

Many Council employees have dealings with people outside the Council, particularly members of the public, suppliers, contractors and other private organisations. Employees should treat with extreme caution any offer of a gift, favour or hospitality that is made to them personally. The person or organisation making the offer may be doing or seeking to do business with the Council, or may be applying to the Council for planning permission or some other kind of decision.

It is essential that employees adhere to the overriding principle that they do not compromise their position as public service workers by accepting gifts/hospitality and allowing themselves to reach the position where they might be, or might be thought by others, to have been influenced in making an important decision as a consequence.

A helpful question to ask is whether a member of the public, knowing the facts, would think that an employee of the Council might be improperly influenced by the gift or hospitality.

It is also important that the Council is seen to conduct its activities with integrity, and does not leave itself or its employees open to allegations of corruption and to bad publicity.

All offers of gifts or hospitality must be recorded, whether or not they are accepted. This ensures that the system is transparent and acts as protection for the employee concerned. However, there is no need to record receipt of promotional material of token value such as desk diaries or pens. Where the reasons for acceptance of a gift or hospitality cannot be expressed in a simple form of words and included in the Register, the reasons should be recorded separately and a cross-reference to the relevant document included in the Register.

7 REPORTING PROCEDURES

An employee must not treat another employee of the Council less favourably than other employees by reason that that other employee has done, intends to do, or is suspected of doing anything under or by reference to any procedure the authority has for reporting misconduct.

It is a breach of an employee's terms and conditions of employment if they victimise another employee who has used the Council's reporting procedures to report the misconduct of others.

The Confidential Reporting Code is intended to encourage and enable anybody who works for or on behalf of the Council to raise serious concerns within the Council rather than overlooking a problem, and to make it clear that reporting can happen without fear of reprisal.

Employees are contractually expected to report non-compliance of other employees within the Code. Under the Public Interest Disclosure Act 1998, employees are legislatively protected in the event that they raise any concerns. For further guidance please refer to the Council's Confidential Reporting Code (Whistle Blowing Policy) on George.

Employees will be expected, through agreed procedures and without fear of recrimination, to report any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety or breach of procedure.

Anti-Fraud and Anti-Corruption

The Council is committed to ensuring the maintenance of high standards in every aspect of its activities. As part of this commitment the Council will ensure that opportunities for fraud and corruption are identified and actively managed to reduce possible risks. Where there is a suspicion of fraud or corruption the Council will deal with it in a firm and controlled manner. This has been accepted by the full Council within their Policy.

8 OPENNESS

An employee must:

- a) not disclose information given to them in confidence by anyone, or information acquired which they believe is of a confidential nature, without the consent of a person authorised to give it, or unless they are required by law to do so; and**
- b) not prevent another person from gaining access to information to which that person is entitled by law.**

Openness and Use of Information

During the course of employment employees will come across confidential information. All employees must understand and comply with Information Governance requirements. This refers to the correct handling and management of information to comply with relevant legislation, confidentiality and security standards.

With the adoption of Agile Working throughout the Council an employee may be working in areas other than their normal office or in premises shared with staff working in other services provided by the Council. If an employee views, overhears or otherwise comes into contact with such information the privacy and confidentiality of this must be maintained at all times, unless an employee is expressly authorised to divulge it, or is required to do so by law, for example to members, auditors, government departments, service users and the public.

Employees should use their discretion to determine the appropriateness of where they hold conversations of a confidential nature (particularly when using a touchdown point or in a public place, for instance when using a mobile phone). They should ensure that they are aware of the Information Governance guidance document, 'Be Vigilant with Information.'

The duty of confidentiality is imposed on all staff no matter what their function or capacity within the Council. A breach of confidentiality may be considered a disciplinary matter.

Information Governance is the framework of law and best practice that regulates the manner in which information, (including information relating to and identifying individuals) is managed, i.e. obtained, handled, used and disclosed. It is a complex and rapidly developing area and one of the utmost importance since information is central to any organisation and underpins everything we do.

Information concerning an employee's private affairs must not under any circumstances be supplied to any person outside the service of the Council without the consent of the employee, nor to anyone within the Council unless that person has authority or responsibility for such information. Access to personal information is detailed in a separate policy.

Employees must never use their authority or position for personal gain, or to enable colleagues or others to gain personally. Any particular information received by an employee from a councillor which, is personal to the councillor and does not belong to the Council must not be divulged by the employee without prior consent of the councillor, except where disclosure is required or sanctioned by law.

If any employee has any reservations about any request to supply information they should immediately refer the matter to their Manager/Director.

I.D. Cards

To prevent security breaches the Council has an Identification Card scheme for all employees. Employees should ensure that they have their ID card with them at all times and if challenged by an appropriate person i.e. another county council employee, Councillor, or somebody working for the authority on a long term contract, they are to show the ID card to confirm their identity. The ID cards carry a passport style photograph which will be published on George 'People Finder' or its system replacement.

Media Contacts

Employees must not make statements to the media, or any other public statement which concerns the business of the Council unless they have been authorised by their Manager/Director to act generally as a spokesperson or have been expressly authorised to act as a spokesperson in relation to a particular situation, or are acting as an authorised Trade Union spokesperson. See the Protocol for Dealing with the Media on Employment Issues in the Employment Manual.

9 APPOINTMENT OF STAFF

- a) **An employee must not be involved in the appointment or any other decision relating to the discipline, promotion, pay or conditions of another employee, or prospective employee, who is a relative or friend.**
- b) **In this paragraph**
 - 1) **"relative" means a spouse, civil partner, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and**

2) “partner” in sub paragraph (1) above means a member of a couple who live together.

Appointment of Staff and other Employment Matters

Employees involved in appointments should ensure that those appointments are made only on the basis of merit. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a personal relationship with them outside of work.

Similarly, employees should not be involved in decisions relating to discipline, promotion, recruitment or pay and conditions for any other employee who is a relative, partner, etc.

10 DUTY OF TRUST

An employee must, at all times act in accordance with the trust that the public is entitled to place in them.

Attention is drawn to Part V of the LCC Constitution, which applies to all employees.

Employees are reasonably expected to be ready and able at the agreed times of working to carry out their job.

Politeness and courtesy should be expressed to the public and to internal and external clients at all times.

Customer care and courtesy must be maintained with appropriate professional boundaries and particular attention should be paid when in contact with vulnerable service user groups.

In carrying out their duties and responsibilities employees’ honesty and integrity should be beyond question.

PROTOCOLS

- D1** – Protocol on Officer/Member Relationships
- D2** – Councillor Involvement in Commercial Transactions
- D3** – Harassment, Intimidation and Unacceptable Behaviour
- D4** – Planning Development Control Process
- D5** – Confidential Reporting Code
- D6** – Petitions Scheme

PROTOCOL ON MEMBER/OFFICER RELATIONS**1. GENERAL****1.1 Rationale**

The purpose of this Protocol is to enhance working relationships between Members and Officers of the Council. Whilst the Protocol cannot be comprehensive, it sets out guidance on some of the key issues that arise in those relationships. The Protocol also seeks to reflect both the principles underlying the respective Codes of Conduct for Members and for Officers and the seven General Principles of Conduct in Public Life.

1.2 Remit

For the purposes of this Protocol, and unless stated otherwise, the term “Member” includes both elected members (i.e.- councillors) and added members (i.e.- non elected appointed or co-opted, voting or non-voting).

1.3 Fundamental Principles

- Members and Officers of the Council are obliged to act within the law and in compliance with relevant standards and codes of conduct.
- The role of a Member is defined in Statute. In law all Members are equal and have the responsibilities of trustees.
- The over-riding duty of a Member is to the whole community, with a special duty (if a councillor) to their constituents.
- Officers serve the whole Council and all Councillors.
- Officers advise the Executive, the Council and its Committees and are responsible for ensuring that the decisions of the Council are effectively implemented.
- Officers are required to be politically neutral and, for some employees, this is enforced through the political restrictions imposed by the Local Government and Housing Act 1989.
- The interests of the Council are best served where there is mutual confidence and trust between all Members and Officers.
- Both Members and Officers have responsibility for decision making within the schemes of delegation for both Council and Executive functions as set out in the Council’s Constitution
- Members should understand and respect the roles of the Council’s main statutory officers (namely the Head of Paid Service, the Monitoring Officer and the Section 151 Officer).
- The Chief Executive and Chief Officers (and Senior Officers working to them) should work closely with members of the ruling group to ensure effective policy development and efficient executive decision making
- Officers will provide adequate support to all Members in their local or representational role

1.4 **Provision of Advice**

- (a) Members should recognise that Officers have the duty and right to provide appropriate professional advice, and the right to have that advice recorded, so that all Members are fully aware of the implications of their decisions.
- (b) Officers should recognise that it is the right of the Members to take the final decisions in the light of their advice.
- (c) The provision of that advice is the principal means by which Members can gain assurance that their decisions comply with the law and relevant standards or codes of conduct and are in accordance with Council policies and procedures.
- (d) The advice provided by the Officers should be factual, honest, objective and politically neutral and based on professional experience and expertise.
- (e) The advice should be sensitive to the political aspirations and constraints of Members but should not reflect, or be influenced by, those aspirations and constraints.
- (f) The advice given by Officers will have the ultimate aim of serving the interests of the Council as a whole, irrespective of whether the current emphasis of an Officer's role is Executive, Overview & Scrutiny or Regulatory.
- (g) It is improper for any Member to seek to influence Officer advice and /or recommendations by subjecting any Officer to undue pressure (see Paragraph 1.5 below). Such advice and recommendations must be those of the officer only.

1.5 **Respect and Courtesy**

- (a) For the effective conduct of Council business there must be mutual respect and courtesy in all meetings and contacts, both formal and informal, between Members and Officers. It is very important that both Members and Officers remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of Members or Officers.
- (b) If an officer is in breach of this requirement, some form of disciplinary action may result as a consequence of investigation by the Chief Officer.
- (c) If a Member is in breach, then the matter will be discussed, if appropriate, with the Head of Paid Service and/or Monitoring Officer, and will then be dealt with within their political group.

1.6 **Undue pressure**

- (a) In their dealings with Chief Officers and, more particularly, other Officers, Members must remain aware at all times that Officers have no discretion to act outside Council policies.
- (b) A Member should not apply undue pressure on an officer either to do anything that they are not empowered to do, or to undertake work outside normal duties, or outside normal hours. A Member should not seek to instruct, or direct the work of,

individual employees, nor create a situation that places, or could place, any Officer in conflict with his or her Line Manager.

- (c) Similarly, an Officer must neither seek to use undue influence on an individual Member to make a decision in that Officer's favour or to his or her advantage, nor raise with a Member personal matters to do with their work. No Officer shall make claims or allegations to a Member about another Member or Officer except for a Chief Officer raising issues through proper channels as set out in the Constitution.

1.7 **Familiarity**

Close familiarity between Members and Officers must be avoided. It can damage the principle of mutual respect and could lead to passing of confidential information, or information which should not properly be passed between them. Such familiarity could also cause embarrassment to other Members and/or Officers or could give rise to a suspicion or perception of favouritism.

2. INFORMATION AND THE POLITICAL PERSPECTIVE

- 2.1 All information will be open and accessible, subject to legislative requirements on exempt and confidential information and relevant the Data Protection law.
- 2.2 For the proper functioning of the County Council as a whole, Officers will normally be permitted to share information freely between themselves.
- 2.3 Where the information has been supplied/received subject to a request for party political confidentiality, an Officer will be permitted to share that information with other Officers if he/she believes that to be necessary - for example for the purpose of verifying the legality, financial probity or procedural regularity of any proposed course of action disclosed by that information. However, the request for party political confidentiality will be confirmed to, and honoured by, any Officers with whom the information is shared.
- 2.4 Appropriate and regular liaison between Members and Officers connected with the Executive and Overview & Scrutiny aspects of the County Council should avoid the relationship between Overview & Scrutiny and the Executive becoming adversarial and polarised. This liaison, combined with the politically balanced nature of Overview & Scrutiny, should reduce the number of occasions on which it is necessary for information to be supplied by Councillors to Officers on a party political confidential basis at the Executive/Overview & Scrutiny levels.
- 2.5 Officers can share with the appropriate Executive Member any factual information supplied to any other Member.
- 2.6 Where information is supplied to Officers on a party political confidential basis, the Officers will respect that confidentiality unless the Officers believe that the proposed course of action appears to be in conflict with the law, or any relevant standards or codes of conduct, or would amount to an abuse of the processes of the County Council.
- 2.7 Where party political confidentiality would be maintained in accordance with the preceding sub-paragraph, the Officers may, nonetheless, seek to persuade the Members requesting the confidentiality to agree to that information being shared

with the other political groups on the grounds that it would assist the more effective functioning of the County Council; however, in the absence of any such agreement to waive the confidentiality, the Officers would continue to respect it.

- 2.8 Where there is a change in Political Administration, the Officers will act in relation to the new Administration and Opposition party or parties in the same way as they did for the old; and will continue to respect any continuing party political confidentiality.

3. SUPPORT SERVICES TO MEMBERS

- 3.1 All Councillors have a right to receive information from the County Council that they need to carry out their role as a County Councillor.

4. OFFICERS AND WHOLE COUNCIL

- 4.1 The Constitution includes provision for a single party Executive, delegation of decisions to individual Executive Members and a clear division between the Executive, Overview & Scrutiny and Regulatory roles of Members.
- 4.2 However, Officers are required at all times to serve the whole Council and will need to exercise judgement in fulfilling this obligation, whilst maintaining the distinction between the Executive, Overview & Scrutiny and Regulatory functions.
- 4.3 Members must recognise this obligation on Officers.

5. OFFICERS AND THE EXECUTIVE

- 5.1 Any decision by an individual Executive Member or a collective decision by the Executive must be supported by written advice from the appropriate Officer.
- 5.2 An Officer's obligation to the whole Council requires that such advice is independent and Executive Members must not seek to suppress or amend any aspect of such professional advice.
- 5.3 Reports to the Executive will normally be produced by Officers but there may be occasions when an Executive Member produces such a report. In either situation, the appropriate Officer shall record his or her professional advice to the Executive and ensure that that advice is considered when a decision is taken.
- 5.4 When Officers have to carry out decisions of an individual Executive Member, Non-Executive members should recognise that these are still legitimate executive decisions of the Council

6. THE EXECUTIVE AND OVERVIEW AND SCRUTINY

- 6.1 Given the nature and purpose of the County Council and the respective roles of Members and Officers, it is accepted that the Officers, while remaining politically neutral, will inevitably give advice on a wider range of issues and on a more regular basis to the Executive. For their part, the Executive will continue to respect the political neutrality of the Officers and accept that Officers are obliged to respond positively to any requests from Overview & Scrutiny for appropriate

information and advice relevant to the issue being considered by Overview & Scrutiny.

- 6.2 When an Officer requests it, the Executive will provide an appropriate Lead Member to attend an Overview & Scrutiny meeting to explain an Executive decision and the reasons for it.

7. OFFICERS AND INDIVIDUAL MEMBERS

- 7.1 Any Group Leader, Executive Member, Group Spokesman, Committee Chairman or Chief Whip/Group Whip or their nominated representative may request a private and confidential briefing from a Chief Officer on matters of policy which have already been or may be discussed by the Council or which are within its decision-making or advisory process. Briefings shall remain strictly confidential and are not to be shared with other Members without the express permission of the relevant Member(s).
- 7.2 Except for the confidential policy advice referred to above, where possible information will be shared among political group representatives. In particular, scrutiny is a cross party process involving all political groups represented on the Council. Information supplied to Scrutiny Chairmen will therefore be shared as a matter of course with each of the political groups.
- 7.3 Individual Members may request any Chief Officer (or another senior Officer of the Directorate concerned) to provide them with information. Where the Member has a right to information and can demonstrate his/her duties as a Member, such requests must be reasonable, and must recognise the need for Officers to maintain the distinction between Executive, Overview & Scrutiny and Regulatory processes.
- 7.4 If a Chief Officer considers the cost of providing the information requested - or the nature of the request - to be unreasonable, he/she shall seek guidance from the Head of Paid Service as to whether the information should be provided.
- 7.5 Confidential information relating, for example, to casework, should not normally be sought by a Member from an Officer. If, in exceptional circumstances, a Member wishes to discuss confidential aspects of an individual case, they should seek advice from the appropriate Chief Officer and follow any relevant guidance.
- 7.6 Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided (i.e.- the proper performance of the Member's duties).
- 7.7 There will be quarterly informal meetings of all Group Leaders and the ruling group's Deputy Leaders with the Head of Paid Service. These meetings will be confidential and minuted. Their objective is to help ensure the political management of the Council and build effective relationships.
- 7.8 Any Group Leader can request additional meetings to discuss urgent matters.

8. LOCAL MEMBERS

- 8.1 It is essential for the proper running of the Council that Local Members (i.e. - councillors) should be fully informed about matters on which they may be required to make decisions or which affect their electoral divisions.
- 8.2 It is the duty of each Chief Officer and Executive Member to ensure that all relevant staff are aware of the need to keep Local Members informed and that the timing of such information allows Local Members to contribute to those decisions.
- 8.3 Local Members shall also be kept informed about matters affecting their divisions during the formative stages of policy development and discussion.
- 8.4 Issues may affect a single electoral division but others may have a wider - even sub-regional - impact, in which case numerous Local Members will need to be kept informed.
- 8.5 Local Members have an important role to play in representing the County Council in their constituencies; responding to the concerns of their constituents; in meetings with partners and serving on outside organisations.
- 8.6 Whenever a public meeting is organised by the Council to consider a local issue, all the Local Members representing the electoral division(s) affected should as a matter of course be invited to attend the meeting.
- 8.7 Similarly, whenever the Council undertakes any form of consultative exercise, the Local Member(s) should be notified at the outset of the exercise.

9. OFFICERS AND NON-COUNTY COUNCIL ELECTED REPRESENTATIVES

- 9.1 Officers may be requested to meet with councillors or elected representatives from other Councils or organisations to provide briefings and/or policy advice.
- 9.2 Any Officer requested to attend such a meeting which is not held on a cross political party basis must obtain the prior authorisation of the Head of Paid Service who shall inform all Group Leaders of the arrangements.

10. MEDIA RELATIONS

- 10.1 Advice to the Executive and Executive Members in relation to the media will be provided on a confidential basis if requested.
- 10.2 Executive Members will (through the Communications Team) be able to publicise issues prior to decisions being taken.
- 10.3 Overview & Scrutiny and Regulatory Chairmen shall ensure that all media statements relating to the scrutiny and regulatory functions have the support of the relevant Committee. Any such statements must be consistent with the Council's intent that the scrutiny and regulatory functions shall help to achieve a culture of continuous improvement and good governance throughout the Council.

- 10.4 The Communications Team and other Officers will also assist non-Executive Members (particularly Chairmen and Vice-Chairmen) in their media relations (on a confidential basis if requested).
- 10.5 Any Officer assisting a Member with media relations must act at all times in the interests of the whole Council and in a politically impartial manner. Other than factual statements, Members should not seek assistance from an Officer with the preparation or issue of any media statement that will adversely affect the reputation of the Council.

11. REDRESS

- 11.1 If a Member considers that they have not been treated properly by an Officer, they should first try to resolve the matter through direct discussion with that Officer.
- 11.2 The Member may raise the matter with the officer's Line Manager or Chief Officer if the matter cannot be resolved through such discussion. A Member may raise the issue with the Head of Paid Service if it remains unresolved. Where appropriate, disciplinary action may be taken against an Officer
- 11.3 Similarly, if an Officer feels that they have not been treated properly by a Member and they feel unable to resolve the matter directly with that Member, the Officer should raise the issue with the appropriate Chief Officer. In such circumstances the Chief Officer will take such action as is appropriate, including, if necessary, raising the matter with the relevant Group Leader.
- 11.4 The Chief Officer will inform the Head of Paid Service if the Group Leader becomes involved, and, in other cases, where appropriate.
- 11.5 If any matter covered by 11.3 above involves an actual or potential breach of the Code of Conduct for Members, it should be referred to the Monitoring Officer.

12. ARBITRATION

- 12.1 When necessary or appropriate, the Head of Paid Service will arbitrate on the interpretation of this Protocol.

**PROTOCOL ON COUNCILLOR INVOLVEMENT
IN COMMERCIAL TRANSACTIONS****BACKGROUND**

This protocol is designed to support Councillors in their work within the community which is an invaluable part of explaining the intentions of the Council at a local level and which assists in maintaining the Council's responsiveness to legitimate interest groups.

PRINCIPLES

The protocol is based upon the following principles.-

- Protecting the personal integrity of Councillors and officers.
- Ensuring the financial and probity interests of the Council are protected.
- Ensuring decisions are based on complete and sound information and advice from appropriate professional staff.
- Ensuring decisions are in accordance with the Council's agreed processes and standards.
- Protecting the Council, its Councillors and officers from undue pressure or inappropriate contact from contractors and parties with a commercial interest in a transaction.

PROTOCOL

The Council is engaged at any one time in a large number of commercial transactions, which range from such matters as the procurement of goods, services and works, the purchase or sale of land or the disposal of surplus property to such matters as the provision of advice and/or grant aid to companies.

Councillors frequently have a constructive involvement in such commercial transactions. That involvement is not limited to taking the decision in Council, Committee or Executive as to whether to enter into such contracts and arrangements and in exercising their scrutiny functions to ensure that such arrangements complied with the Council's requirements in terms of propriety and are designed and managed so as to provide the Council with the best possible value for money. Such involvement also extends to their role within the community in making the public aware of the services which the Council can make available, and in effecting introductions between such interested parties and the officers who are responsible for administering and delivering those services.

Because of their very close involvement with the community which the Council serves, Councillors may also become aware of opportunities for the Council to act to benefit that community, opportunities to buy land, or commercial or voluntary organisations who could expand their activities if the Council were able to secure the opportunity for them to extend their premises, or local businesses who provide high quality goods or services of a sort which the Council requires, and who might benefit from an opportunity to compete to supply the Council.

However, such commercial transactions also carry significant responsibilities. These include:

- the obligation to secure the best possible value for money for the Council;
- the legal obligation on the Council to secure “best consideration” on the disposal of its land, unless it obtains the consent of the Secretary of State;
- the Best Value obligations to secure the continuous improvement in all Council services, whether delivered directly or externally procured;
- the need to comply with relevant law;
- the need to ensure that a commercial transaction is drafted and documented in such a manner that it can be enforced, for example if the other party defaults or under-performs, or if the goods supplied or the work carried out subsequently prove to be defective;
- the requirement that the transaction and all matters leading up to the final transaction, should be fully and clearly recorded, so that it can be audited to ensure propriety in the procurement process; and
- compliance with the requirements of the Council’s Local Code of Conduct for Councillors and the national code for officers.

In addition, there is the danger that an individual Councillor or officer will be misrepresented by the advocates or opponents of a particular proposal who may, innocently or otherwise, claim that the Councillor or officer has given incorrect information or advice or misrepresented the proposal, are biased or have shown favouritism.

Failure to comply with these requirements can result in serious penalties for the Council, for individual Councillors involved in the transaction and for officers. Such penalties include:

For the Council:

- direct financial loss from entering into contracts which are not good value for money for the Council;
- inability to enforce the contract or to recover damages for breach;
- liability to third parties;
- liabilities where a decision made by or on behalf of the Council is overturned on judicial review because it is held to have been unlawful or unreasonable; and
- the loss of the Council’s reputation as an organisation dedicated to the interests of the community which it serves.

For individual Councillors:

- suspension or disqualification from office for breach of the Council's Code of Conduct;
- personal liability, in the event of a Councillor's negligence or reckless or deliberate misconduct causing loss to the Council; and
- prosecution for Misuse of Public Office. (Note that it is for the recipient of any gift or hospitality from a tenderer or contractor with the Council to prove that it was not an inducement or reward for anything which the recipient has done in their public position).

For an officer:

- disciplinary proceedings by the Council, possibly leading to dismissal;
- personal liability to the Council for any loss caused by their negligence or reckless or deliberate misconduct; and
- prosecution for Misconduct in a Public Office.

1. LOBBYING

It is a natural part of a political process that those who may be affected by a proposed decision of a local authority should seek to influence that decision. In many cases they will approach their local Councillor, as the interface between the Council and the local community, or the Chairman of the relevant Committee, as the person who is seen as being responsible for the processing of the decision, or a relevant officer.

Councillors must be seen to determine matters on their merits. A Councillor or officer who has given a personal commitment to support or oppose a particular proposal will have committed themselves before the full issues have been explored, which exploration occurs from discussion of the officer's report and recommendation in the Council or executive or Committee meeting. Accordingly, when approached by an advocate or opponent of a particular proposal, a Councillor has to decide whether:

- 1.1 They will remain impartial, in which case they must limit themselves to listening politely to the arguments put forward, declining to state a personal position and advising the person making the approach of the proper channel for making such representations. When they attend any Council, Executive, Committee or other meeting at which the proposal is considered, they should report to the meeting that they have received such representations.
- 1.2 They will take sides on the issue by declaring their support or opposition to the proposal. In that case, they are either an advocate or an opponent of the proposal and are no longer impartial. As a result, they should declare an interest and withdraw from any such meeting at which the matter is under consideration. The only exception to this rule is that, where a local Councillor has received and supports strong representations from local residents in his/her ward, it is customary for the Councillor to be allowed to report those representations to the Committee or Panel in declaring an interest at the

commencement of discussion of the matter and immediately before withdrawing from the meeting.

- 1.3 No officer should meet and hear advocates or opponents of a proposal on his/her own, but should wherever possible arrange that another officer is present and make a contemporaneous record of the meeting, which should be kept on the matter file and included as a background document, and should report the meeting to the Council, Executive or Committee or Panel meeting where any matter which is material to the determination of the proposal has arisen.
- 1.4 Where a Councillor is of the opinion that a person or organisation have legitimate representations to make, he/she should advise them that they may make those representations in writing to the relevant officer, and the officer should ensure that any relevant representations which he/she receives are fairly report to the meeting of the Council or Committee or Panel at which the matter is considered.
- 1.5 In some cases, it will be appropriate for the advocate or opponent to have a face-to-face meeting with the Council. Where a Councillor is of the view that such a meeting is appropriate, he/she should request the relevant officer to arrange such a meeting. The officer will consider, in consultation with the relevant Executive Councillor or Committee or Panel Chairman as appropriate, whether such a meeting will be constructive and whether it should be at officer or at Councillor level. Where it is at Councillor level, the officer will ensure that the relevant Councillors are invited to attend by the appropriate Chief Officer. All such meetings will be attended by the officer of the Council who is responsible for the matter, or his/her representative, and the officers attending shall make a contemporaneous note of the course of the meeting and ensure that the fact of the meeting and any material issues which came out of it are reported to the meeting of the Council, Executive or Committee or Panel at which the matter is considered.

2. PROFESSIONAL ADVICE AND NEGOTIATIONS

One area of special sensitivity relates to commercial negotiations, where the Council's public service objectives may conflict with the profit motivation of the other party to the negotiation, and where it is accordingly essential to ensure that the end result of the negotiation secures value for money for the Council and does not leave it exposed to excessive liability or risk.

There will be occasions when Councillors can play an invaluable part in such negotiations, not least in expressing to the other party the commitment of the Council to a particular project, or the political constraints within which the transaction occurs. However, given the risks to Councillors from involvement in such negotiations, Councillors should never undertake any commercial negotiation alone directly but limit their role to setting the policy and political framework for approving the final deal.

Council officers will conduct all commercial negotiations and will keep Councillors aware of the progress and implications of their actions. In the

exceptional circumstances that the negotiations may benefit from Councillor involvement it will be in accord with the following protocol:

- (a) The Councillor will discuss the transaction in advance with a Council officer of suitable seniority and agree a strategy to progress the transaction.
- (b) Having agreed the strategy, any discussions with interested parties would be organised by a senior officer and would only take place in the presence of an appropriate senior Council officer.
- (c) Only Council officers will make offers to or indicate acceptance of an offer from interested parties on behalf of the Council.
- (d) A record of the meeting involving Councillors with interested parties would be produced by the Council officer in attendance and kept on file for future reference.

3. CONFIDENTIALITY

Commercial transactions, by their nature, involve the commercial activities of one or more party other than the Council. They will involve the disclosure to the Council of matters of commercial confidentiality, such as the business plans, performance standards or pricing structures of commercial organisations, disclosure of which to a competitor or to the market could be very detrimental. This is all the more so as Best Value encourages the development of Partnership and Open Book transactions. The maintenance of confidentiality is essential both to maintain the integrity of a competitive procurement process and to ensure that those who have commercial dealings with the Council know that they can rely upon the Council to protect their commercial secrets, and are therefore able to be open with the Council.

PROTOCOL ON HARASSMENT, INTIMIDATION AND UNACCEPTABLE BEHAVIOUR**1. INTRODUCTION**

Lincolnshire County Council expects the highest standard of behaviour from its Councillors and officers. It recognizes acceptable behaviour as the norm and any form of inappropriate behaviour, including harassment or intimidation is unacceptable. The County Council views any harassment or other inappropriate behaviour with the utmost seriousness and is committed to taking positive action to eradicate it.

Unacceptable behaviour by officers will be dealt with through the Council's grievance and disciplinary procedures. As Councillors and added members are not employees and therefore not subject to employee disciplinary procedures this protocol will apply where a Councillor or added member or officer feels that they are being treated in an unacceptable way by a Councillor or added member of the Council.

2. WHAT IS HARASSMENT AND INTIMIDATION?

Harassment and intimidation take many forms; therefore it is difficult to give a single definition. It may be directed at an individual or a group, and it may be unintentional. If you feel that you have been treated in a way that is detrimental to your dignity, then you may have been subjected to harassment. Essentially, harassment is unwanted, unreasonable, unwelcome and offensive treatment and includes bullying and threatening behaviour. It includes any treatment which the officer considers to be unreasonable and unwelcome and which causes intimidation or offence.

Councillors and added members are not employees of the County Council and are therefore not part of the usual management arrangements. It is easy for officers to be overawed by Councillors and added members and Councillors and added members need to be aware that they are not in the usual manager/subordinate relationship.

Harassment may show itself in different ways, including the following:

- physical contact, from touching to serious assault;
- bullying, e.g. threatening behaviour, constant unwarranted criticism, belittling or exclusion by colleagues;
- intimidation including threats concerning job security or promotion;
- jokes, offensive language, suggestive remarks or gossip;

- visual display, e.g. pictures or posters which could cause offence;
- discrimination, e.g. on the grounds of race, religion, ethnic origin, disability, gender or sexual orientation, or age coercion;
- indecent, suggestive or over-familiar behaviour or obscene gestures;
- undue pressure to take or make a particular decision;
- misuse of powers in order to intimidate or undermine.

3. THE IMPLICATIONS OF HARASSMENT

There are many consequences for the Council if it accepts or tolerates intimidation, harassment, threatening and bullying and other forms of unacceptable behaviour. For example, it can result in a “blame culture” which hampers flair and innovation. Furthermore, such incidents could result in substantial employment claims against the Council for discrimination, stress or other matters. The Council is also mindful of the comments by the Society of Local Authority Chief Executives that they believe that:

“good local authorities are characterised by two things: clear political leadership and strong management competencies. We believe that these cannot exist in places where a climate of bullying and fear is seen as acceptable. We further believe that such behaviour provides a breeding ground for poor performance and may even contribute to corruption where Officers (and Members) feel unable to challenge decisions of overly powerful Councillors or colleagues.”

4. MAKING A COMPLAINT

Any complaints by an officer about a Councillor or an added member should be referred in the first instance to their Chief Officer or the Head of Paid Service.

Complaints by a Councillor or added member about another Councillor or added member should be referred in the first instance to the Head of Paid Service or Group Leader.

The response to a complaint of harassment will be:

- the complaint will be treated seriously;
- the complaint will be dealt with in a sensitive and confidential way;
- help and support throughout the process of dealing with the issue will be provided;
- anyone subjected to harassment will not suffer or be victimised through making a complaint;
- The County Council will regard any such incidents as serious and they will be fully investigated and acted upon as appropriate.

Initially unacceptable behaviour relating to harassment or intimidation will be approached by mediation, by or within the political group concerned where

appropriate. In the event of no change in conduct or other acceptable outcome then, if appropriate, the matter will be referred for investigation in writing to the County Council's Monitoring Officer.

5. ENCOURAGING ACCEPTABLE BEHAVIOUR

Acceptable behaviour in the workplace is behaviour that demonstrates a commitment to the Value and Standards Statement approved by the County Council in July 2001 which forms part of the Constitution. In support of this all Councillors, added members and officers can:

- afford dignity, trust and respect to everyone and ourselves;
- be aware of the effect of our behaviour on others;
- only make reasonable and manageable demands;
- communicate honestly and openly, clearly stating what we mean and expect of others;
- provide honest feedback based on evidence and be open to constructive criticism;
- start from the assumption that everyone is working to the best of their ability, considering the current stage of personal and professional development.

PLANNING DEVELOPMENT CONTROL PROCESS**1. INTRODUCTION**

1.1 Planning is not an exact science. It relies on informed judgement within a firm policy context. It is highly contentious because its decisions affect daily lives and private interests. The openness of the planning system invites participation. Planning decisions must be open, unbiased and transparent. These principles underpin good decision making, the planning system, the Local Government Act 2000 and the Human Rights Act 1998.

1.2 The planning system controls development in the public interest. The Council's role is to make the best decision (even if that takes a little time) taking into account the effect of the development on the environment and on the interests of the wider community. This, like many other decisions of the County Council involves balancing many, often conflicting, interests. Planning decisions must therefore be taken and be seen to be taken:

- openly;
- impartially;
- taking all relevant matters into account;
- ignoring any irrelevant matters;
- for justifiable and clearly stated reasons.

There must be no grounds for suggesting that a decision has been biased. Bias does not mean Councillors or Officers have been swayed by relevant factors. It means that an ordinary Member of the Public, with full knowledge of the facts, would reasonably conclude that Councillors or officers might have been swayed by irrelevant considerations, personal factors, or the manner in which the application had been dealt with.

1.3 Examples of circumstances in which a decision would be likely to be biased are:

- any voting member of the Committee has declared openly their position before the Committee meeting;
- either the applicant or supporters of the application or objectors have been given different levels of access to state their case to the Committee;
- the information provided to individual Committee members is not consistent;
- a member of the Committee has not declared a prejudicial interest;
- the Committee has not been made aware of all material considerations;
- the Committee or members of the Committee have not acted in the public interest;

- decisions, with respect to both conditions and reasons for refusal, are not supported by clear understandable reasons.

That is not an exhaustive list but illustrates the range of factors which can be seen as demonstrating bias.

- 1.4 A decision can be challenged for bias through a judicial review. The court could invalidate the decision, advising the Council to reconsider the matter properly. The costs of those affected in going through this process would fall on the Council. The Council may also be liable for the costs caused by delaying the decision. Delay may also severely affect the Council's own future plans.
- 1.5 Applicants for planning consent may appeal against a refusal or the content of conditions attached to an approval through planning appeal procedures. Similarly, appeals can also be lodged against enforcement action. The Council will incur its own costs of this process, and if it has acted unreasonably, may also have to pay the applicant's costs.
- 1.6 Bias could lead to a complaint to the Local Government Ombudsman, who might recommend payment of compensation; this would be recorded on the Council's Key Performance Indicators.
- 1.7 Bias caused by a breach of the Lincolnshire Code of Conduct could be dealt with under the agreed local arrangements for dealing with Standards complaints.
- 1.8 Dealing with such matters including appeals, Ombudsman's complaints and judicial reviews, is time consuming and costly. If challenges are upheld then the credibility of the County Council suffers.
- 1.9 The County Council has a code of conduct which deals with the issues that affect all Council business. Given the complexities, responsibilities and pressures of the planning system, it is sensible to have a code of practice, amplifying the code of conduct for dealing with planning issues. This code of practice is based on a national code, prepared by the Local Government Association and published as "Probity in Planning". It should protect Officers and Councillors from false allegations, and give the public confidence in the planning decisions of the Council.

2. THE GENERAL ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

- 2.1 Councillors and officers have different but complementary roles, both of which serve the public. Councillors are responsible to the electorate, while officers are responsible to the Council as a whole. Officers advise Councillors and the Council, and carry out the Council's work. They are employed by the Council, not by individual Councillors and instructions to officers come from the legally established decision taking mechanisms of the Council. Unless given clear delegations to act on behalf of the Council, Officers can only advise.

- 2.2 Both Councillors and Officers are guided by codes of conduct. The local Code of Conduct provides standards and guidance for Councillors. Employees are to be the subject of a statutory Employee's Code of Conduct. In addition, Chartered Town Planners are guided by the Royal Town Planning Institutes' Code of Professional Conduct.

3. GENERAL CODE OF CONDUCT FOR COUNCILLORS AND OFFICERS

3.1 Councillors:-

Code of Practice

- In making planning decisions, Councillors must make decisions on the basis of the wider public interest of Lincolnshire as a whole as expressed in planning policy and must be seen to do so;
- Councillors should not try to persuade officers to alter their professional advice or put pressure on officers for a particular recommendation;
- Councillors must not put pressure on other Councillors for a particular recommendation; and
- Councillors should receive training on how to approach planning matters: initial training when first serving on the Planning and Regulation Committee and regular updates to keep abreast of any changes which take place in legislation or procedures.

3.2 Planning Officers shall:-

- always act impartially, providing independent professional advice to the best of their skill and understanding;
- act with competence, honesty and integrity;
- advise and act in accordance with approved policies;
- observe the Officer's Code of Conduct (when adopted); and
- observe the Code of Professional Conduct of the Royal Town Planning Institute.

4. HOSPITALITY

4.1

Code of Practice

- In making planning decisions, Councillors should refuse any gift and be extremely cautious about accepting hospitality. If the receipt of hospitality is unavoidable from persons with an interest in a planning proposal, it must be ensured it is of a minimum level.

5. DECLARATION OF INTERESTS

5.1

Lincolnshire County Council's Code of Conduct

Members must in all matters consider whether they have an interest, under the Council's code of conduct which they should register and declare.

6. LOBBYING OF AND BY COUNCILLORS

- 6.1 Lobbying is a normal and important part of the political process. However, such lobbying can, unless care and common sense are exercised by all parties concerned, lead to the impartiality and integrity of Councillors concerned being called into question.

Code of Practice

- Councillors on the Planning and Regulation Committee should restrict their advice to lobbyists to procedural matters and advise objectors and supporters of any proposal, to write to the relevant officer so they can be included in the officer's report;
- Councillors on the Planning and Regulation Committee must not openly declare which way they intend to vote in advance of the formal consideration of an application. If they have openly declared their position they shall properly declare their position at Committee and not vote on the application concerned;
- A decision on a planning application must not be taken before the Planning and Regulation Committee meeting, when all available information and views have been considered. Any group meeting before a committee meeting, must not be used to decide how Councillors should vote; and
- Councillors on the Committee must avoid organising support for an opposition to a planning application, and avoid lobbying other Councillors (except when they are addressing the Committee).

Code of Practice

- Executive Councillors must not participate as members of the Planning and Regulation Committee in deciding applications by Executive or fellow Executive Members on behalf of the Council;
 - Local Divisional Councillors who are not on the Committee are allowed to speak. Only members of the Committee shall be able to vote.
- 6.2 Opinions, which are relevant to the determination, made by the applicant, agent, objector, to any member must be made known to the relevant planning officer, in order that they can be included in the officer's report to committee and therefore properly considered.

7. PRE-APPLICATION DISCUSSIONS

- 7.1 Discussions between potential applicants and the council, prior to the submission of an application, can be of considerable benefit to both parties and is encouraged by central government. However, it can be easy for such discussions to become, or be seen to become, part of a lobbying process. Pre-application discussions should, therefore, take place within clear guidelines. The guidelines are:
- 7.2 At the outset, it will be made clear that the discussions will not bind the Council to making any particular decision.
- 7.3 Advice given will be consistent with the development plan, government guidance and material considerations.
- 7.4 Officers involved in the discussions shall make it clear whether or not they are the decision-maker or advising officer to the committee concerned.
- 7.5 Written notes will be taken of all meetings and potentially contentious telephone conversations with applicants.
- 7.6 Care must be taken to ensure that advice is not biased (nor seen to be).
- 7.7 Members of the Planning and Regulation Committee should preserve their impartiality as decision takers and avoid pre-application or post-application discussions with developers or other interested parties regarding development proposals.
- 7.8 Where a particular planning application gives rise to widespread concern, the Chairman of the Planning and Regulation Committee in consultation with the Executive Director for Environment and Economy may arrange a public meeting to which the applicants will be invited to outline their proposals and the objectors express their concerns. All members of the Committee together with Local Councillor(s) will be invited to attend. Relevant officers will attend and detailed notes taken of the meeting. The Chairman will make it clear to

the meeting that members are in attendance to obtain information not to discuss the proposal.

8. OFFICER REPORTS TO COMMITTEE

8.1 Officers will provide clear unbiased professional advice. Reports will:

- set out the relevant development plan policies, site and relevant planning history, material considerations and the substance of objections and the views of people and organisations which have been consulted. Written representations are open to inspection by Councillors and the public;
- contain a technical appraisal of the relevant provisions of the development plan and other material considerations in relation to the application;
- advise on any relevant issues relating to Human Rights legislation;
- contain recommendations; and
- may be supplemented by oral updates in special circumstances which will be minuted.

9. PUBLIC SPEAKING AT COMMITTEE

9.1 Applicants, agents and persons wishing to express a view about a planning application that is being reported to the Planning and Regulation Committee will have a right to speak at the Committee subject to the following rules. Details of the scheme will be included in the acknowledgement letter to agents/applicants and the notification letter/site notices to neighbours. Details will also be available on the Council's website and from Council offices:

- a) Anyone wishing to speak must register in writing (including e-mail or fax) with the planning officer at least 2 working days before the meeting.
- b) A list of persons wishing to speak arranged in order of the agenda will be produced for the Chairman and members of the Committee.
- c) Any person who has not given notice will only be allowed to speak at the discretion of the Chairman.
- d) The Committee may hear speakers either only for the applicant or only for objectors provided all parties have been given the opportunity to speak and one party chooses not to exercise his/her right.
- e) The number of speakers will be restricted to a maximum of 1 in favour of an application and 1 opposing an application chosen by order of notification of a wish to speak. In addition to local Councillors who have a right to speak on a matter affecting their division and adjoining

divisions, up to 2 other Councillors who are not members of the Committee may also address the Committee upon each application.

- f) Speakers will be limited to 3 minutes each in respect of each application.
- g) Members of the Committee may ask questions of speakers. Such questions will be put through the Chairman.

10. TAKING A DECISION AT COMMITTEE

- 10.1 Planning decisions must be taken in accordance with the adopted development plan, unless material considerations indicate otherwise. Reason must be given for all planning decisions.
- 10.2 If the Committee makes a decision contrary to the officer's recommendation (whether approval or refusal), the Committee must give the reasons for that decision and a detailed minute must be made and a copy placed on the application file. The reasons must be clear and convincing. If necessary, the Committee should pass a resolution that it is minded to take this course of action and request a further report on appropriate conditions or reasons.
- 10.3 If the committee wishes to add or amend conditions, officers shall draft the condition for approval by the Committee at its next meeting or by the Executive Director for Environment and Economy in consultation with the Chairman of the committee.
- 10.4 Every meeting of the Committee will be attended by a senior legal officer to ensure that procedures are properly followed.
- 10.5 If the Committee makes a decision contrary to an officer recommendation and there is an appeal against the decision, those Councillors who made the decision may be required to be available as a witness at any subsequent Planning Inquiry or Hearing.
- 10.6 Where Members of the Committee wish to raise a substantive issue, or require additional information, they should give at least one clear working day's notice to the Head of Planning to enable a considered response to be given at the meeting. Longer notice is desirable, to allow a supplementary note to be circulated at least two days prior to the meeting and for that note to be a public record of the response.

11. COMMITTEE SITE VISITS

- 11.1 Site visits can give rise to accusations of unfairness by the Committee unless a clear protocol is agreed and followed.
- 11.2 A site visit should be made if:
 - the expected benefit to the Committee of understanding the site, its surroundings and the issues relating to the application is substantial;

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- a formal committee report on the application has been presented;
 - further supporting plans or photographs could not satisfactorily enable members of the Committee to visualise the impact of the proposal.
- 11.3 Members of the Committee shall not go unaccompanied onto land about which an application has been made, as this exposes them to accusations of bias by objectors.
- 11.4 The reasons for a site visit shall be minuted.
- 11.5 Site visits must include officer assistance. In exceptional circumstances, representatives from statutory bodies may be invited to attend where they can provide detailed technical advice, for example, on highway sight lines.
- 11.6 Site visits shall be carried out under the guidelines used by the Planning Inspectorate, namely the site visit is to view the site and salient features. Neither the applicant nor objectors should be allowed to accompany the Members of the Committee on the site visit, except for safety reasons. The owner or applicant will, however, not be allowed to participate in any discussion which should, in any case be limited to purely factual information.
- 11.7 The officer present will set out the main issues relating to the application and point out the salient features and points on the site and in the immediate area.
- 11.8 No formal decisions of the Council will be made on site and where a site visit is held only those members of the Committee who have attended the site visit will be entitled to participate in the decision relating to that application.

12. REVIEW OF DECISIONS

- 12.1 In order to review the quality of decisions a random selection of sites will be reviewed each year by the Head of Planning and an external 'critical friend'. Members of the Committee will be taken to visit these sites.
- 12.2 An annual report will be produced on which permissions have been implemented and the quality of the development that has been carried out.

13. COMPLAINTS AND RECORD KEEPING

- 13.1 The Council has a robust system for dealing with complaints. The public will be made aware of the complaints system through the corporate complaint system. The Local Planning Charter sets out the system for investigating alleged breaches of planning control with respect to planning enforcement matters. The planning enforcement system will ensure:
- complaints are acknowledged within 3 clear working days;
 - complaints are initially investigated within 5 clear working days;
 - complaints are replied to within 15 clear working days.

13.2 The performance of the Council's development control function is monitored on a quarterly basis.

14. PLANNING OBLIGATIONS

14.1 Officers will negotiate with developers with regard to Legal Agreements.

14.2 Reports to the Planning and Regulation Committee may include Heads of Terms of Agreements.

14.3 Copies of any concluded Legal Agreements (Planning Obligations and Agreements under the Highways Acts) will be available for public inspection and placed on the statutory register.

14.4 Copies of Agreements will be forwarded to the relevant district and parish councils with the decision notice for the application.

15. REVIEW OF THE CODE OF CONDUCT

15.1 The operation of this Code of Conduct shall be reviewed annually by the Audit Committee.

LINCOLNSHIRE COUNTY COUNCIL**CONFIDENTIAL REPORTING CODE****INTRODUCTION**

People who work for or on behalf of the Council are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

The Council is committed to the highest possible standards of conduct, openness, honesty and accountability. In line with that commitment, the Council will encourage those people with serious concerns about any aspect of the Council's work to come forward and voice those concerns. In return the Council will provide a structure which is safe and acceptable, recognising that certain cases will have to proceed on a confidential basis.

This Confidential Reporting Code has been agreed to maintain and improve standards across the Council as a corporate organisation through the modernising agenda for Local Government. It is an overarching document for other procedures on complaints, grievances and standards across the Council.

This policy document is intended to encourage and enable anyone who works for or on behalf of the Council to raise serious concerns within the Council rather than overlooking a problem and to make it clear that reporting will happen without fear of reprisal.

This Code applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders, and drivers. It also covers suppliers and those providing services under a contract with the Council in their own premises, for example care homes. It has been discussed with the relevant trade unions and has their support.

The Council will require any existing or potential partner, contractor or supplier, either to have in place a confidential reporting code analogous to the Council's own code, or to be prepared to adopt the Council's own code as a pre-requisite for eligibility for working with or on behalf of the Council. The Council will determine the appropriateness of any analogous code.

AIMS AND SCOPE OF THIS CODE

This Code aims to:

- encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice;
- provide avenues for you to raise concerns and receive feedback on any action taken;
- allow you to take the matter further if you are dissatisfied with the Council's response; and
- reassure you that the Council will seek to protect you from reprisals, or victimisation for raising concerns in good faith.

Examples of issues which might be raised, would include:

- conduct which is an offence or a breach of law;
- disclosures related to miscarriage of justice;
- health and safety risks, including risks to the public as well as other employees;
- damage to the environment;
- the unauthorised use of public funds;
- possible fraud or corruption;
- sexual or physical abuse of clients;
- unethical conduct.

Or it may be something that:

- makes you feel uncomfortable in terms of known standards;
- is against the Council's Standing Orders or policies;
- is unlawful;
- amounts to improper conduct.

The Code will come into immediate effect regardless of the date when any reported incident occurred.

SAFEGUARDS

Harassment or victimisation

The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect you if you raise a concern in good faith.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy or contract procedures that may already affect you.

Employee support and counselling

The Council has trained counsellors who can offer discreet, confidential, and non-judgmental support and counselling to any employee. Contact details are widely publicised.

Confidentiality

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At an appropriate time however you may need to come forward as a witness and this will be fully discussed with you.

Anonymous allegations

This Code encourages you to put your name to your allegation, as concerns expressed anonymously can be less powerful. However, the absence of a name will not prevent an investigation taking place into the concern. The level of the investigation will be dependent on the seriousness of the issue raised, but it may be hindered if it is difficult to follow up the allegation or obtain more details.

Untrue allegations

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make malicious or vexatious allegations or are motivated by personal gain, disciplinary action may be taken against you.

HOW TO RAISE A CONCERN

As a first step, you should normally raise concerns with your immediate manager or their superior. This depends, however, on the nature, seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. For example, if you believe that senior management is involved, you should approach the Head of Paid Service, the relevant Executive Director or the Monitoring Officer, or where there is a belief that resources have been misused contact the Assistant Director Finance and Resources.

Concerns are better raised in writing. You are invited to set out the background and history of the concern giving names, dates and places where possible, and the reason why you are particularly concerned about the situation.

If you do not feel able to put your concern in writing, or wish to talk to someone, there is a freephone number, which you can call. This is a dedicated line for reporting confidential concerns.

The earlier you express the concern, the easier it is to take action.

Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

You may invite your trade union to raise a matter on your behalf.

HOW THE COUNCIL WILL RESPOND

The action taken by the Council will depend on the nature of the concern. The matters raised may be:

- investigated internally by management or Audit & Financial Control or through the investigation process;
- referred to the Police;
- referred to the external auditor;
- the subject of an independent inquiry;
- determined by the Monitoring Officer in consultation with the Leader of the Council or an elected representative;
- dealt with under the relevant Council protocol.

In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations, which fall within the scope of specific procedures (for example child protection or discrimination issues), will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation.

Within ten clear working days of a concern being received, the Council will contact you, ideally in writing:

- acknowledging that the concern has been received;
- indicating how it proposes to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- telling you whether any initial enquiries have been made and
- telling you whether further investigations will take place, and, if not, why not;
- giving you details of support mechanisms.

The amount of contact between the managers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.

When any meeting is arranged, you have the right, if you so wish, to be accompanied by a union representative or a friend who is not involved in the area of work to which the concern relates.

The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise you about the procedure.

The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcome of any investigations and be advised of further channels if you are not satisfied with the outcome.

Where a case is investigated the detailed course of action will be determined by the Head of Paid Service, Assistant Director Finance and Resources, Executive Director of Finance and Public Protection, or Monitoring Officer as appropriate in line with the steps set out above. They will decide whether to publish any details of the concern and any action plan. If details are published they will discuss this with you and seek to address any concerns you have about anonymity.

THE RESPONSIBLE OFFICER

The Monitoring Officer has overall responsibility for the maintenance and review of this policy. The Assistant Director Finance and Resources, Executive Director of Finance and Public Protection will be advised of all notifications under the Code and will keep a record of concerns raised, action taken (i.e. nature of onward referral) and outcomes (in a form which does not endanger your confidentiality).

PETITIONS SCHEME**PETITIONS AT LINCOLNSHIRE COUNTY COUNCIL**

Lincolnshire County Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. Anyone who lives, works or studies in Lincolnshire can organise or sign a petition which will be dealt with in accordance with this scheme. All petitions to Lincolnshire County Council are taken seriously, and will receive an appropriate response.

This Petition Scheme sets out how petitions should be presented to the Council and how the Council will deal with them.

OTHER WAYS TO MAKE YOUR VIEWS KNOWN

Before considering whether or not to raise a petition to the Council, the petition organiser should consider whether a petition is the best form of engagement with the Council on a particular issue.

There are a number of other ways to resolve an issue or to make your views known including:

- Contacting your Local County Councillor who may be able to help with the issue or explain how to make representations on a particular subject to the right person at the County Council (more details can be found on the website <http://lincolnshire.moderngov.co.uk/mgMemberIndex.aspx?bcr=1>)
- Contacting the Customer Service Centre who may be able to offer advice on resolving the issue (Customer Service Centre can be contacted via:
 - Telephone: 01522 552222;
 - Email: customer_services@lincolnshire.gov.uk;
 - Post: County Offices, Newland, Lincoln, LN1 1YL).
- Logging the issue through the website (<https://www.lincolnshire.gov.uk/>)

If you wish to make a complaint or tell us what you think about a Council service, then you should instead use the Compliments, Comments and Complaints process by completing the online feedback form at www.lincolnshire.gov.uk/feedbackform or by contacting our Customer Service Centre.

HOW TO SUBMIT A PETITION

Petitions can be submitted in the following ways:

- On paper via post to:

**The Head of Paid Service
Lincolnshire County Council
County Offices
Newland
Lincoln
LN1 1YL**

Or in person to: County Offices, Newland, Lincoln.

- Electronically through the council's ePetitions Portal at:
<http://lincolnshire.moderngov.co.uk/mgepetitionlistdisplay.aspx>

Or by e-mail to: DemocraticServices@lincolnshire.gov.uk. Petitions submitted by email must be scanned in full as an exact replica of the original copy and will be treated as a paper copy.

GUIDELINES FOR SUBMITTING A PETITION

For the purposes of this scheme, petitions are formal requests that:

- Ask the Council to either do something, or stop doing something;
- Relate to matters over which the Council has control or which it is able to influence;
- Are signed by at least 2 people who live, work or study in Lincolnshire;
- Are submitted either as a paper copy or via the Council's e-petition facility.

Petitions submitted to the County Council must include:

- A clear and concise statement covering the subject of the petition;
- A statement of what action the petitioners wish the County Council to take, which must be set out in full on each sheet where signatures are asked for;
- The name, address and signature of any person supporting the petition (signatures which do not include the name and address of the signatory will be deemed not valid);
- The contact details, including an address and/or e-mail address for the petition organiser.

Petitioners are encouraged to use the Lincolnshire County Council petition template form which is available on the website (<https://www.lincolnshire.gov.uk/local-democracy/finding-your-views/petitions/> website currently in development) or by contacting the Democratic Services Team on 01522 552107.

EXCEPTIONS TO THE PETITIONS SCHEME

The following will not be accepted as petitions within the scope of the scheme:

- Submissions which are considered to be vexatious, abusive or otherwise inappropriate;
- Submissions in response to a public consultation being run by the council (such petitions will be acknowledged as part of that process and will be considered along with other consultation responses);
- Submissions relating to matters which would usually be dealt with through the corporate complaints system;
- Submissions that are the same as, or very similar to, a petition considered by the County Council within the last 6 months;
- Issues raised by staff related to employer/employee matters;
- Petitions relating to matters being handled through external agencies such as the Ombudsman or referring to a matter that is subject of legal proceedings;
- Petitions that are handled through alternative means or where other procedures apply, such as those referring to:
 - planning or licensing application;
 - parking policies;
 - a decision for which there is an existing right of appeal, such as Council tax banding and non-domestic rates;
 - statutory petitions (for example requesting a referendum on having an elected mayor).

Further information on these procedures and how you can express your views is available by contacting Democratic Services on 01522 552107.

PAPER AND ONLINE PETITIONS

Paper petitions should be submitted as a final and complete document (once a petition has been submitted no further signatures can be added).

Petitioners are encouraged to use the Lincolnshire County Council petition template form which is available on the website or by contacting the Democratic Services team on 01522 552107.

The Council welcomes e-petitions which are created and submitted through our website. E-petitions must follow the same guidelines as paper petitions. The petition organiser will need to provide us with their name, full postal address and email address. The petition organiser will need to decide how long the petition will be open for signatures. The standard timeframe for a petition to run is 6 months but this can either be reduced or extended to a maximum of 12 months.

It may take up to 5 working days before the petition is published online as the Council has to check that the content of your petition is suitable before it is made available for signature. If we feel we cannot publish the petition for some reason, we will contact the petition organiser within this time to explain the reasons why. The petition organiser will then have 10 working days in which to change and resubmit their petition. Otherwise a summary of the petition and the reasons why it was not accepted will be published on the website.

When an e-petition has closed for signature it will be determined what the most appropriate way for it to be dealt with is and the petition organiser will be notified of this decision within 10 working days.

It is possible for an online petition and paper petition to be run at the same time to enable them to be considered together. The petition organiser must send the paper petition to the Council at the same time as the closing date of the online petition so all signatures can be counted together. Please advise the Democratic Services Team if you are intending to run a paper petition and e-petition concurrently so appropriate provision can be made.

Electronic petitions created via alternative systems (e.g. change.org) will be accepted subject to the petition satisfying the validation criteria and being presented to us in an appropriate format.

Online petition systems outside of the Council's own ePetition system do not automatically notify us when a petition has been submitted and therefore the Council will treat these in the same way as paper petitions. In these cases, the petition organiser will need to print a copy of the petition statement and the corresponding signatures (including full name, address details) and submit these to us either via post, in person or via e-mail. Hyperlinks will not be accepted.

HOW WILL THE COUNCIL RESPOND TO PETITIONS?

The Council will determine the validity of each petition and decide the most appropriate way for a petition to be dealt with in discussion with the petitioner.

When responding to a petition the Council will give consideration to the issue highlighted in a petition and the level of support. The Council's response will ultimately be guided by what is most appropriate for the issue.

Generally petitions will be dealt with in one of the following ways:

- Referred directly to an appropriate service area and the relevant Executive Councillor for a response;
- Referred to the most relevant Scrutiny Committee;
- Referred to a meeting of the County Council.

Each petition will be assessed on its own merits, but as a general principal, a petition relating to an issue which affects one electoral division will be sent directly to the relevant service area and Executive Councillor. If the petition relates to an issue affecting two or more electoral divisions it may be referred to the relevant scrutiny

committee. In some circumstances, if the petition relates to a countywide issue and has sufficient support it may be referred to a meeting of the County Council.

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know how the Council plan to deal with the petition and when they can expect to be contacted again.

If the Council can do what the petition asks for, the acknowledgement may confirm that the action requested has been taken and the petition will be closed.

Where a petition is about something over which the Council has no direct control (for example the local railway, hospital or something which is the responsibility of the district council) consideration will be given to what is the best method for responding to it. This may consist of simply forwarding the petition to the most appropriate body. The petition organiser will be notified of the action which has been taken.

In the period immediately before an election or referendum the Council will need to deal with petitions differently, the reasons for this will be explained to the petition organiser along with the revised timescales which will apply.

Petitions will be presented at relevant meetings in the order they were received.

PETITIONS REFERRED TO A SERVICE AREA AND EXECUTIVE COUNCILLOR

Where a petition is referred to the relevant service area and Executive Councillor for a response, the service area in consultation with the Executive Councillor will decide how best to respond to the issues raised. The petition organiser will receive a response within 15 working days.

PETITIONS REFERRED TO A MEETING OF THE COUNTY COUNCIL

When a petition is referred to a meeting of the County Council it will be referred to the next meeting of the County Council (where that meeting is more than 10 working days from the date that the petition is received).

Council meetings take place approximately four times a year and the dates can be obtained by contacting the Democratic Services Team or by visiting the Council's website.

The petition organiser, or their spokesperson, will have a maximum of 5 minutes to speak to the meeting on the subject of the petition. The relevant Executive Councillor will then be allowed a maximum of 5 minutes to respond to the petition.

Following the meeting a petition organiser will receive a written confirmation of any further action within 15 working days.

PETITIONS REFERRED TO A SCRUTINY COMMITTEE

If a petition is to be considered by a Scrutiny Committee it will be referred to the next meeting of the most relevant Scrutiny Committee (where that meeting is more than 10 working days from the date the petition is received), depending on what the subject matter of the petition is. Alternatively, if the matter of the petition is already on the work programme of a Scrutiny Committee, the petition organiser will be invited to

the meeting to submit representations about their petition under the agenda item it relates to.

The petition organiser, or their spokesperson, will have a maximum of 5 minutes to speak to the meeting on the subject of the petition. The relevant Executive Councillor or senior officer will then be able to respond to the petition. The petition will then be debated by the Scrutiny Committee. At the end of the debate, the Scrutiny Committee will decide how best to respond to the petition. Any deviation from this process will be at the discretion of the Chairman of the Scrutiny Committee.

The petition organiser will be informed of the date of the meeting at which the petition will be considered. If the petition organiser is unable to attend and cannot nominate a spokesperson, the petition may still be considered in their absence. Any deferrals would be at the discretion of the Chairman of the Scrutiny Committee.

Following the meeting a petition organiser will receive a written confirmation of any further action within 15 working days.

A maximum of 2 petitions can be submitted to any one Scrutiny Committee at one time.

MULTIPLE AND REPEAT PETITIONS

Where multiple petitions on the same issue or substantially similar issues are received the Council may deal with them differently. If the Council chooses to refer the petition to a scrutiny committee for consideration, only one petitioner will be invited to speak (ordinarily it is the petitioner from the first petition to be received, however, petitioners are permitted to choose which of them will address the committee and to confer on the content of the speech prior to the start of the meeting if they so choose). The response given by the Council to any additional petitions may be the same as given to the first.

Petitions will not normally be considered within 6 months of another petition on the same matter. Petitions which are the same or substantially the same as petitions which have been closed in the previous 6 months will be dealt with having regard to the outcome of the earlier petition. This may result in the Council deciding to not take any action on the later petition. It will be for the Council to determine whether a petition is the same or substantially the same as an earlier petition.

PETITION REVIEWS

If the petition organiser feels unhappy with the way their petition was handled he/she can request that the Council review the steps taken in response to the petition. The petition organiser should contact Democratic Services and provide an explanation of the reasons why the way the petition has been dealt with is not considered to be adequate. The Council will consider the request and respond accordingly within 10 working days.

CONTACT US

For more information and advice or to discuss a potential petition, please contact Democratic Services:

Telephone: 01522 552107

Email: democraticservices@lincolnshire.gov.uk

Post: Democratic Services
Lincolnshire County Council
Newland
Lincoln
LN1 1YL

Further information, including templates and guidance documents are available at (<https://www.lincolnshire.gov.uk/local-democracy/finding-your-views/petitions/> website currently in development).