

PART 5

CODES AND PROTOCOLS

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MEMBERS' CODE OF CONDUCT adopted by the Council on 2 May 2008

PART 1

Interpretation

1. (1) In this code —

“co-opted member”, in relation to a relevant authority, means a person who is not a member of the authority but who —

- (a) is a member of any committee or sub-committee of the authority, or
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee;

“meeting” means any meeting —

- (a) of the relevant authority,
- (b) of any executive or board of the relevant authority,
- (c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint sub-committee of any executive or board of the authority, or
- (d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990

and includes circumstances in which a member of an executive or board or an officer acting alone exercises a function of an authority;

“member” includes, unless the context requires otherwise, a co-opted member;

“relevant authority” means—

- (a) a county council,
- (b) a county borough council,
- (c) a community council,
- (d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,

- (e) a National Park authority established under section 63 of the Environment Act 1995;

“you” means you as a member or co-opted member of a relevant authority; and

“your authority” means the relevant authority of which you are a member or co-opted member.

(2) In relation to a community council, references to an authority’s monitoring officer and an authority’s standards committee are to be read, respectively, as references to the monitoring officer and the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(2) of the Local Government Act 2000.

PART 2

General Provisions

- 2. (1) Save where paragraph 3(a) applies, you must observe this code of conduct —

- (a) whenever you conduct the business, or are present at a meeting, of your authority;
- (b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;
- (c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or
- (d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.

(2) You should read this code together with the general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.

- 3. Where you are elected, appointed or nominated by your authority to serve —

- (a) on another relevant authority, or any other body, which includes a police authority or Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or
- (b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

4. You must —
- (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
 - (b) show respect and consideration for others;
 - (c) not use bullying behaviour or harass any person; and
 - (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.
5. You must not —
- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
 - (b) prevent any person from gaining access to information to which that person is entitled by law.
6. (1) You must —
- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
 - (b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);
 - (c) report to the Public Services Ombudsman for Wales and to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;
 - (d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.
- (2) You must comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.
7. You must not —
- (a) in your official capacity or otherwise, use or attempt to use your

position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;

- (b) use, or authorise others to use, the resources of your authority —
 - (i) imprudently;
 - (ii) in breach of your authority's requirements;
 - (iii) unlawfully;
 - (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;
 - (v) improperly for political purposes; or
 - (vi) improperly for private purposes.

8. You must —

- (a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by —
 - (i) the authority's head of paid service;
 - (ii) the authority's chief finance officer;
 - (iii) the authority's monitoring officer;
 - (iv) the authority's chief legal officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

9. You must —

- (a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;
- (b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly

authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.

- (c) Comply with applicable laws, regulations and sanctions relating to anti-bribery and anti-corruption including the provisions of the Bribery Act 2010.

PART 3

Personal Interests

10. (1) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.

(2) You must regard yourself as having a personal interest in any business of your authority if —

- (a) it relates to, or is likely to affect —
 - (i) any employment or business carried on by you;
 - (ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;
 - (iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;
 - (iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
 - (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
 - (vi) any land in which you have a beneficial interest and which is in the area of your authority;
 - (vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
 - (viii) any body to which you have been elected, appointed or nominated by your authority;

- (ix) any —
 - (aa) public authority or body exercising functions of a public nature;
 - (bb) company, industrial and provident society, charity, or body directed to charitable purposes;
 - (cc) body whose principal purposes include the influence of public opinion or policy;
 - (dd) trade union or professional association; or
 - (ee) private club, society or association operating within your authority's area,
 - in which you have membership or hold a position of general control or management;
- (x) any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;
- (b) a member of the public might reasonably perceive a conflict between your role in taking a decision, upon that business, on behalf of your authority as a whole and your role in representing the interests of constituents in your ward or electoral division; or
- (c) a decision upon it might reasonably be regarded as affecting —
 - (i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;
 - (ii) any employment or business carried on by persons as described in 10(2)(c)(i);
 - (iii) any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a partner, or any company of which they are directors;
 - (iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
 - (v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management,
 - to a greater extent than the majority of—
 - (aa) in the case of an authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the

case may be, affected by the decision; or

- (bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

Disclosure of Personal Interests

11. (1) Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority and you make —

- (a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of your authority regarding that business, you should include details of that interest in the written communication; or

- (b) oral representations (whether in person or some form of electronic communication) to a member or officer of your authority you should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.

(3) Subject to paragraph 14(1)(b) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.

(4) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11(1), give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer from time to time but, as a minimum containing —

- (a) details of the personal interest;

- (b) details of the business to which the personal interest relates; and

- (c) your signature.

(5) Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16(1), your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the

nature of such personal interest is sensitive information.

(6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of your authority.

(7) For the purposes of sub-paragraph (3), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

Prejudicial Interests

12. (1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business—

(a) relates to —

- (i) another relevant authority of which you are also a member;
- (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
- (iii) a body to which you have been elected, appointed or nominated by your authority;
- (iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;
- (v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;

(b) relates to —

- (i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
- (ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental

responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;

- (iii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;
 - (iv) the functions of your authority in respect of an allowance or payment made under sections 22(5), 24(4) and 173 to 176 of the Local Government Act 1972, an allowance or pension under section 18 of the Local Government and Housing Act 1989 or an allowance or payment under section 100 of the Local Government Act 2000;
- (c) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.

(3) The exemptions in subparagraph (2)(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

Overview and Scrutiny Committees

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

Participation in Relation to Disclosed Interests

14. (1) Subject to sub-paragraphs (2), (3) and (4), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee —
- (a) withdraw from the room, chamber or place where a meeting considering the business is being held—
 - (i) where sub-paragraph (2) applies, immediately after the

period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or

- (ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;
- (b) not exercise executive or board functions in relation to that business;
- (c) not seek to influence a decision about that business;
- (d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and
- (e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

(2) Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

(3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if —

- (a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or
- (b) you have the benefit of a dispensation provided that you —
 - (i) state at the meeting that you are relying on the dispensation; and
 - (ii) before or immediately after the close of the meeting give written notification to your authority containing —
 - (aa) details of the prejudicial interest;
 - (bb) details of the business to which the prejudicial interest relates;
 - (cc) details of, and the date on which, the dispensation was granted; and
 - (dd) your signature.

(4) Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

PART 4

The Register of Members' Interests

Registration of Financial and Other Interests and Memberships and Management Positions

15. (1) Subject to sub-paragraph (3), you must, within 28 days of—
- (a) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or
 - (b) your election or appointment to office (if that is later),
- register your financial interests and other interests, where they fall within a category mentioned in paragraph 10(2)(a) in your authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to your authority's monitoring officer.
- (2) You must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under sub-paragraph (1), register that new personal interest or change by providing written notification to your authority's monitoring officer.
- (3) Sub-paragraphs (1) and (2) do not apply to sensitive information determined in accordance with paragraph 16(1).
- (4) Sub-paragraph (1) will not apply if you are a member of a relevant authority which is a community council when you act in your capacity as a member of such an authority.

Sensitive Information

16. (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to the interest under paragraph 15.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- (3) In this code, "sensitive information" ("*gwybodaeth sensitif*") means information whose availability for inspection by the public creates, or is

likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

Registration of Gifts and Hospitality

17. You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer of the existence and nature of that gift, hospitality, material benefit or advantage.

PROTOCOL – STANDARD OF CONDUCT EXPECTED BY MEMBERS adopted by the Council on 12th January 2011

This protocol sets out the standards of conduct expected from Members within Rhondda Cynon Taf in dealing with each other. It should be read in conjunction with the Members Code of Conduct and the Member-Officer Protocol. It adds to these documents and does not detract from them.

Members are expected to:

Public Behaviour

- Show respect to each other
- Not to make personal abusive comments about each other
- Not to publish anything insulting about each other
- Not to make malicious allegations against each other
- Not to publish or spread any false information about each other
- Show respect to diversity and equality

Behaviour in Meetings

- Behave with dignity
- Show respect to the Chairman and obey his/her decisions
- The Chairman to show mutual respect to members
- Not to use indecent language nor make racial remarks or remarks which prejudice any section of society.

Confidentiality

- Keep the confidentiality of exempt papers and any other documents which are not public
- Not to release confidential information to the press or the public
- Not to use confidential information for purposes other than intended

Local Members

Work with Members of adjoining wards for the benefit of the locality

If dealing with any matter relating to another ward:

Explain to anyone seeking assistance that he/she is not the local Member

Inform the local Member, unless it would lead to a breach of confidentiality.

A POLICY ON ACCEPTANCE OF GIFTS AND HOSPITALITY OFFERED TO MEMBERS AND OFFICERS adopted by the Council on 23 May 2007

Introduction

1. This guidance is issued under the statutory Codes of Conduct for Members and officers, and is therefore relevant to Councillors and Co-opted Members of Rhondda Cynon Taf County Borough Council, and to Council employees to whom the Employee Code of Conduct relates. The guidance contains the levels set by the Council under the Codes above which the receipt of gifts and hospitality can be accepted but together with refusals must be notified to and registered by the appropriate Group Directors and kept under review by the Monitoring Officer.

Definitions

2. “Gift” – any tangible item given to a Member or employee arising out of his/her official duties and position with the Council. “Hospitality” – any entertainment beyond the offer of non-alcoholic drinks and light refreshments, which would reasonably be regarded as normal social congress, offered to the Member or officer in his/her official capacity or in the course of their duties as a Member or officer of the Council. Hospitality can include (but not exclusively) entertaining individuals to meals, travel opportunities, hotel accommodation, invitations to events, sporting and theatre tickets. “Other benefits” – any other benefit offered to a Member or employee in the course of or arising from their official duties, not constituting covered by the definitions of Gifts or Hospitality above.

NOTE: the above definitions do not include gifts, hospitality or other benefits offered by the Council, which do not need to be authorised or registered.

Statutory and Council Framework

3. The Council’s Code of Conduct for Members states that:- Article 9(b) (Members) must avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by the Authority), material benefits or services for themselves or any person which might place them or reasonably appear to, place them under an improper obligation.”

“Registration of Gifts and Hospitality – Article 17, a Member must within 28 days of receiving any gift, hospitality material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority’s Monitoring Officer of the existence and nature of that gift, hospitality material benefit or advantage.

4. The statutory Code of Conduct for Local Government Employees

(which currently excludes fire-fighters and teachers) states that:-

“Personal Interest – Article 8 (Employees must comply with) any rules of their relevant Authority on the declaration by employees on hospitality or gifts offered to or received by them from any person or organisation doing or seeking to do business or otherwise benefiting or seeking to benefit from a relationship with the Authority. Qualifying employees must not accept benefits from a third party unless authorised to do so by their relevant Authority.”

Acceptance and Refusal

5. Currently the Council has agreed a threshold figure of **£20** in relation to the acceptance of gifts, hospitality and other benefits by Members and Officers. Whatever the value of the gift, hospitality or other benefit offered to a Member or employee, if its acceptance may place him/her under an improper obligation to the donor, or may reasonably appear to do so, it should always be refused. Members and officers must not contravene the provisions of the Bribery Act 2010 as they may be liable to a fine and/or imprisonment.
6. It is not possible to describe all the situations where an improper obligation may arise. However, these are some examples of circumstances in which offers are likely to be seen as suspect:-
 - The offer of hospitality, gifts or benefits, which do not appear to have any proper purpose connected with the Council (examples could include the offer of private holidays or the use of holiday accommodation, personal gifts of substantial value or other benefits offered to the Members or employees at substantially below the price they would normally be offered to the public);
 - Benefits offered to individuals who are closely involved with the matter or relevant service area by someone seeking to do business with the Council by (for example) negotiating a contract or the sale or acquisition of a property, or who has submitted a tender for a Council project;
 - Regular and repeated hospitality from the same person or organisation;
 - Hospitality offered where the Council or employee would be the sole guest on an essentially private occasion;
 - Hospitality offered for purely sporting or social occasions away from the Council's area, where there would be no general expectation that the Council should be represented, nor any clear connection with Council functions.

It should be stressed that the above are examples only, and are not exhaustive. Each offer should be considered on its merits and it will be necessary for the Member to take a personal view as to

whether it is appropriate to accept it.

7. Members and employees must strike a balance between, on the one hand, taking an active part in the life of the community and ensuring that the Council is properly represented when it needs to be in a position to receive or impart information, and, on the other hand, the need to avoid the appearance of improper obligations.
8. In circumstances where it is necessary for the Council to be represented at events where hospitality is offered, it is appropriate to accept unless there are circumstances which clearly suggest that an improper obligation may be seen to arise. If, for example, the host offering hospitality is at a sensitive stage in contractual negotiations with the Council, it will not be appropriate for those who are directly or indirectly involved with those negotiations to accept hospitality. If the matter is a major project which affects many parts of the Council, all invitations during negotiations should be refused. If, however, the issue is relatively minor and confined to one service area or a small group of individual Councillors or employees, it may be appropriate for those unconnected with the matter to accept invitations, if it is believed that the event concerned is particularly relevant to Council functions.
9. The offer of hospitality from major public bodies (including the UK Parliament, the National Assembly for Wales, National Health Service Trusts, Health Authorities, Audit Commission and other Councils) will normally be appropriate for acceptance as the implication of improper obligation would rarely arise in those circumstances and such events are generally arranged for proper public purposes. However, those offered the hospitality would still need to consider whether acceptance is likely to further the Council's interests. Also, if the organisation is involved in the process of negotiating a contract or other arrangement with the Council, careful consideration should be given before accepting the invitation.
10. The acceptance of Gifts and Hospitality in relation to civic or ceremonial events or occasions will not be the subject of any threshold and an inventory of any such gifts received must be recorded in accordance with paragraph 17.
11. Members and employees may be offered gifts in the form of bequests, as a result of their undertaking official duties. This most often happens in the case of home care or residential care staff. Offers of bequests should be discouraged where possible, but if a bequest is made, employees are required by their Code of Conduct to seek the consent of the Council before accepting it. Acceptance of a bequest by Members or employees should be considered within the following framework:-
 - Consent will generally be refused where undue influence or persuasion has been shown to be brought to bear on the

testator;

- The acceptance of small bequests representing a minor proportion of the estate in each individual case will generally be seen as acceptable.

Authorisation

12. It is necessary under the Employee Code of Conduct for employees to receive formal authorisation from the Council before accepting gifts, hospitality or other benefits. Even if authorisation is given by this guidance or otherwise, employees remain under a duty to consider whether acceptance of the gift, hospitality or other benefit would place him/her under an improper obligation or be reasonably regarded as such, and whether they need to register its receipt. The responsibility to do so remains with the employee.
13. Subject to paragraph 12 above, this guidance gives general authorisation for employees to accept the following without further authorisation:-
 - Promotional or advertising items including pens, calendars, note pads, diaries, etc;
 - Token gifts given to all or most participants at the end of an official visit by or to the Council or a properly authorised conference;
 - Modest gifts given by individuals to express gratitude for help given in the proper performance of official duties, where refusal would needlessly offend, including (for example) bunches of flowers, boxes of chocolate, single bottle of inexpensive wine etc, but repeated or costly gifts of this nature should be politely refused;
 - Hospitality offered as part of a conference or training event at which attendance has been authorised through the normal procedures;
 - Hospitality by way of meals offered at business meetings where it is necessary because of diary commitments or other pressing circumstances, for the meeting to cover a normal mealtime. In such cases, the hospitality should be of an appropriately modest scale.

Authorisations

14. The Chief Executive must seek approval of the Monitoring Officer and the Chief Financial Officer.

Group Directors must seek the approval of the Chief Executive.

Service and other Directors must seek the approval of their Group

Directors.

Officers below Service Directors must seek their approval of their Service or other Directors.

15. Councillors or Co-Opted Members are not required to obtain authorisation before accepting hospitality, gifts or other benefits offered but they should consult with the Chief Executive or the Monitoring Officer. They will be responsible for any decision they take to accept.

Registration

16. Members and employees are required to register all gifts, hospitality or other benefits accepted or refused other than those authorised under paragraph 13, using the applicable forms, which will be returned for registration to the appropriate Group Director.
17. Civic gifts or donations intended to be given to the Council and not to the Member or employee personally, should be accepted on behalf of the Council and need not be registered by the individual formally receiving them. However, the receipt of such gifts must be recorded by the Council for inventory purposes.

Offering Hospitality, Gifts and Other Benefits

18. There will be many occasions when it is necessary and appropriate for the Council to offer hospitality, gifts or other benefits to organisations or individuals in order to further the proper exercise of the Council's functions. These may include the following (which is for guidance and not intended to be an exhaustive list):-
 - Promoting the economic, environmental and social benefit of the inhabitants of the area;
 - Securing economic development;
 - Encouraging visitors and providing entertainment;
 - In connection with official and courtesy visits by distinguished people, representatives of foreign, national, regional and local government and other public services;
 - Raising money for charitable purposes or for the funds of public bodies which provide services otherwise than for gain.
19. When considering whether to make such offers, Members and employees must ensure that they have proper regard to the fiduciary responsibilities of the Council towards Council Taxpayers and the inhabitants of the area.
20. The Member Code of Conduct says that:-

“7. Members:

- (a) must not, in their official capacity or otherwise, use their position improperly to confer on or secure for any person, and in particular their family, friends or those with whom they have a close personal association, an advantage or disadvantage or to secure an advantage for themselves;
- (b) must, when using or authorising the use by another Member of the resources of the Authority, do so prudently and in accordance with the law and the Authority's requirements; and
- (c) must ensure that the resources of the Authority are not used improperly for their own private purposes, their family, friends and persons with whom they have a close personal association."

21. The Employee Code of Conduct says that:-

"7 Qualifying employees of relevant Authorities must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the Authority for personal use unless authorised to do so."

OFFICERS' CODE OF CONDUCT

Code of Conduct for Qualifying Employees

General Principles

1. The public is entitled to expect the highest standards of conduct from all qualifying employees of relevant Authorities. The role of such employees is to serve their employing Authority in providing advice, implementing its policies, and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.

Accountability

2. Qualifying employees of relevant Authorities work for their employing Authority and serve the whole of that Authority. They are accountable to, and owe a duty to that Authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

Political Neutrality

3. Qualifying employees of relevant Authorities, whether or not politically restricted, must follow every lawfully expressed policy of the Authority and must not allow their own personal or political opinions to interfere with their work. Where qualifying employees are politically restricted (by reason of the post they hold, the nature of the work they do, or the salary they are paid), they must comply with any statutory restrictions on their political activities.

Relations with Members, the Public and Other Employees

4. Mutual respect between qualifying employees and Members is essential to good local government, and working relationships should be kept on a professional basis.
5. Qualifying employees of relevant Authorities should deal with the public, Members and other employees sympathetically, efficiently and without bias.

Equality

6. Qualifying employees of relevant Authorities must comply with policies relating to equality issues, as agreed by the Authority, in addition to the requirements of the law.

Stewardship

7. Qualifying employees of relevant Authorities must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of

the Authority for personal use unless authorised to do so.

Personal Interests

8. Whilst qualifying employees' private lives are their own concern, they must not allow their private interests to conflict with their public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they must comply with:
 - (1) any rules of their relevant authority on the registration and declaration by employees of financial and non-financial interests.
 - (2) any rules of their relevant authority on the declaration by employees of hospitality or gifts offered to or received by them, from any person or organisation doing or seeking to do business, or otherwise benefiting or seeking to benefit from a relationship with the Authority. Qualifying employees must not accept benefits from a third party unless authorised to do so by their relevant Authority and must not contravene the provision of the Bribery Act 2010 as this may result in the imposition of a fine and/or imprisonment.

Whistleblowing

9. In the event that a qualifying employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the relevant Authority's confidential reporting procedure, or any other procedure designed for this purpose.

Treatment of Information

10. Openness in the dissemination of information and decision making should be the norm in relevant Authorities. However, certain information may be confidential or sensitive and therefore not appropriate for a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a Member, relevant Authority employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.

Appointment of Staff

11. Qualifying employees of relevant Authorities involved in the recruitment and appointment of staff must ensure that

appointments are made on the basis of merit. In order to avoid any possible accusation of bias, such employees must not be involved in any appointment, or any other decisions relating to discipline, promotion, or pay and conditions for any other employee, or prospective employee, to whom they are related, or with whom they have a close personal relationship outside work.

Investigations by Monitoring Officers

12. Where a Monitoring Officer is undertaking an investigation in accordance with regulations made under Section 73(1) of the Local Government Act 2000 a qualifying employee must comply with any requirement made by that Monitoring Officer in connection with such an investigation.

PROTOCOL FOR MEMBER/OFFICER RELATIONS

1. Underlying Principles

Members and Officers are bound by their respective Codes of Conduct which seek to promote the highest ethical standards. This protocol supports those codes and is intended to promote mutual respect between Members and Officers with regard to their respective roles as set out below and in the Council's Constitution.

2. The Role of Members

- 2.1 To promote the social, economic and environmental well being of the community.
- 2.2 Collectively be the ultimate policy makers and decision makers and carry out a number of strategic and corporate functions.
- 2.3 Represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities.
- 2.4 Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances.
- 2.5 Balance different interests identified within the electoral division and represent the ward as a whole.
- 2.6 Be involved in decision making.
- 2.7 Be available to represent the Council on other bodies.
- 2.8 To promote the highest standards of conduct and ethics and to treat each other with courtesy and respect.
- 2.9 To act collectively as the employer of the staff.
- 2.10 To act in a specific capacity listed below where appointed so to do by the Council in accordance with the Constitution:
 - Chairman of the Council
 - Leader of the Executive
 - Executive Member
 - Portfolio Holder (with or without delegated authority)
 - Chairman of the Scrutiny Committee
 - Member of the Scrutiny Committee
 - Chairman of a Committee other than Scrutiny

- Member of a Committee other than Scrutiny
- Representing the Council on Outside Bodies

3. **The Role of Officers**

- 3.1 To initiate and to implement the policies set and the decisions made by Members.
- 3.2 To provide professional and technical advice to Members.
- 3.3 To carry out those functions delegated to Officers.
- 3.4 To provide reasonable help, support and advice to all Members.
- 3.5 To represent the Council on outside bodies.
- 3.6 To act in a specific capacity listed below where appointed so to do by the Council:

The Head of Paid Service (as defined by the Local Government and Housing Act 1989 section 4) has the following functions and duties:

to prepare proposals for the consideration of the Council as to the co-ordination of the discharge of the Council's functions; the number and grades of staff that are required to discharge those functions; the organisation of the Council's staff; and the appointment and proper management of the Council's staff.

The Monitoring Officer (as defined by the Local Government and Housing Act 1989 section 5) has the following functions and duties:

to prepare reports for the consideration of the Council where it appears to him that any proposal, decision or omission by the Council, a Committee, Sub-Committee, or Officer has given rise or is likely to give rise to a contravention of any statute or maladministration or injustice as mentioned in Part III of the Local Government Act 1974.

The Chief Financial Officer (as defined by the Local Government Act 1972 section 151) has the following functions and duties:

to prepare reports for the consideration of the Council where it appears to him that any Committee, Sub-Committee, or Officer has or is about to make a decision which involves or would involve the Council incurring expenditure which is unlawful; or has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and is likely to cause a loss or deficiency to the Council; or is about to enter an item of account, the entry of which would be unlawful.

4. The Relationship Between Officers and Members

- 4.1 The relationship between Officers and Members should be characterised by mutual respect which is essential to good local government.
- 4.2 Close personal familiarity between individual Members and Officers can damage professional relationships and prove embarrassing to other Members and Officers. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct. This includes excessive socialising between Members and Officers.
- 4.3 Any dealing between Members and Officers should be conducted with courtesy and respect and neither party should seek to take unfair advantage of their position. In particular, Members should recognise and pay due regard to their role as an employer in their dealings with Officers.
- 4.4 The Council has statutory duties with regard to equalities issues to positively promote equality. Members and Officers shall not by their behaviour or speech be discriminatory with regard to a person's ethnicity, gender, disability or sexual orientation. Such principles shall apply to the implementation of all personnel policies, recruitment and promotion as they apply to day to day operations.
- 4.5 Members should not raise matters relating to the conduct or capability of a Council employee or of the employees collectively at meetings held in public or in the Press. Employees have no means of responding to criticism like this in public. (If Members feel they have not been treated with proper respect, courtesy or have any concern about the conduct or capability of a Council employee they should raise the matter with the appropriate Chief Officer if they fail to resolve it through direct discussion with the employee.)
- 4.6 Members should not require any Officers to change their professional advice nor take any action which the Officer considers unlawful or illegal or which would amount to maladministration or breach of a statutory code of conduct.
- 4.7 Members should consult with the Monitoring Officer and the Chief Finance Officer about legality, maladministration, financial impropriety and probity or where they have any doubt as to whether the particular decisions were or are likely to be contrary to the policy framework or budget.
- 4.8 In seeking advice and support Members should have due regard to the seniority of the Officer with whom they are dealing and the fact that, while those Officers owe duties to the Council as their employer such duties are first expressed to their respective manager and the Chief Executive and not to any individual

Member. For this reason Members should not give direct instructions to staff unless authorised so to do by the Constitution. If so authorised instructions shall be given to the relevant Chief Officer rather than a more junior member of staff.

5. The Relationship Between the Overview and Scrutiny Committees and Officers (when executive decisions are being scrutinised).

5.1 The Council's Overview and Scrutiny Committees shall seek the advice of the Monitoring Officer where they consider there is doubt about the legality of Executive decisions or the Monitoring Officer and other appropriate Officers where they consider a decision of the Executive might be contrary to the policy framework.

5.2 When considering calling Officers to give evidence the Committee shall not normally, without the consent of the relevant Chief Officer, request the attendance of a Junior Officer to ensure that more Junior Officers are not put under undue pressure.

5.3 When asking Officers to give evidence before the Committee questions should be confined, so far as possible, to questions of fact and explanation and professional opinion relating to policies and decisions.

5.4 Where they consider it appropriate the Committee may ask Officers to explain advice given to Members (of the Executive) prior to decisions being taken and explain decisions they themselves have taken under the Scheme of Delegation.

5.5 The Committee shall not question Officers in such a manner whereby the nature and frequency of the questions or tone or language used could be considered by a reasonable person to be harassment, discriminatory or otherwise unacceptable nor deal with matters which are of a possible disciplinary/capability nature.

5.6 The Committee shall, at all times respect the political impartiality of the Officers and must not expect Officers to give a political view.

6. Officer Relationships with Party Groups

6.1 It must be recognised by all Officers and Members that in discharging their duties Officers serve the Council as a whole and not exclusively any political group, combination of groups, or any individual Members.

6.2 Officers may properly be called upon to support and contribute to the deliberations of political groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even handed manner.

6.3 The support provided by Officers can take many forms, ranging

from a briefing with the Leader of the Executive, the Leaders of other political groups, or Chairs of Committees, to a presentation to a full party group meeting.

- 6.4 Any request for advice given to a political group or Member will be treated with strict confidence by the Officers concerned and will not be accessible to any other political groups. Factual information upon which any advice is based will, if requested, be available to all political groups.
- 6.5 When attendance is requested for political group meetings:
 - 6.5.1 the request to attend a group meeting must be made through the Chief Executive;
 - 6.5.2 Officers will not attend party group meetings which include persons who are not Members of the Council or be present at purely party political discussions;
 - 6.5.3 such a request can only be made in relation to Council business;
 - 6.5.4 Officers must respect the confidentiality of any party group discussions at which they are present.

7. Members in their Role as Local Members

- 7.1 When acting in their electoral division role Members:
 - need to be mindful of their competing roles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on Officer time;
 - recognise the Officer's right to suggest that senior Officers, the Executive (Council) or a Committee should authorise additional work requested by individual Members.

WHISTLEBLOWING POLICY

1. Introduction

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

The Council is committed to achieving the highest possible standards of service. In line with that commitment, employees with serious concerns about any aspect of the Council's work are encouraged to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis. The Council encourages staff to participate without fear of reprisals.

This Whistleblowing Policy has been produced to encourage and enable staff to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. It has been written in accordance with the Public Interest Disclosure Act 1998 and is supported by the recognised trade unions.

Under the Public Interest Disclosure Act 1998, employees who speak out against corruption and malpractice at work will have statutory protection against victimisation and dismissal, providing that the disclosure is made in good faith. It will be automatically unfair to dismiss any employee because they have made a protected disclosure and it will be unlawful to subject them to any other detriment, such as demotion. Employment Tribunals can award redeployment or compensation to successful claimants.

Detailed information on what is classed as a protected disclosure is contained in section 3 of this document on pages 3 & 4.

2. Aims and Scope of this Policy

This policy (1) sets out the procedure for employees to raise concerns and receive feedback on any action taken, (2) allows employees to take the matter further if they are dissatisfied with the Council's response and (3) reassures employees that they will be protected from reprisals or victimisation for whistleblowing in good faith. Employees will be aware that there is an existing procedure in place to enable a grievance to be lodged relating to their own employment. This Whistleblowing Policy is intended to cover concerns that fall outside the scope of the grievance procedure. Employees may have concerns about a practice that maybe:-

- (i) unlawful

- (ii) against the Council's Procedure Rules or policies
- (iii) amounts to improper conduct.

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 who may be responsible for malpractice. The Council will not tolerate harassment or victimisation and will take action to protect staff when they raise a concern in good faith. Any such cases of harassment will be dealt with in accordance with the Council's 'dignity at work' procedure. However, it does not mean that if employees are already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of their whistleblowing.

3. **Confidentiality**

The Council will endeavour to protect employees' identity when they raise a concern and do not want their name to be disclosed. It must be appreciated however that the investigation process usually reveals the source of the information and a statement may be required from staff as part of the evidence, which will be seen by all parties.

However, if an employee requests protection of identity by keeping their disclosure confidential, it will not be disclosed without their consent. If the situation arises where the Council is not able to resolve the concern without revealing the identity (e.g. in a disciplinary situation) the individual will be contacted for a discussion on how the investigation can proceed.

In exceptional circumstances, it may be possible for employees to provide confidential statements that do not have to be authorised. In these circumstances the identity will remain confidential and the individual will not be required to attend any subsequent disciplinary hearing.

Anonymous Allegations

The Whistleblowing Policy encourages staff to put their name to an allegation. Concerns expressed anonymously are less forceful, but they will be considered at the discretion of the appropriate Service Director / Head of Service.

In exercising the discretion, the factors to be taken into account will include:-

- (i) the seriousness of the issues raised
- (ii) the credibility of the concern
- (iii) the likelihood of substantiating the allegation.

Under the Public Interest Disclosure Act 1998, staff will receive protection if the disclosure is made in good faith and is about:-

criminal acts; a failure to comply with a legal obligation; miscarriage of justice; a danger to health and safety; damage to the environment and any attempt to cover up these acts.

Even if the disclosure is a qualifying one as above, the rules governing the disclosure are as follows:-

- (i) staff must disclose the information in good faith
- (ii) staff must believe it to be substantially true
- (iii) staff must not act maliciously or make false allegations
- (iv) staff must not seek any personal gain

If you do not tell the Council who you are, it will be much more difficult for the investigating officer to look into the matter or to provide feedback. Accordingly, while the Council will consider anonymous reports, this policy is not well suited to concerns raised anonymously.

Malicious Allegations

If employees make an allegation in good faith, which is not confirmed by the investigation, no action will be taken against that member of staff. **If however, employees make malicious allegations, disciplinary action will be taken.**

4. Procedure

As a first step, employees should normally raise concerns with their immediate manager or supervisor. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the matter. If employees want to raise the matter with someone else, they should approach their relevant Head of Service.

There are certain matters where the officers listed below should be contacted;

In respect of any matters involving actual or potential unlawful conduct, maladministration or contravention of the law:

Paul Lucas
Director of Legal and Democratic Services

In respect of any potential irregularity affecting any financial or other resources of the Council:

Steve Merritt
Group Director for Corporate Services

Or

Roger Hull
Head of Internal Audit & Risk Management

In respect of any other service related issue or employment matter:

Tony Wilkins
Director of Human Resources

Managers who receive a complaint from an employee must treat that complaint as potentially serious and investigate appropriately. The matter raised must be kept in confidence and not disclosed to any other party unless instructed to do so. If the complaint highlights their Head of Service or Divisional Director being involved in the matter, then managers should contact the Director of Human Resources for advice and guidance unless it is in respect of (i) and (ii) above.

In addition, if employees or managers are unclear as to the appropriate person to approach, they should contact the Director of Human Resources in the first instance. He will ensure that the matter is considered correctly. Concerns are better raised in writing and employees should include relevant dates, incidents and witnesses. If employees do not feel able to put their concerns in writing, then they can telephone or meet the appropriate Officer. The earlier employees express the concern, the easier it is to take action. Although employees are not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for their concern. Employees may invite their trade union to raise the matter on their behalf.

5. Investigation and Response of the Council

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

- (i) be investigated internally via Human Resources or in the case of fraud or corruption, the Internal Audit Section. The Internal Audit Section has devised a separate policy on Anti-Fraud and Corruption and its employees are trained in handling these investigations in the proper manner. They can be contacted on (01443) 744360.
- (ii) be referred to the Police
- (iii) be referred to the External Auditor (Wales Audit Office)
- (iv) form the subject of an independent inquiry

In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate. Concerns or allegations that 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. As soon as possible after a concern is received, the appropriate Division will write to employees acknowledging their concern(s) and indicating the future course of action.

The amount of contact between the Officers considering the issue and employees 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 employees. When any meeting is arranged, employees have the right to be accompanied by a Trade Union representative or work colleague.

The Council will take steps to minimise any difficulties that employees may experience as a result of raising a concern. For instance, if employees are required to give evidence in criminal or disciplinary proceedings, the Council will advise employees about the procedure. The Council accepts that employees need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, employees will receive information about the progress of the investigation and the outcomes of such investigations. Where possible, this will be provided in writing by the investigating officer.

6. Further Action Outside The Policy

This policy is intended to provide employees with an avenue to raise concerns within the Council. Should an employee remain unsatisfied following this, and if they feel it is right to pursue the matter externally, then the following possible contact points are available:

- (i) Council Members (if staff live in the area of the Council)
- (ii) the External Auditor (Wales Audit Office). The Wales Audit Office can be contacted on telephone number 01443 680500
- (iii) relevant professional bodies or regulatory organisations e.g. Inland Revenue or Health & Safety Executive
- (iv) Police.

If employees do take the matter outside the Council, then employees need to ensure that they do not disclose confidential information.

The Director of Human Resources has overall responsibility for the maintenance and operation of this policy. That Officer will maintain a record of concerns raised and the outcomes (but in a form which does not compromise confidentiality) and will report as necessary to the Council.

Guidance Note For Employees

The following guidance should be followed if you suspect fraud, corruption, a criminal act, a failure to comply with a legal obligation, a miscarriage of justice, a danger to health & safety, damage to the environment or any attempt to cover up these acts in any area of Council activity.

Do

1. Make an immediate note of your concerns.

Note all relevant details, such as what was said in telephone or other conversations, the date, time and the names of any parties involved.

2. Convey your suspicions to someone with the appropriate authority and experience.

This is usually your line manager or the Internal Audit Service. Alternatively, the Director of Financial Services or the Director of Human Resources should be contacted.

3. Deal with the matter promptly, if you feel your concerns are warranted.

Any delay may cause the Council to suffer further financial loss.

Don't

1. Do nothing.
2. Be afraid of raising your concerns.

You must not suffer any recrimination as a result of voicing a reasonably held suspicion. **The Council will treat any matter you raise sensitively and in confidence.**

3. Approach or accuse any individuals directly.
4. Try to investigate the matter yourself.

There are special rules surrounding the gathering of evidence for use in criminal cases. Any attempt to gather evidence by people who are unfamiliar with these rules may destroy the case.

5. Convey your suspicions to anyone other than those with the proper authority.
6. Remember the Public Interest Disclosure Act 1998 has the following rules for making a protected disclosure.
 - You must disclose the information in good faith.
 - You must believe it to be substantially true.

- You must not act maliciously or make false allegations.
- You must not seek any personal gain.

DEVELOPMENT CONTROL COMMITTEE - CODE OF GOOD PRACTICE

Background

Introduction

Section A: Conduct of All Members regarding the Planning Process

1. Relationship to the Members' Code of Conduct.
2. Development Proposals and Interests under the Members' Code of Conduct.
3. Fettering Discretion in the Planning Process.
4. Contact with Applicants, Developers and Objectors.
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6. Lobbying by Councillors

Section B: Conduct at Development Control Committee

Procedure for Convening a Site Visit and Conduct

1. Convening the site visit.
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Public Speaking at Meetings

1. Conduct in general
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Key Issues

1. Officers
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MEMBERS' PLANNING CODE OF GOOD PRACTICE

Introduction

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

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

Your role as a Member of the Development Control Committee: to make planning decisions openly, impartially, with sound judgment and for justifiable planning reasons, as set out in the Agenda to meetings of Development Control Committee, namely, "Members should have regard to the Development Plan and, so far as material to applications, to any other material considerations, and when taking decisions, Members have to ensure they do not act in a manner that is incompatible with the Convention on Human Rights as incorporated into legislation by the Human Rights Act 1998" .

When the Code of Good Practice applies: to Members at all times when involving themselves in the planning process. (This includes, where applicable, when participating in the decision making Development Control Committee meetings or when involved on less formal occasions, such as meetings with officers or the public (e.g. "site meetings") and consultative meetings). It applies equally to planning enforcement matters or site specific policy issues, as it does to planning applications.

If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Head of Development Control or the County Borough Legal and Democratic Services Officer or one of his staff, and preferably well before any meeting takes place.

SECTION A

CONDUCT OF ALL MEMBERS REGARDING

The Planning Process

1. Relationship to the Members' Code of Conduct

- **Do** apply the rules in the Members' Code of Conduct first, which must always be complied with.
- **Do** then apply the rules in this Planning Code of Good Practice, which seeks to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put:
 - the Council at risk of proceedings on the legality or maladministration of the related decision; and
 - yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Code of Conduct, in a complaint being made to the Local Ombudsman.

2. Development Proposals and Interest under the Members' Code

- **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings, or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. (Use the disclosure form provided for disclosing interests.)
- **Do** then act accordingly. **Where your interest is personal and prejudicial:-**
 - **Do not** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the Development Control Committee.
 - **Do not** try to represent local views (another Member may be able to do so instead).
 - **Do not** get involved in the processing of the application.
 - **Do not** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a personal and prejudicial interest in a proposal, using your position to discuss that proposal with officers or members when other members of the public would not have the same opportunity to do so.

- **Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal, in which you have a personal and prejudicial interest, to an appropriate officer, in person or in writing, the Code places greater limitations on you in representing that proposal than would apply to a normal member of the public. (For example, where you have a personal and prejudicial interest in a proposal to be put before a meeting, you will have to withdraw from the room or chamber whilst the meeting considers it, whereas an ordinary member of the public would be able to address the meeting on the proposal and observe the meeting's consideration of it from the public gallery.)
- **Do** notify the County Borough Legal and Democratic Services Officer in writing of your own planning application(s) and note that:-
 - * notification to the County Borough Legal and Democratic Services Officer should be made no later than submission of application:
 - * the proposal will always be reported to the Development Control Committee as a main item, and will not be dealt with by officers under delegated powers; and
 - * it is advisable that you employ an agent to act on your behalf on the proposal in dealing with officers and with Members of the Development Control Committee (where permitted).

3. **Fettering Discretion in the Planning Process**

- **Do not** fetter your discretion, and therefore your ability to participate in planning decision making at Development Control Committee, by making up your mind, or appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting and of your hearing the officer's presentation and evidence and arguments on both sides.
- **Fettering your discretion** in this way, and then taking part in the decision, will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all the factors enabling the proposal to be considered on its merits.
- **Do** be aware that as a Member of Development Control Committee, which is a regulatory committee where decisions are made on behalf of the whole County Borough (and not individual electoral divisions) you should take care to ensure that you act, and are seen to act, impartially at all times.

4. **Contact with Applicants, Developers and Objectors**

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Do not** agree to any formal meeting with applicants, developers or groups of objectors. Where you feel that a formal meeting would be useful in clarifying the issues, you should not seek to arrange that meeting yourself, but should request the Service Director of Planning to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the Council to any particular course of action, that the meeting is properly recorded on the application file, and that the record of the meeting is disclosed when the application is considered by the Committee.
- **Do** otherwise:
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - report to the Service Director of Planning any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition, in respect of presentations by applicants/developers

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

5. **Lobbying of Councillors**

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality, and therefore your ability to participate in the Development Control Committee's decision making, to express an intention to vote one way or another, or to express such a firm point of view that it amounts to the same thing.
- **Do** remember that your overriding duty is to the whole community, not just to the people in your own electoral division, and, taking account of the need to make decisions impartially, that you should

not improperly favour, or appear to improperly favour, any person, company, group or locality.

- **Do** follow the Council's Code of Conduct in relation to, and do not accept gifts and/or hospitality from any person involved in or affected by, a planning proposal.
- **Do** copy or pass on any lobbying correspondence you receive to the Service Director of Planning at the earliest opportunity.
- **Do** promptly refer to the Service Director of Planning any offers made to you, without officers being present, of planning gain or constraint of development, through a proposed S.106 Planning Obligation or otherwise.
- **Do** inform the County Borough Legal and Democratic Service Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will, in turn, advise the appropriate officers to follow the matter up.
- **Do** note that, unless you have a personal and prejudicial interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
 - listening or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of, or amount to, pre-judging the issue and you make clear you are keeping an open mind;
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion or speaking at the meeting as a Local Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or local view, you have not committed yourself to vote in accordance with those views, and will make up your own mind having heard all the facts and listened to the debate.

6. **Lobbying by Councillors**

- **Do not** become a member of, lead or represent an organisation whose primary purpose is to lobby, to promote or oppose planning proposals. If you do, you will have fettered your discretion and are likely to have a personal and/or prejudicial interest which you should declare.
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning

proposals, but disclose a personal interest where that organisation has made representations on a particular planning proposal, and make it clear to that organisation, and to the Development Control Committee, that you have reserved judgment and maintained the independence to make up your own mind on each separate proposal.

- **Do not** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken. Apply a “reasonableness test” to issues of balance and degree when assessing what may be regarded as “excessive” in the prevailing circumstances.
- **Do not** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how individual Members should vote on a planning issue.

SECTION B

CONDUCT AT DEVELOPMENT CONTROL COMMITTEE

Procedure For Convening A Site Visit And Conduct

1. Convening a Site Visit

- **Do** specifically detail the substantial reason(s) for requesting a site visit. Such details should be submitted before (or if this is not possible) at the relevant Development Control Committee. The Committee will then vote on the request for a site visit.
- **Do** note that, in calling for a site visit, you should be satisfied that the Committee should expect to benefit from a site visit and that it should assist in the determination of an application where, for example, the impact of the proposed development is difficult to visualise from the plans and supporting material, or where the proposal is particularly contentious.
- **Do** note that this accords with the way in which site visits are used by Planning Inspectors, which is to “acquaint the Inspector with the site” and “its environs”.
- **Do** note that Members acting on behalf of non-Development Control Members must specifically detail the substantial reason(s) for requesting a site visit. Such details should be submitted before or (if this is not possible) at, the relevant Development Control Committee. The Committee will then vote upon the request for a site visit.
- **Do** make more use of informative discussion between officers and members prior to a matter being considered at Development Control Committee.
- **Do** note that, following the site visit, the County Borough Legal and Democratic Services Officer will report back, on the soonest possible occasion, to Development Control Committee on the outcome of the visit.

2. Conduct in General

- **Do** try to attend site visits to which you have been invited.
- **Do not**
 - quote particular factors as significant in terms of the weight attached to them, relative to other factors or the difficulty of their assessment in the absence of a site inspection, or
 - that there are significant policy or precedent implications and specific site factors needing to be carefully addressed.

- **Do** ensure that any information which you gained from the site visit is reported back to the Committee, so that all Members have the same information.
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Do not** hear representations from any other party. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the Council and direct them to or inform the officer present.
- **Do not** express opinions or views to anyone.
- **Do not** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias, unless:
 - you feel it is essential for you to visit the site other than through attending the official site visit;
 - you have first spoken to the Service Director of Planning about your intention to do so and why (which will be recorded on the file); and
 - you can ensure you will comply with these good practice rules on site visits.

3. **Conduct in Relation to Site Visits**

- Site visits are attended by the Chairman, Vice-Chairman, a member of the larger opposition group and local member(s). Where justified, on occasion, they are also attended by adjoining local member(s). Requests for site visits need to be justified by Members, with the identity of the requesting member and the reason for the site visit being minuted. (See above)
- When a site visit is made, members of the public are not allowed to speak. After the site has been inspected, and any questions by Members have been dealt with, the matter is automatically referred to the next meeting of the Development Control Committee. A report is presented giving details of the site visit, together with the officer's recommendation.
- These procedures are designed to ensure that Development Control Committee benefits from a site visit, and should assist the determination of an application where, for example, the impact of the proposed development is difficult to visualise from the plans and supporting material, or where the proposal is particularly contentious. It is suggested that this would also be in accord with

the way in which site visits are used by Planning Inspectors, which is to “acquaint the Inspector with the site” and “its environs”.

PUBLIC SPEAKING AT MEETINGS

1. Conduct in General

- **Do not** allow applicant(s), objectors, their professional advisors/agents or members of the public to communicate with you during the Committee's proceedings (orally or in writing), other than through the procedure for public speaking, as this may give the appearance of bias. Arrangements are currently being considered for the better separation of Committee Members from members of the public at such meetings. Until these physically transpire, Members should bear this matter firmly in mind whilst attending Development Control Committee.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

2. The Procedures

- Not all planning applications are considered by the Development Control Committees. Minor applications are usually determined at officer level under delegated powers. The National Assembly for Wales encourages Councils to determine at least 70% of all applications under delegated powers, particularly where they comply with local plans previously agreed by the Council.
- The Development Control Committee considers all planning applications which require determination by Elected Members of the Council, in its role as the Local Planning Authority.
- The simplest and most appropriate way for members of the public and other interested parties to comment on a planning application is by expressing any views they may have in writing. Views should be sent to the Service Director of Planning, at the main Development Control Office at Sardis House, Pontypridd. Comments must be submitted within a specified time period. This will usually be 21 days from the date of the consultation letter. This will ensure that any comments received can be taken into account fully, before a decision on the application is made.
- All those who submit written comments in this way will receive a letter of acknowledgement. They will be informed that they, or their agent, may be able to speak at the Development Control Committee, if the application is one which needs to be considered by Development Control Committee.
- If anyone wishes to speak at the Development Control Committee, they must notify the Development Control office, in writing, at least 2 working days prior to the date of the Committee meeting where the planning application will be considered. This will allow reasonable notice for the applicant, or his/her agent, to be able to speak in response, should they so wish. It should be noted, however, that

where an application is deferred (following an application where Members have indicated that they are minded to either grant or refuse contrary to officer recommendation) then speakers will not be heard on the second occasion that the application is before Members (having been given the opportunity to speak upon the first occasion) subject to the Chairman's discretion, in exceptional circumstances, to allow such speakers.

- Notification of a request to speak at the Committee which is received less than 2 days before the date of the meeting, will not be permitted, unless there are exceptional circumstances, to be determined by the County Borough Council Legal Officer, in consultation with the Chairman of the Development Control Committee. This rule will be strictly enforced to prevent delays in Committee business.
- In order to keep the meeting to a reasonable length, if a number of people wish to speak either for or against a particular planning application on similar grounds, they should seek to combine their representations and nominate one spokesperson to speak on their behalf. This will avoid unnecessary repetition at the Committee meeting.
- Visual aids and other supporting evidence (for either applicant or objector) will not be permitted, unless there are exceptional circumstances (to be determined by the County Borough Legal and Democratic Officer in consultation with the Chairman of the Development Control Committee). Applications by applicants or objectors to submit visual aids or other supporting evidence to Development Control Committee will need to be made to the Development Control office in advance of committee meetings in order for their appropriateness to be assessed. This will not impinge upon Council officers submitting such evidence. The Chairman shall have absolute discretion as to the conduct of business, which shall include deciding on the number of speakers, together with ruling upon the admissibility of all evidence.

The order for public speaking will normally be as follows:-

1. The applicant(s).
2. The applicant's professional adviser(s).
3. Supporters for the Applicant(s).
4. Professional advisers of the objector(s).
5. Objector(s).
6. Response by the applicant(s) or their professional advisors to new material or detail introduced by the objector(s) or by their professional advisor(s).

7. Presentation of the Council Officer's report.

Members will then consider and debate the application and will determine the decision to be made on it.

- Each speaker will have no more than 5 minutes to address the meeting although, in exceptional circumstances, the Chairman may extend this time.
- Consideration of an item will not be delayed simply because an objector, or the applicant, is not present, providing they have been appropriately informed of the date of the meeting and of their right to speak at that meeting.
- All speakers must comply with the directions of the Chairman, should he/she interrupt them during their speech.
- All those making verbal comments are advised that the law of defamation applies to any statement made in public. It is important, therefore that speakers do not make personal comments about either applicants or objectors.
- These rules are designed to ensure fair play and the smooth conduct of the meeting.
- Meetings of the Development Control Committee are normally held at 5.00 p.m. in the Council Chamber, Council Offices, The Pavilions, Cambrian Park, Clydach Vale. CF40 2XX. Area Development Control Committees may be held at such venues as the Chairman may from time to time determine. They will also be held at 5.00 p.m. General enquiries in respect of meetings should be made to the Council's Member Services Support Team, Clydach Vale (Tel: 01443 424011) Fax: (01443 424114).
- If members of the public want to know when, or if, a particular planning application is due to be considered by the Development Control Committee, they should contact the Development Control Section at Sardis House, Pontypridd (Tel: 01443 494700) Fax: (01443 494888).

KEY ISSUES

1. Officers

- **Do not** put pressure on officers to put forward a particular recommendation on how a planning application should be decided. (This does not prevent you from asking questions or submitting views to the development control officers, which may be incorporated into any committee report).
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct. As a result, all officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

2. Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, your reasons are recorded and set out in the report to the Committee.
- **Do** make decisions having regard to the Development Plan and, so far as material to applications, to any other material planning considerations and act in a manner that is compatible with the Convention on Human Rights as incorporated into legislation by the Human Rights Act 1998.
- **Do** come to your decision only after due consideration of all the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer the decision until such information can be made available.
- **Do not** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate. It is incumbent upon Members to ensure that they are present for the entire debate in relation to an application, to allow them to vote. A Member leaving The Chamber, and subsequently attempting to vote, may have their vote not counted.
- **Do** have recorded the reasons for Committee's decision to defer any proposal.
- **Do** make sure that, if you are proposing, seconding or supporting a decision contrary to officer recommendations or to the development plan, you clearly identify and understand the planning reasons

leading to this conclusion/decision. These reasons must be given prior to the vote and will be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge, which may involve legal proceedings.