



Governance and Electoral Arrangements Committee

Tuesday, 16 January 2018 at 6.00 pm

Rooms 8 & 9, Capswood, Oxford Road, Denham

A G E N D A

Item

1. Apologies for Absence

2. Minutes (*Pages 3 - 4*)

To confirm the minutes of the meeting held on 23 November 2017.

3. Declarations of Interest

To receive any declarations of interest

4. Review of the Council's Constitution (*Pages 5 - 8*)

Appendix 1 - Part C Codes and Protocols (Pages 9 - 76)

Appendix 2 - Part E Schemes of Delegations (To Follow)

5. Exclusion of Public

The Chairman to move the following resolution:-

"That under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act."

Note: All reports will be updated orally at the meeting if appropriate and may be supplemented by additional reports at the Chairman's discretion.

Membership: (Governance and Electoral Arrangements Committee)

Councillors: P Hogan (Chairman)
Dr W Matthews
D Anthony
J Lowen-Cooper
D Pepler
D Smith

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GOVERNANCE AND ELECTORAL ARRANGEMENTS COMMITTEE

Meeting - 23 November 2017

Present: P Hogan (Chairman)
D Anthony, J Lowen-Cooper, D Pepler and D Smith

Also Present: M Bezzant

Apologies for Dr W Matthews
absence:

11. MINUTES

The minutes of the Governance and Electoral Arrangements Committee held on 27 September were agreed as an accurate record.

12. DECLARATIONS OF INTEREST

There were no declarations of interest.

13. REVIEW OF THE CONSTITUTION - PART B:

In accordance with the agreed constitutional review work programme, Members undertook a detailed review of Part B - 'Procedure Rules'.

The Council's Constitution was last reviewed in 2014/15 and an updated version came into effect in May 2015. This took into account the reduction in the number of members and incorporated shared working arrangements with Chiltern District Council in place at the time. However, Members were advised that it has been necessary to amend the Constitution to ensure that it is up to date and user friendly, and to introduce harmonised procedures with Chiltern District Council where this would facilitate more effective running of shared services. Therefore, Members were advised that the Procedure Rules had been updated to reflect changes to Committees that had taken place since May 2015, and that all references to the "proper officer" had been amended to reflect the relevant specified officer.

Members noted that changes had been made to both Annual and Ordinary Council rules in order to clarify procedures and make clear the decisions that would be taken at each meeting. Members felt that formalised, relevant presentations at Council meetings should be placed higher on the Agenda for the benefit of presenters.

The Committee questioned the proposed new procedure for making temporary changes to membership of committees. It was confirmed that proposed changes would be submitted to the Democratic & Electoral Services Manager by the Group Leader or their deputy or other nominated person in advance of the meeting date.

It was questioned whether the notice of Summons to Meetings should include a reference to paper summons when electronic communication was now the norm. The Head of Legal and Democratic Services agreed to check the relevant legislation and report back to Members at a forthcoming meeting.

Members felt that imposing a time limit of 15 minutes to wait for a meeting to be quorate would not allow for exceptional circumstances to be taken into consideration. It was therefore requested that the regulation be amended to read "or longer at the discretion of the Chairman in exceptional circumstances".

The Committee were minded to retain Rule 15 – Themed Debate, as Members felt that themed debates might usefully be taken forward in future.

The Committee were advised on the rules surrounding the recording of meetings. It was noted that the public had a statutory right to record meetings via audio without notifying democratic services, but that permission was needed for filming or photography which could cause disruption to a meeting. Members were advised that, although members of the public could object to being filmed or photographed, Councillors could not.

The Committee requested that the following paragraphs/sentences be re-written to make them easier to understand:

- Appendix 2: 2 (Ordinary Meetings – bullet point n).
- Appendix 2: 10.3 (Notice of Questions) – make clear that the rule is a *or b*, not a *and b*.
- Appendix 2: 20.2 (Recording of Proceedings) – to read "audio and/or visual equipment".
- Appendix 3: 3.1 (Decisions of Cabinet – bullet point e) – to refer to delegation by Cabinet to another authority.

The amendments to the document as agreed would be reflected in the final draft Constitution presented for consideration by the Committee as outlined in the Committee's work programme.

RESOLVED that the proposed revisions to the Procedure Rules shown in Appendices 1 to 7 be agreed subject to the incorporation of the amendments set out in the minute above.

The meeting terminated at 7.03 pm

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| SUBJECT: | Review of the Council's Constitution |
| REPORT OF: | Monitoring Officer |
| RESPONSIBLE OFFICER | Jim Burness, Director of Resources |
| REPORT AUTHOR | Joanna Swift, Head of Legal and Democratic Services joanna.swift@southbucks.gov.uk Tel: 01494 732761 |
| WARD/S AFFECTED | None |

1. Purpose of Report

In accordance with the agreed work plan to undertake a detailed review of Part C - Codes Protocol and Procedures and Part E - Schemes of Delegations of the Council's Constitution.

RECOMMENDATION

That the Committee consider and agree the proposed revisions to Parts C and E of the Constitution at Appendices 1 and 2

2. Reasons for Recommendation

To ensure the Council's Constitution is up to date and user-friendly for members, staff and the public and to introduce harmonised procedures with Chiltern District Council where this will facilitate more effective running of shared services.

3. Content of Report

- 3.1 The Committee agreed a work programme for reviewing and updating the Council's Constitution at their meeting in July. This report deals with Part C Codes, Protocols and Procedures and Part E Schemes of Delegation to Committees, Cabinet and Officers. The proposed changes are shown in track changes in the appendices to this report and the main issues are explained in more detail below.
- 3.2 The Council's Constitution was last reviewed in 2014/15 and an updated version came into effect in May 2015. This took account of the reduction in the number of members and incorporated the shared working arrangements with Chiltern District Council in place at the time, together with changes introduced by the Localism Act 2011. Following the implementation of the final shared services reviews for the Planning and Local Land Charge services, all staff (except those at the South Buckinghamshire) now work for both Councils under harmonised terms and conditions. It is therefore important for the effective operation of all services that any codes, protocols and procedures which involve staff, as well as the scheme of delegations to officers are consistent at both Councils.
- 3.3 Part C contains the following documents:-
- **Section A Code of Corporate Governance** – A Joint Code has been approved by both Councils and is reviewed by the respective Audit Committees

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- **Section B Members Code of Conduct** – The code was approved by Full Council in July 2012 and is reviewed annually by the Audit Committee (no changes and not included at Appendix 1)
 - **Section C Protocol Member/Officer Relations** – revised version attached which harmonises with the protocol adopted by CDC (which was largely based on the South Bucks protocol).
 - **Section D Protocol on Recording at Meetings** – updated to reflect changes to email addresses
 - **Section E Protocol on the Operation of Policy Advisory Groups** – updated to clarify that PAGs can comprise up to 5 members.
 - **Section F Procedure for Speaking at Planning Committee** – updated to refer to current email addresses and job titles
 - **Section G Adopted Procedure for Confirming TPOs by Planning Committee** -
 - **Section H Guidance for Members on Planning Matters** – updated to refer to latest guidance from LGA and Planning Advisory Service.
 - **Section I Procedure for Licensing Sub-Committee Hearings** – updated to include provision for calling witnesses and updated guidance on rights of councillors to represent applicants/objectors
 - **Section J Guidance for Members when determining (or representing objectors in connection with) Applications pursuant to the Licensing Act 2003** - updated to clarify the 3 types of interests under the code and make reference to Town as well as Parish Councils
 - **Section K Employees Code of Conduct** – A Joint Code has been approved by both Councils and is reviewed by the Joint Staffing Committee
 - **Section L Petitions Scheme** – updated in 2015 and no further revision proposed

3.4 Part E contains the following documents:

- **Section A Miscellaneous Council functions** – these functions are prescribed by the Local Authorities (Functions and Responsibilities) Regulations 2000 as amended and are overdue for further amendment and updating by Parliament. Wording has been included to clarify that some of the functions listed are the responsibility of other authorities.
- **Section B Planning Committee functions** - these functions are prescribed by the Local Authorities (Functions and Responsibilities) Regulations 2000 as amended
- **Section C Licensing Committee functions** - these functions are prescribed by the Local Authorities (Functions and Responsibilities) Regulations 2000 as amended and are overdue for further amendment and updating by Parliament. Wording has been included to clarify that some of the functions listed are the responsibility of other authorities.
- **Section D Licensing Sub-Committee functions** – these have been update to reflect the decisions of Licensing Committee in respect of handling applications for film classification/re-classification
- **Section E Scheme of Delegation to Cabinet portfolio holders** – these have been update to reflect recent changes to portfolios
- **Section F Scheme of Delegation to Officers** - this section of constitution was not updated in 2015 and has been amended to harmonise with CDC. It includes an introductory section setting out the limits and general rules governing the exercise of delegated powers, together with a methodology. A tabular format has been adopted for each officer exercising delegated authority with council and executive

delegations numbered individually for ease of reference. The approach is explained in more detail below. No changes have been made to the officer delegations from Planning Committee pending a separate review at both Councils following the implementation of the joint planning service.

3.5 **Section F Methodology, General Limitations and General Powers**

This section of the scheme of delegations reflects the joint senior management structure. The delegation numbers are consecutive under each named officer for ease of reference. The General Limitations in paragraph 2 apply to all delegations and require officers to exercise their powers strictly in accordance with approved council policies, procedures and budgetary provisions. If a delegated decision would be contrary to adopted policies or procedures rules (including for example Contract and Financial Procedure Rules) or outside approved budgets officers must refer the decision to the Cabinet or the relevant Committee as appropriate. The General Powers in paragraph 3 cover powers required for the day to day running of service areas and avoid the duplication of certain delegations being repeated under each of the named officers. For example this includes powers to authorise staff to exercise statutory powers of inspection and entry, issue statutory notices and requests for information, take associated enforcement action and deal with routine staffing matters. Again the exercise of these powers must be in accordance with the Council's adopted policies and procedures and any specific conditions listed in the individual delegations. This could include consultation with the appropriate cabinet portfolio-holder or Committee Chairman or another officer.

3.6 **Section F Detailed Delegations to Named Officers**

The detailed delegations are listed by officer and cover each area of responsibility where officers are authorised to exercise delegated powers together with any conditions for exercising that power. To avoid the Scheme becoming out of date when legislation changes some powers are delegated within overall functional descriptions where this is legally permissible e.g. food hygiene and food safety, public health and environmental protection. In these cases the exercise of a delegation applies to functions in a broad and inclusive manner and intended to include the doing of anything which will facilitate or is conducive or incidental to the discharge of the specified functions. Elsewhere it is necessary to be specific about statutory provisions for example in respect of planning and licensing functions.

Officers are also expected to consider in what circumstances it might be appropriate to consult members such as the relevant cabinet portfolio holder, Committee Chairman or local member/s before taking a decision. If such a member objects to the proposed decision the matter must be reported to the Cabinet or relevant decision-making body for consideration unless there is a specific provision for dealing with objections in a particular delegation. The Cabinet or relevant Cabinet portfolio holder may reserve a decision about a particular matter to them or require that an officer refrains from exercising delegated authority. Furthermore officers must not exercise their delegation on a decision in which they have a personal interest.

4 Consultation

The Committee is asked to consider whether, and if so how, they wish to consult on the proposed revisions with members more widely, either via committees/cabinet or individually.

5 Options

The Committee is being invite to consider and agree the revisions to the Framework document and can suggest further changes if considered appropriate.

6. Corporate Implications

Financial – There are no financial implications arising directly from this report.

Legal – As set out in the report

Risks issues – The lack of an up to date and effective Constitution could increase the risk of governance failures

Equalities - None specific

7. Links to Council Policy Objectives

There are no direct links to the policy objectives. But the Council has a statutory duty to maintain an up to date Constitution and publish this on the website.

8. Next Steps

The revision will be recommended for approval by Full council on 27 February.

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| Background Papers: | None except those referred to in the report |
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PART C
SECTION A: Code of Corporate Governance

Definition of Governance

Governance comprises the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved.

Source: International Framework: Good Governance in the Public Sector (CIPFA/IFAC, 2014).

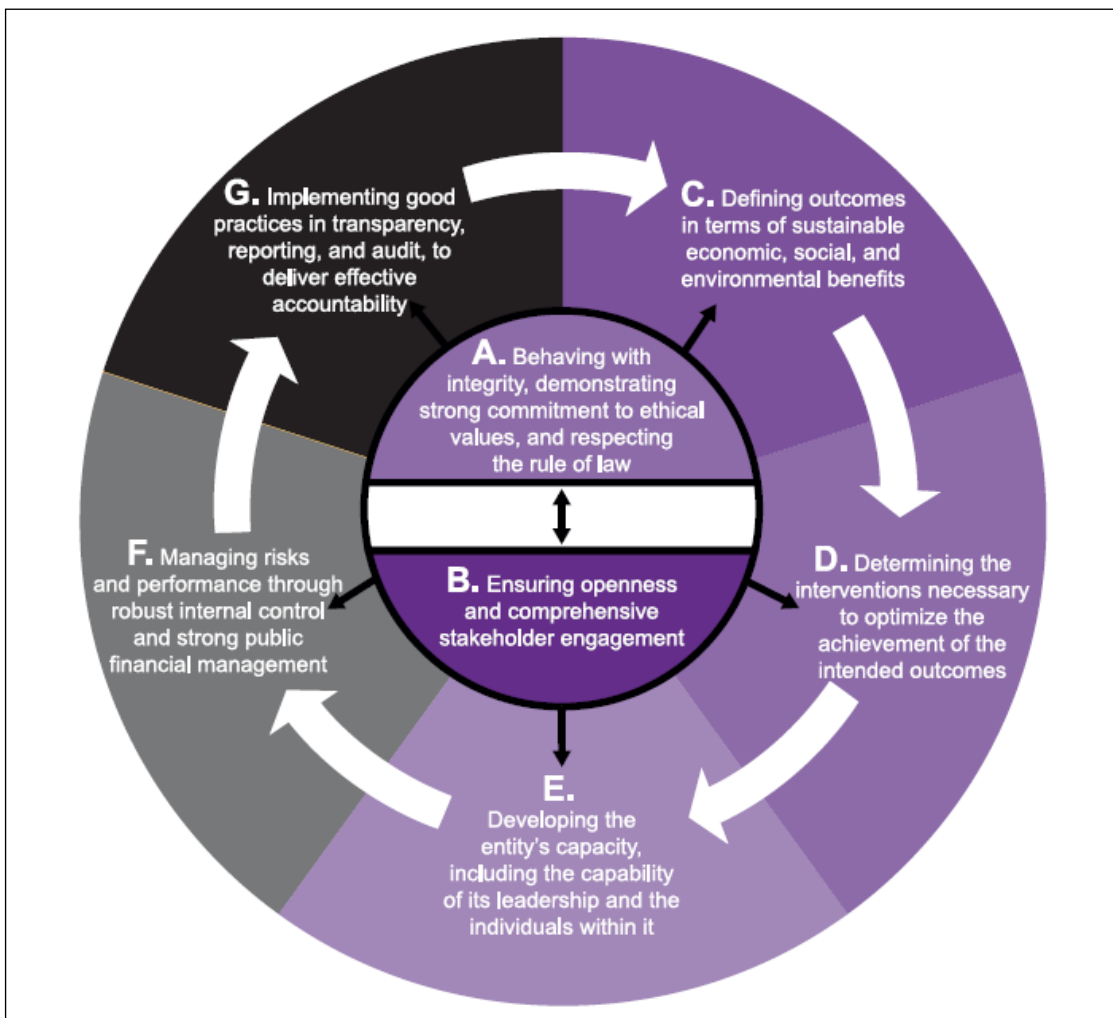
Our Approach to Governance

We believe that to deliver good governance, both the Council and individuals working for the Council must try to achieve our objectives while acting in the public interest at all times.

We do this by applying the following framework where Principles A and B permeate implementation of principles C to G.

Governance Framework:

Achieving the intended outcomes whilst acting in the Public Interest at all times.



Source: International Framework: Good Governance in the Public Sector (CIPFA/IFAC, 2014).

Good governance is also dynamic, and we are committed to improving governance on a continuing basis through a process of evaluation and review.

How we Deliver Good Governance

We aim to deliver good governance by carrying out the actions in the following table to meet each of the core Governance principles.

| Core Principle | Actions |
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| <p>A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law</p> <p>Local government organisations are accountable not only for how much they spend, but also for how they use the resources under their stewardship.</p> <p>This includes accountability for outputs, both positive and negative, and for the outcomes they have achieved.</p> <p>In addition, they have an overarching responsibility to serve the public interest in adhering to the requirements of legislation and government policies.</p> <p>It is essential that, as a whole, they can demonstrate the appropriateness of all their actions and have mechanisms in place to encourage and enforce adherence to ethical values and to respect the rule of law.</p> | <p>Behaving with integrity</p> <p>We will:</p> <ul style="list-style-type: none"> • Maintain and enforce a Member Code of Conduct. • Maintain and enforce an Employee Code of Conduct. • Ensure new Members and staff are briefed on the Codes of Conduct. • Have a clear system for performance management applying to all employees. • Declare and record any vested interests at meetings. • Conduct meetings in an open and inclusive manner. • Ensure a committee has specific responsibility for standards matters. • Maintain and enforce an Anti-Fraud, Bribery and Corruption Policy. • Maintain an up to date register of interests for Members and staff. • Maintain an up to date register of gifts and hospitality. • Maintain a whistleblowing policy. • Maintain a complaints policy, taking complaints seriously, and acting on these when appropriate. <p>Demonstrating strong commitment to ethical values</p> <p>We will:</p> <ul style="list-style-type: none"> • Set out and follow our core Values, which underpin how we behave. • Appoint staff based on merit alone. • Ensure our Contract Procedure Rules are fair, open and transparent. • Require our partners to act with integrity and comply with high ethical standards. <p>Respecting the rule of law</p> |

| Core Principle | Actions |
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| | <p>We will:</p> <ul style="list-style-type: none"> • Follow all applicable legislation and statutory guidance. • Maintain and follow our constitution. • Comply with CIPFA’s Statement on the Role of the Chief Financial Officer in Local Government (CIPFA, 2015). • Ensure legal advice is sought when necessary, and will formally record this advice. • Appoint a statutory Monitoring Officer, and support them to discharge their function effectively. • Ensure effective arrangements are in place for the discharge of the Head of Paid Service function. |
| <p>B. Ensuring openness and comprehensive stakeholder engagement</p> <p>Local government is run for the public good, organisations therefore should ensure openness in their activities.</p> <p>Clear, trusted channels of communication and consultation should be used to engage effectively with all groups of stakeholders, such as individual citizens and service users, as well as institutional stakeholders.</p> | <p>Openness</p> <p>We will:</p> <ul style="list-style-type: none"> • Produce and publish an Annual Report on our performance. • Maintain a Freedom of Information Act publication scheme. • Maintain a website and publish key information about the Authority on this. • Formally record decisions taken, and make these available to the public. • Provide clear reasoning and evidence for all decisions. • Maintain a calendar of dates for meetings with advance notice of key decisions to be taken. <p>Engaging comprehensively with institutional stakeholders</p> <p>We will:</p> <ul style="list-style-type: none"> • Consult institutional stakeholders when appropriate on key decisions, and listen to the feedback. • Maintain a communications strategy. • Work in an open and inclusive manner with partners. <p>Engaging with individual citizens and service users effectively</p> <p>We will:</p> <ul style="list-style-type: none"> • Consult citizens and service users when appropriate on key decisions, and listen to the feedback. • Maintain a communications strategy. • Seek to effectively consult with vulnerable and hard to reach |

| Core Principle | Actions |
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| | <p>groups.</p> <ul style="list-style-type: none"> • Maintain a record of public consultations. |
| <p>C. Defining outcomes in terms of sustainable economic, social, and environmental benefits</p> <p>The long-term nature and impact of many of local government’s responsibilities mean that it should define and plan outcomes and that these should be sustainable.</p> <p>Decisions should further the authority’s purpose, contribute to intended benefits and outcomes, and remain within the limits of authority and resources.</p> <p>Input from all groups of stakeholders, including citizens, service users, and institutional stakeholders, is vital to the success of this process and in balancing competing demands when determining priorities for the finite resources available.</p> | <p>Defining outcomes</p> <p>We will:</p> <ul style="list-style-type: none"> • Work with our partners to create a vision for the area. • Work with our partners to produce a Sustainable Community Strategy for the area. • Publish a forward looking Business Plan. • Produce annual service plans. • Regularly monitor progress with achieving our aims and objectives. <p>Sustainable economic, social and environmental benefits</p> <p>We will:</p> <ul style="list-style-type: none"> • Consider and balance the economic, social and environmental impact of our actions. • Consider the wider public interest associated with balancing conflicting interests between achieving the various economic, social and environmental benefits. • Consider long term implications when making decisions. • Ensure fair access to our services for all users. |
| <p>D. Determining the interventions necessary to optimise the achievement of the intended outcomes</p> <p>Local government achieves its intended outcomes by providing a mixture of legal, regulatory, and practical interventions.</p> <p>Determining the right mix of these courses of action is a critically important strategic choice that local government</p> | <p>Determining interventions</p> <p>We will:</p> <ul style="list-style-type: none"> • Ensure alternative options are presented and objectively considered, to ensure best value is achieved. For instance in reports seeking decisions. • Consider the risks associated with alternative options. • Consider feedback from citizens and service users when making decisions about service improvements or where services are no longer required in order to prioritise competing demands within limited resources. • Maintain a fair and proportionate corporate enforcement policy and follow this at all times. |

| Core Principle | Actions |
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| <p>has to make to ensure intended outcomes are achieved.</p> <p>They need robust decision-making mechanisms to ensure that their defined outcomes can be achieved in a way that provides the best trade-off between the various types of resource inputs while still enabling effective and efficient operations.</p> <p>Decisions made need to be reviewed continually to ensure that achievement of outcomes is optimised.</p> | <p>Planning interventions</p> <p>We will:</p> <ul style="list-style-type: none"> • Operate an annual planning and control cycle to deal with strategic and operational plans, priorities and targets. • Engage / involve internal and external stakeholders and partners as appropriate. • Set and monitor key performance indicators / targets. • Maintain and follow a formal project management framework. • Be prepared to change and adapt, to deal with changing circumstances. <p>Optimising achievement of intended outcomes</p> <p>We will:</p> <ul style="list-style-type: none"> • Balance service priorities, affordability and other resource constraints. For instance by use of our Cost, Quality and Resilience triangle. • Take account of the full cost of operations over the medium and longer term. • Consider 'social value' and comply with the Public Services (Social Value) Act 2012 |
| <p>E. Developing the entity's capacity, including the capability of its leadership and the individuals within it</p> <p>Local government needs appropriate structures and leadership, as well as people with the right skills, appropriate qualifications and mindset, to operate efficiently and effectively and achieve their intended outcomes within the specified periods.</p> <p>A local government organisation must ensure that it has both the capacity to fulfill its own mandate and to make certain that there are policies in place to guarantee</p> | <p>Developing the entity's capacity</p> <p>We will:</p> <ul style="list-style-type: none"> • Regularly review our activities, outputs and planned outcomes. • Improve resource use through appropriate application of techniques such as Peer Review / benchmarking. • Work in partnership with others, where added value can be achieved. • Develop a workforce plan and an organisational development strategy. <p>Developing the capability of the entity's leadership and other individuals</p> <p>We will:</p> <ul style="list-style-type: none"> • Maintain up to date job descriptions for all staff. • Maintain a Protocol on Member / Officer Relations. • Maintain an up to date scheme of delegation. |

| Core Principle | Actions |
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| <p>that its management has the operational capacity for the organisation as a whole.</p> <p>Because both individuals and the environment in which an authority operates will change over time, there will be a continuous need to develop its capacity as well as the skills and experience of the leadership of individual staff members.</p> <p>Leadership in local government entities is strengthened by the participation of people with many different types of backgrounds, reflecting the structure and diversity of communities.</p> | <ul style="list-style-type: none"> • Invest in Member and staff training. • Maintain our Investors in People (IIP) accreditation. • Hold staff to account through regular performance reviews which take account of training or development needs. • Implement appropriate human resource policies. |
| <p>F. Managing risks and performance through robust internal control and strong public financial management</p> <p>Local government needs to ensure that the organisations and governance structures that it oversees have implemented, and can sustain, an effective performance management system that facilitates effective and efficient delivery of planned services.</p> <p>Risk management and internal control are important and integral parts of a performance management system and crucial to the achievement of outcomes.</p> <p>Risk should be considered and addressed as part of all decision making activities.</p> | <p>Managing risk</p> <p>We will:</p> <ul style="list-style-type: none"> • Consider risk as an integral part of all activities. • Maintain an up to date Risk Management Strategy. • Maintain up to date Risk Management Guidance. • Maintain up to date Risk Registers. • Allocate a senior officer with overall responsibility for risk management. • Maintain up to date business continuity plans. • Report at least annually to the Committee responsible for Risk Management. <p>Managing performance</p> <p>We will:</p> <ul style="list-style-type: none"> • Monitor our performance and regularly report on progress. • Compare our performance against others by using benchmarking, cost comparisons etc. • Ensure an effective scrutiny function is in place. For instance we will maintain at least one scrutiny committee, independent of the executive. |

| Core Principle | Actions |
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| <p>A strong system of financial management is essential for the implementation of policies and the achievement of intended outcomes, as it will enforce financial discipline, strategic allocation of resources, efficient service delivery, and accountability.</p> <p>It is also essential that a culture and structure for scrutiny is in place as a key part of accountable decision making, policy making and review.</p> <p>A positive working culture that accepts, promotes and encourages constructive challenge is critical to successful scrutiny and successful delivery.</p> <p>Importantly, this culture does not happen automatically, it requires repeated public commitment from those in authority.</p> | <ul style="list-style-type: none"> • Proactively work with / manage our contractors to ensure agreed outputs are delivered and services improved. <p>Robust internal control</p> <p>We will</p> <ul style="list-style-type: none"> • Maintain effective internal control processes. • Maintain an effective internal audit service. • Work constructively with external audit. • Maintain an Audit Committee, independent of the Executive. • Report the audit plans and audit reports to the Audit Committee. <p>Managing data</p> <p>We will:</p> <ul style="list-style-type: none"> • Maintain appropriate data management policies and procedures. • Designate a senior officer with overall responsibility for data management. • Maintain appropriate data protection policies. • Maintain appropriate data sharing protocols. • Maintain appropriate data quality procedures. <p>Strong public financial management</p> <p>We will:</p> <ul style="list-style-type: none"> • Maintain an up to date Medium Term Financial Strategy. • Maintain up to date Financial Procedure Rules. • Prepare robust budgets taking account of our objectives, strategies and our medium term financial plan. • Carry out regular budget monitoring. |
| <p>G. Implementing good practices in transparency, reporting, and audit to deliver effective accountability</p> <p>Accountability is about ensuring that those making</p> | <p>Implementing good practice in transparency</p> <p>We will:</p> <ul style="list-style-type: none"> • Write and communicate reports for the public and other stakeholders in an understandable style. • Try to provide the right amount of information, striking a balance between transparency and understandability. |

| Core Principle | Actions |
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| <p>decisions and delivering services are answerable for them.</p> <p>Effective accountability is concerned not only with reporting on actions completed, but also ensuring that stakeholders are able to understand and respond as the organisation plans and carries out its activities in a transparent manner.</p> <p>Both external and internal audit contribute to effective accountability.</p> | <ul style="list-style-type: none"> • Comply with the Government's Local Government Transparency Code. <p>Implementing good practices in reporting</p> <p>We will:</p> <ul style="list-style-type: none"> • Produce and publish an Annual Report. • Produce and publish annual Financial Statements. • Produce and publish an Annual Governance Statement. <p>Assurance and effective accountability</p> <p>We will:</p> <ul style="list-style-type: none"> • Act on agreed recommendations. • Comply with CIPFA's Statement on the Role of the Head of Internal Audit (2010). • Comply with Public Sector Internal Audit Standards. • Work constructively with inspection agencies. |

PART C
SECTION C: Protocol on Member-Officer Relations

1. Introduction

- 1.1 The protocol is intended to be a framework to cover member and officer relations with one another and encourage good practice throughout the Council. It seeks to offer guidance and promote greater clarity and certainty but given the variety and complexity of situations involved, does not seek to be either prescriptive or comprehensive. If the Protocol is followed it should ensure that members receive objective and impartial advice and that employees are protected from accusations of bias and any undue influence from members. It also seeks to reflect the principles underlying the respective codes of conduct which apply to members and employees.
- 1.2 Members and officers should at all times treat each other with mutual respect and courtesy having regard to the Council's agreed Values and Behaviours. Close working relationships will obviously occur between senior members and employees involved in providing the service for which members are responsible. However such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the employees ability to deal impartially with other members and other party groups. Close personal friendship/relations should be avoided as they are likely to prove awkward for both fellow officers and members and are also likely to represent a personal or prejudicial interest of the member when the officer is involved in a matter which comes before the member for consideration/a decision.
- 1.3 If an employee is or becomes aware of any member action which conflicts with the principles of this Protocol he/she should be at liberty to make their Head of Service, Director or Chief Executive aware of the actions/s. In the event of a member having any reason to complaint about or doubt officers conduct or opinion the member should refer such complaint to the officer's Director or the Chief Executive as the member sees fit and should not seek to challenge the individual officer. The same applies should a member receive any complaint in relation to an officer from a member of the public.
- 1.4 This protocol should be read in conjunction with the Planning Code of Good Practice and the Protocol on Gifts and Hospitality and any other relevant policies of the Council, for example the Confidential Reporting Policy, the Whistleblowing Policy for Members and the Dignity at Work Policy.

2. The Chief Executive

- 2.1. The Chief Executive is the Head of Paid Service of the Council as a whole and his overriding responsibility is to the Council, and not to any political group.
- 2.2 The Chief Executive is nevertheless expected to work closely with the Cabinet for the time being and give them information, assistance and advice. Subject to remaining politically neutral, he may develop a special relationship with the Cabinet and will not without the consent of the Cabinet Leader, disclose to any of the political groups on the Council any matters discussed with the Cabinet.
- 2.3. The political neutrality of the Chief Executive should be respected by everyone. He should not be asked to play any role or undertake any task which is likely to prejudice that

- neutrality, or make it difficult for him to serve a different Cabinet or majority political party at some future time.
- 2.4. All Members of the Council have a right of access to the Chief Executive. Where a Member requires some information and the Chief Executive considers the request reasonable and appropriate, the information will be provided as soon as possible. In other circumstances, the Chief Executive shall consult with the Chairman of the Council and the Cabinet Leader on the action to be taken.
- 2.5. The Chief Executive is free to give advice on a confidential basis about procedural matters to any Member. The Chief Executive is entitled to seek the advice of Monitoring Officer and the Chairman of the Council on procedural matters before responding to a request from a Councillor, although in such circumstances the Councillor would be informed first. It may be necessary to require the Member to keep the advice/information confidential.
- 2.6. The Chief Executive has a responsibility to ensure the effective scrutiny of the Council's programmes, projects and proposals. He will be expected to develop a working relationship with the Chairmen of the Overview Committees, particularly in providing support for the work programmes of the Committees, including the attendance of Officers and the provision of professional and technical advice.
- 2.7. The following principles govern the relationship between the Chief Executive and the various political groups on the Council:-
- 1) It is proper for the Chief Executive to develop a working relationship with each Group on the Council;
 - 2) Except for matters referred to in Clause 1.2 above, the Chief Executive is free to provide information and answer procedural inquiries to Members of any Group;
 - 3) Matters discussed with any Group will not without their consent be disclosed to the Cabinet or any other political group;
 - 4) As a consequence of the duty owed by the Chief Executive to the Council as a whole, he will draw the attention of the Cabinet to any case where consideration should, in his opinion, be given to affording information, representation, or consultation to any political or other group.
- 2.8. In applying these principles to any given situation, the Chief Executive will have regard to the perceived customs of the Council, to any established traditions, and the statutory and procedural rules set out in the Council's Constitution governing the rights of Minority Groups to information, consultation, or representation.
- 2.9. If the Chief Executive attends a meeting of any party political group, he will inform the leadership of the other Groups on the Council. He will ensure that the part he plays in the proceedings is consistent with his political neutrality. He will not attend political group meetings at which there are persons present who are neither elected Members nor Officers of the Council. At such meetings, Members will be expected to abide by normal declarations of interest rules.

2.10 In the event that a Cabinet comprises members of more than one political group, the principles set out above still apply. Officers are entitled to assume information can and should be shared within the Cabinet.

3. Directors and Heads of Service

3.1. The foregoing principles apply similarly to the Directors and all Heads of Service, who shall act under the general direction and after seeking advice of the Chief Executive as statutory Head of Paid Service. The Directors will be expected to develop a close working relationship with the Cabinet and attend its meetings. Heads of Service will attend as required. The Directors and all Heads of Service will be expected to attend, as required, meetings of the Overview Committees and full Council and any of its Committees or Sub-Committees.

4. Chief Finance Officer and Monitoring Officer

4.1 Special responsibilities attach to the following statutory roles: -

- 1) Chief Finance Officer: in this Council, the Director of Resources; and
- 2) Monitoring Officer: in this Council, Head of Legal and Democratic Services

4.2 The special roles of the Chief Finance Officer and the Monitoring Officer are described in Articles 11.3 and 11.4 of this Constitution.

5. Other Employees

5.1 Although the considerations applicable to the Chief Executive, the Directors and Heads of Service affect other employees at different levels, the most senior employees, and those additionally closely associated with the political processes, are statutorily politically restricted and should be politically neutral. These other employees may attend meetings of full Council, the Cabinet or any of the Committees and Sub-Committees as the Chief Executive, or in their absence the Directors, shall determine.

5.2 It is also the duty of the Chief Executive, Directors and Heads of Service to ensure that the work and responses of employees are conducive to, and not undermining of, the foregoing general principles. They are entitled to expect Members to respect political neutrality and the duties and limitations of employees.

5.3 It is also the duty of the Chief Executive, Directors and Heads of Service to arrange matters so that their employees properly understand the roles of Members and employees and the Council's approach to the relations between them. They are also entitled to expect Members to respect the degree of seniority of employees with whom they have dealings and the fact that, while those employees owe duties to the Council as their employer, they are first answerable to their line manager and their respective Head of Service, the Directors or the Chief Executive and not to any individual Member.

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PART C
**SECTION D: Protocol On Recording, Photography and
Use of Social Media at Meetings**

Classification: OFFICIAL

1

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1. Introduction

The Council is committed to being open and transparent in the way it conducts all its decision-making meetings which are held in public. The purpose of this protocol is to provide guidance for members of the public and representatives of the press about taking photographs and audio/visual recording of any Council meeting which is held in public. It also covers blogging, tweeting and use of other social media tools.

2. Background

As part of the Government's drive for transparency in local democracy, Councils are required to give any member of the public, including community 'hyper-local' bloggers and on-line broadcasters, the same access to council meetings as the traditional accredited media. The Openness of Local Government Bodies Regulations 2014 allow any member of the public to take photographs, film or audio record the proceedings at meetings held in public and to report on them using social media.

3. General Principle

There is a general presumption in favour of allowing the photographing and audio/visual recording of Council meetings which the press and public are entitled to attend including the use of social media. However, the proceedings of that meeting must not be disrupted by the use of media tools and must not inhibit community involvement in the proceedings.

4. Filming and Audio Recording

Audio and visual recordings of meetings by representatives of the media and also by members of the public using small media tools are permitted. Although it is not a requirement, anyone wishing to film or audio record a meeting is asked to inform the Democratic Services Officer in advance of the meeting. If the equipment to be used is larger than a hand held device, this advance notice should include details of that equipment so adequate arrangements can be made.

4.1 Obligations and Limitations

Anyone wishing to photograph and/or audio or visually record a meeting must agree to the following:

- a) Any photography or audio/visual recording must take place from fixed positions in the meeting room, generally in the area designated as the public gallery. Any alternative location, due to the size of the equipment to be used, must be agreed with the Chairman of the meeting in liaison with the Communications ~~Team: communications@southbucks.gov.uk and Public Relations Officer~~ and Democratic Services Officer: democratic.services@southbucks.gov.uk.
- b) Large equipment must be set up before the meeting starts
- c) The use of flash photography or additional lighting will only be permitted, if in the opinion of the Chairman of the meeting, it does not disrupt the proceedings of the meeting

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2

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- d) People seated in the public gallery/seating area should not be photographed, filmed or recorded without the consent of the individuals concerned. This also applies to those individuals who may ask public questions, present a petition or make a representation at a Council meeting open to the public and who are not seated in a "public seating area".
- e) If members of the public address a meeting that is being filmed or audio-recorded, such as objectors to a planning or licence application, they will be asked if they [agree/permit](#) to being filmed or audio-recorded. If they do not, the operator will be asked to stop whilst that member of the public is speaking.
- f) If the Chairman of the meeting feels that any photography, audio or visual recording is disrupting the meeting in any way or any pre-meeting agreement has been breached, then the operator of the equipment will be required to stop immediately. Examples of disruption include moving outside the designated area; excessive noise; intrusive lighting; a running commentary by the operator or other interruptions; and continuing to film or record when a member of the public addressing the meeting has asked not to be filmed or recorded.
- g) If during the meeting the press and public are asked to leave a meeting because there are private items of business on the agenda, then all rights to record the meeting are removed. The operator of the equipment will be required to stop recording and/or filming and must not leave filming or recording devices in the meeting room.
- h) If a meeting is adjourned by the Chairman then the operator of the equipment should stop any recording or photography at the point at which the meeting is adjourned.
- i) Comply with any request made by the Chairman regarding respecting the public's right to privacy.
- j) Use must not be made of an image or recording if consent is refused by an individual.
- k) Photographs, audio and visual recordings should not be edited in a way that could lead to misinterpretation of the proceedings. This includes refraining from editing the views being recorded in a way that may ridicule or show lack of respect.

Failure to comply with this protocol may lead to the refusal of any future requests to photograph or audio or visually record any future Council meetings.

If a request has been received to take photographs or to audio or visually record a particular meeting, notices to this effect will be displayed in the relevant meeting room. The Chairman of the meeting will also make an announcement that the meeting will be photographed and/or recorded or filmed.

The Council may, on occasion, audio record meetings for minuting purposes only. The relevant Chairman will make an announcement to this effect and these recordings will not be made available to anyone outside the Council.

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3

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5. Procedure Prior to the meeting for those wishing to film or record a meeting

Requests to take photographs or to audio or visually record meetings open to the public, either by members of the public or by the media, should wherever possible be made to the Democratic Services Officer for the meeting concerned (contact details are printed on the Agenda for the meeting and on the Council's website or email democraticservices@chiltern.gov.uk / democraticservices@southbucks.gov.uk) at least two working days before the meeting.

The request should include the following information:

- a) Which meeting this request refers to.
- b) The name, organisation (if applicable) and contact details of the person making the request.
- c) What equipment it is intended will be used (e.g. camera/audio recorder/video camera).
- d) What the photographs or audio/visual recording will be used for and/or where the information is to be published.

6. Social Media

There are no restrictions placed on anyone at the meeting using Twitter, blogs, Facebook or similar "social media" provided that the Chairman of the meeting does not consider their actions are disrupting the proceedings of the meeting.

If the Chairman of the meeting feels the use of social media is at the time disrupting the proceedings the councillor, member of the public or media representative may be required to stop and if they fail to do so, will be asked to leave the meeting. If the person refuses to leave then the Chairman may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption.

At the start of the meeting the Chairman of the meeting will request that all mobile phones are set to 'silent' to ensure the meeting is not disrupted.

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4

PART C
**SECTION E: Protocol for the Operation of Policy
Advisory Groups**

This Protocol, agreed and adopted by the Council in February 2018⁵, sets out the way in which Portfolio Holders will work with their Policy Advisory Groups. This Protocol relates to permanent PAGs but should also be used as a basis for the operation of single-issue, limited life PAGs.

1. The Purpose of PAGs

PAGs are established in two categories:

- a) Permanent PAGs for each Cabinet Portfolio Holder. The purpose of these is to provide advice and guidance for the Portfolio Holder in exercising his or her delegated powers to take executive decisions as set out in the Scheme of Delegation to Cabinet Portfolio Holders in Part E of this Constitution. The PAGs are advisory and the Portfolio Holder is not obliged to follow the advice they receive.
- b) Single Issue PAGs. These are generally time limited and are set up to consider specific and self-contained issues, which are generally too substantial to be considered by the relevant permanent PAG. They may only be set up with the approval of the Leader of the Council. The PAGs are advisory and the Portfolio Holder is not obliged to follow the advice they receive.

2. Establishing PAGs

Permanent PAGs will be established and chaired by the relevant Portfolio Holder. Each Portfolio Holder will only establish one permanent PAG. The following guidance must be followed:

- Meetings will be chaired by the Portfolio Holder or in his/her absence by a Member of the PAG appointed for that purpose at the meeting.
- The PAG will consist of the Portfolio Holder plus up to five other Members and although not required, political proportionality will be observed. The quorum for a PAG will be two.
- Members of the PAG will be appointed by the political Group Leaders having regard to political balance.
- Membership of PAGs will be reviewed and reconfirmed after every Annual Meeting of the Full Council, or as required.
- To strengthen the relationship between the PAGs and the Overview and Scrutiny Committee each PAG will include at least one member from the Overview and Scrutiny Committee. The Portfolio Holder may invite guests to attend meetings of the PAG to provide advice.

Single Issue PAGs will be subject to the rules for permanent PAGs, except that membership can be a minimum of four.

3. Operation of PAGs

Although agenda papers are publicly available and published on the Council's website, meetings of PAGs are not open to the public or the press. Any Member of the Council has the right to attend,

or anyone else with the agreement of the relevant Portfolio Holder. Any Member of the Council may also speak on any issue with the consent of the Portfolio Holder. He/she may speak for no more than five minutes and only once on any particular subject and on a later occasion on that subject, only on a point of personal explanation.

4. PAG Meetings

PAG meetings will be convened by Officers within Democratic Services on the instructions of the Portfolio Holder and will be held on a regular cycle. PAG agenda items will be determined by the Portfolio Holder. PAG meetings will be minuted and both agenda and minutes, where not subject to restrictions under the Access to Information Rules, will be available to the public and press on the Council's website.

The officer preparing the report must consult with and brief the Portfolio Holder before the report is finalised.

5. Portfolio Holder Decisions

Portfolio Holders will be able to make decisions on matters delegated to them within the scheme of delegation set out in Part E of the Constitution, subject to such decisions having been taken after consultation with the permanent PAG. On those matters not delegated to the Portfolio Holder, the Portfolio Holder will make a recommendation to Cabinet, having regard to the advice of the PAG.

A recommendation/decision need not be made at the PAG meeting, but must be made within a maximum of two working days after the PAG meeting and notified to the author of the original report and to Democratic Services. If a decision is not taken within the two working days the matter will be referred to the Cabinet for determination.

Once a decision has been made by the Portfolio Holder a Decision Notice must be circulated to all members of the Council and published on the Council's website as soon as practicable ~~after~~ ~~from~~ the meeting of the PAG to trigger the call-in procedure set out in Part B of the Constitution.

Where a decision needs to be implemented urgently and cannot be delayed the urgency procedure set out in Part B of the Constitution will be followed.

The Portfolio Holder's decision/recommendation will then be minuted and will fall into one of the following categories

- a) Agrees with the advice of the PAG. No further reasons necessary.
- b) Does not agree with the advice of the PAG, either in part or in total. In this case, the Portfolio Holder must give reasons why he/she has arrived at a different view and these will be recorded in the minutes.
- c) The Portfolio Holder feels that further information is to hand that the PAG did not consider and therefore defers a decision until the PAG has been reconvened.

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- d) The Portfolio Holder feels it is not appropriate for him/her to make the decision and refers the matter to Cabinet, with or without a recommendation.

PART C

**SECTION F: Public Speaking at Planning Committee (as
at July 2012)**

1. Introduction

The Council gives wide publicity to planning applications and welcomes the views of the public so that these can be taken into account when applications are considered. The views of objectors and supporters are summarised in a report.

In certain circumstances, the Council allows members of the public, applicants or agents to speak, or be represented by a spokesperson, at meetings of the Planning Committee. These are held in the Council Chamber at the Council Offices in Capswood, Denham- [at 4.15 pm once a month n a Wednesday. Planned Committee meetings can ve viewed on our website \[www.southbucks.gov.uk\]\(http://www.southbucks.gov.uk\) under Your Council/Meetings.](#)

This advice note tries to answer some of the questions you may have about the scheme of public speaking and what will happen at the Committee meeting.

2. Does Public Speaking apply to all applications?

No. The scheme only applies to applications considered by the Planning Committee which are being recommended for approval and where at least 10 separate letters of objection from individual households (not petitions or duplicate letters) have been received 10 working days prior to the planning committee meeting date or after the 21 day neighbour notifications period has expired, whichever is later. The scheme does not apply to a second or duplicate application which is basically the same as the first. There are limitations on the amount of time available for speaking as set out later on in this advice note and there is no guarantee that everyone who wishes to speak will be able to do so.

3. Are all applications considered by committee?

No. Many applications are delegated to the [Head of Planning and Economic Development/Area Team Managers-Control Area Team Managers.](#)

4. How will I be told if I may have an opportunity to speak at the Committee Meeting?

When we know that an application is to go to a Committee, all objectors who may be entitled to speak will receive a letter which will invite them to register their wish to speak. Invitation letters will be sent by first class post ([or email if we have an address](#)) about a week before the date of the meeting. The rules limit the time for speaking so it is important to talk to other objectors to see if one person can speak for everybody. As well as writing to objectors, we will let agents know that either they, or the applicant, may wish to register a wish to be heard in the event of an objector speaking.

5. What do I do if I decide I would like to speak?

You must register your wish to speak by [contacting Planning Administration on \[planning@southbuskcs.gov.uk\]\(mailto:planning@southbuskcs.gov.uk\) or telephoning ~~the Development Control Administration section on~~ 01895 837210/7342 84](#) at least 2 days before the meeting (by 4.00 p.m. on the Monday before a normal Wednesday meeting).

6. Can any member of the public speak about any Application on the Agenda?

No. The only people who can speak are those who have been sent and accepted an invitation to do so or someone they nominate to speak on their behalf.

7. Can I see the officer's report before the meeting?

Yes. The agenda and officer's report can be viewed [on our website www.southbucks.gov.uk](http://www.southbucks.gov.uk) under [Your Council/Meetings or a hard copy](#) at the Council ~~Offices~~reception for [at least](#) 5 working days before the meeting (normally Wednesday, Thursday, Friday, Monday and Tuesday) as well as on the day of the Committee itself.

8. For how long may I speak?

An overall total of 5 minutes is allowed for objectors to address the Committee. This time limit is for all objectors in total, not 5 minutes each. Coloured lights (like traffic lights) will guide you on how much time is left.

9. What happens if there are a number of Objectors wishing to speak on an Application?

Objectors will be encouraged and helped to contact each other so that repetition can be avoided. This means that you may be given the names, addresses and telephone numbers of other objectors and they may be given your details. In many cases, it may be sensible for a spokesperson to speak on behalf of objectors. Where a number of speakers cannot agree on a spokesperson, speakers will be heard in the order in which they registered an intention to speak, until the 5 minute period ends.

10. Can someone else speak on my behalf?

A group of objectors may have a spokesperson as set out above. Alternatively, you may ask someone to speak for you, or you may use a professional advisor.

11. Can Applicants speak to the Committee?

Where an objector has addressed the Committee, applicants, or their agents will have the chance to comment on what has been said by objectors. Applicants will not be allowed to make full presentations of their proposals and they will not be able to speak where objectors have not spoken. Applicants or their agents will also be limited to a total of 5 minutes.

12. What is the order of speaking for each Application?

The order of business on each application will be:

- The Chairman will announce the application number.

- A planning officer will introduce the application and provide any new information.
- The Chairman will call on registered objectors to speak in accordance with the rules set out.
- The Chairman will call on the applicant or agent to respond to the objectors' comments.
- The Committee will discuss the application.
- The Chairman has the discretion to question speakers directly to clarify points they have made.
- If appropriate, officers will respond to issues and questions raised by Councillors.
- The Committee will make a decision.

13. How do I present my Objections?

The Committee can only consider relevant planning issues. You are asked to avoid matters which cannot be considered by the Committee such as:

- Boundary disputes
- Covenants
- Personal remarks (e.g. the applicant's motives)
- Reduction in property values
- Loss of views
- Effect on competition (e.g. between traders)

14. What happens if the Application is deferred after debate or referred for a site visit?

The application will be heard again at the next or a later Committee. No further invitation to speak will be made, although you may provide further comments in writing.

15. Can I speak at a Councillors' site visit?

No. The purpose of the site visit is for Councillors to see the site for themselves. It is not an opportunity for discussion about the merits of the proposal.

16. Can an Application be approved by the Committee if it is recommended for refusal?

The Committee can disagree with an officer recommendation. If it does so, and the application is one where public speaking would otherwise be allowed, the item will be deferred to the next meeting so that objectors have an opportunity to speak.

PART 3

SECTION G: Adopted Procedure for Confirming Tree Preservation Orders by Planning Committee When Objections Received (Adopted ~~13 April 2011~~xxxxx 2018)

Note:

In advance of the Committee meeting

- *All objections would have been acknowledged.*
- *A copy of the committee report would have been supplied to all objectors – together with any additional papers as applicable.*
- *Objectors would have been asked if they request a site visit to be undertaken by members. Unless recommended by the councils arboriculturist or requested by an objector no site visit will be arranged.*
- *Objection letters will be included in the committee report in full.*
- *Objectors will be invited to the committee to address the meeting on their objection – in person or by a representative – and/or invited to submit further comments on the officers' report.*
- *Any further comments received from an objector after the agenda has been circulated will be tabled at the meeting.*

1. Site Visits

- 1) The purpose of a site visit – if there is one - will be for “visual fact finding” by Members of the Planning Committee – there will not be a debate of the issues which will be dealt with at the Committee meeting in public.
- 2) The Council's Arboriculturist or ~~Officer~~other Officer who is “promoting” the TPO(Promoting Officer) and the Objectors – or their representative - will be invited to attend the site visit.
- 3) If the Objector/s or their representative cannot attend the site visit then neither will the Council's Arboriculturist/any Promoting Officer ~~who is “promoting” the TPO~~. In this case Members will be accompanied by an a Development Management Officer who is not “promoting” the TPO – ~~most likely one of the two Development Management Area Team Managers~~ who are on the Members minibus – although they do not act as a substitute for the Arboriculturist/Promoting Officer.
- 4) If attending, the Arboriculturist/Promoting -Council officer ~~who is promoting the TPO~~ will make their own way to the Site Visit and not go on the Members minibus.

2. At the Planning Committee Meeting

- 1) The Council's Arboriculturist/Promoting Officer will start the proceedings by confirming if a site visit was undertaken – and if so, who attended ~~same~~ – and will table any additional comments, reports etc. not forming part of the printed Agenda.
- 2) Both the Councils Arboriculturist/Promoting Officer and each Objector (or their representative) will be given the opportunity to address the Committee – each will be given an equal amount of time. This will not be time limited as a matter of course - objectors will be given a reasonable amount of time to put their objections – although a time limit can be applied at the Chairman's complete discretion.
- 3) Members can ask any questions arising from the report and site visit and the Objectors/their representative and the Council's Arboriculturist/Promoting Officer -will be given the opportunity to respond - as applicable.

- 4) Objectors/their representative and the Council's Arboriculturist/Promoting Officer -will be given an equal opportunity to make any Final Comments.
- 5) If an Objector, having been invited to attend, the Committee does not attend or is not represented, the meeting will continue and the Councils Arboriculturist/ Promoting Officer will be permitted to address and respond to the Committee as necessary – unless an Objector has requested a deferral, in which case the matter will be adjourned to the next Planning Committee meeting time permitting or delegated to the Executive Sub-Committee Head of Planning and Economic Development/Director of Services in consultation with the Chairman as necessary. The Committee will normally only agree to one deferral (time permitting).
- 6) Members will then proceed to make their decision whether or not to confirm the TPO with or without modification.
- 7) If the Planning Committee is not able to make a decision i.e. because a report or further information is required then the matter may be adjourned to the next Planning Committee – time permitting – or delegated to the Head of Planning and Economic Development/Director of Services in consultation with the Chairman ~~an Executive Sub-Committee meeting~~ if necessary.
- 8) If during the consultation period representations are received supporting the TPO then those persons supporting the TPO will be afforded the same opportunities as Objectors to the TPO – for "Objector" also read "Supporter").

PART C

**SECTION H: Guidance for All Members on Planning
Matters (Updated July 2012)**

Note:

The Localism Act 2011 received Royal Assent on 15.11.11. Changes were made to the Standards Regime and as a result, a revised Member Code of Conduct was adopted on 24 July 2012. Section 25 clarifies the law re pre-determination which took effect on 16.1.12 - 2 months after the day the Act was passed. This Guidance has been updated to reflect the changes.

1. Introduction

- 1.1 The conduct of Members is governed by Statute, Guidance ([Planning Advisory Service \(PAS\)](#)/Local Government Association, DCLG, etc.), the Council's Constitution and by the Code of Conduct. This note develops these by means of a Guidance Note for Members on Planning matters and should be read in conjunction with the Code of Conduct adopted on 24 July 2012. The Code of Conduct requires a Member to have regard to any relevant advice provided to him/her by the Council's Chief Finance Officer and Monitoring Officer in certain circumstances when reaching decisions.
- 1.2 This note also seeks to guide the practice and procedure to be followed at Planning Committee but does not and cannot cover every circumstance that may arise. Specific advice should be sought in relation to matters not covered in this Guide.
- 1.3 Whilst the Code of Conduct is primarily concerned with individual probity and other aspects of conduct across the whole range of Members duties, this guidance is concerned with the integrity of the planning system including the conduct of Members in its processes and procedures.
- 1.4 Whilst this Guide is purely advisory, failure to follow/comply with its provisions without good reason could be taken into account in investigations into allegations of breaches of the Act, the code and/or mal-administration by the authority.
- 1.5 This Guidance applies to any Member who becomes involved in planning matters and is not restricted to Members of the Planning Committee – for example it applies to Members as applicants (or agents for applicants) for planning permission, to local Members in the vicinity of an application site and to Members attending Planning Committee other than as the nominated Member of the Committee.
- 1.6 Members are also advised to have regard to the [LGA/PAS Guidance – “Probity in Planning: ~~for the role of~~ Councillors and officers – ~~revised guidance note on good planning practice for councillors and officers dealing with planning matters~~” – 201309](#).
- 1.7 This ~~LGA~~ Guidance [clarifies how councillors can get involved in planning discussions on plan making and on applications, on behalf of their communities, in a fair, impartial and transparent way.](#) It recognises that the planning system works best when the roles and responsibilities of the many players essential to its effective operation – including councillors and officers, are clearly understood. Planning decisions involve balancing [many competing interests and making an informed judgment against a local and national policy framework. the needs and interests in pre-applicati](#) In doing this decision-makers need an [ethos of decision-making in the wider public interest on what can be controversial](#) [proposalsoen discussions](#) [The Guidance](#) – and also advises how to avoid pre-determination and bias in decision making.

- 1.8 The encouragement of early councillor engagement must be applied to a process characterised by open and transparent decision making. One of the key purposes of the planning system is to manage development in the public interest and will involve balancing the needs and interests of individual constituents and the community - with the need to maintain an ethic of impartial decision making on what can be highly controversial proposals. The 201309 LGA Guidance provides refreshed advice on achieving this balance in the light of the local authority role of place shaper and recognises the ability of councillors to participate.
- 1.9 This guidance note will apply to the determination of planning applications and/or the consideration of adoption of Local Development Documents and the enforcement of planning control and TPO's.
- 1.10 This guide cannot cover every circumstance – members should seek advice from relevant officers in relation to other situations as and when they occur.

2. Main Considerations

2.1. Legislation

Members hold office by virtue of the law and are charged with ensuring that at all times they act within the law. The Council's planning or legal officers will of course advise on matters of law but the ultimate responsibility for the actions of Members lies with Members themselves.

2.2 Public Duty

- 2.2.1 Although all Members have a duty to their constituents, regardless of how they voted, the overriding duty of a Member on planning issues is to the whole community.
- 2.2.2 The role of an elected Member on the Planning Committee involves achieving a balance between representing the needs and interests of their constituents and the whole community with the need to maintain impartial decision-making on planning grounds.
- 2.2.3 The successful operation of the planning system relies on Members ensuring that they act in a way that is not only fair and impartial but is also clearly seen to be so. Decisions should be made openly, impartially, with sound judgement and for justifiable reasons. Councillors should not favour any person, company, group or locality nor put themselves in a position where they appear to do so.
- 2.2.4 The Council's planning policies are adopted in the interests of the whole community i.e. the District, and, in almost all cases, have been subject to a process of public consultation. They therefore reflect the public interest, rather than those of an individual, group of individuals or an organisation. The planning duty of Members is therefore to support the Council's planning policies, unless there is an overriding reason for not doing so i.e. very special circumstances. This is reinforced by the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires the Council to determine applications in accordance with the development plan unless material planning considerations lead it to act otherwise.

2.3 Registration and Declarations of Interest

2.3.1 In addition to the legal requirement to register and declare Discloseable Pecuniary Interests (DPI's), all Members are under a duty to observe the authority's Code of Conduct which carries with it a duty to declare:

- a) Personal interests – now including gifts and hospitalities - in a public register held by/on behalf of the Monitoring Officer and to notify the Monitoring Officer/Deputy Monitoring Officer of any changes to those interests within 28 days; and
- b) Personal and Prejudicial interests - as defined by the Code - in relation to the consideration of /participation in decision making on a particular matter; and
- c) In addition to the statutory requirements regarding DPI's to leave the room in respect of the matter in which such an interest arises (unless an exemption applies) and to declare the details of the DPI before leaving the room (unless the provisions relating to sensitive interests apply)

2.3.2 It is ultimately the responsibility of the individual Members to declare all interests and comply with the Code of Conduct – although Members are reminded of paragraph 3 of the Code of Conduct which requires members when reaching decisions on any matter to have regard to any relevant advice provided by the authority's head of paid service, chief finance officer or monitoring officer – members must also avoid jeopardising the legality of Council decision making or its reputation by participating in matters without declaring interests or where there are issues of pre-determination – see further below.

2.3.3 There is also an overriding duty not to use his/her position as a Member improperly to confer on or secure for himself/herself or any other person an advantage or disadvantage.

2.3.4 A Member with a Personal interest (as defined by the Code of Conduct) in any matter (i.e. a planning application, enforcement of planning control or adoption of local development documents) should declare such an interest before that matter falls to be considered – or as soon as it becomes apparent that they have an interest in it – if this is later. Consideration of a matter normally starts once the relevant item on the agenda is reached and will include the hearing of any evidence and representations or submissions from officers, interested parties or members of the public.

2.3.5 The declaration of an interest in the register of personal interests does not absolve Members of the need to declare interests at each and every meeting at which an interest arises - however there are 3 exceptions:

- a) Where the personal interest only arises from membership of or position of control or management on another body to which the Member is appointed or nominated by their authority or another body exercising functions of a public nature – then the personal interest only needs to be declared if also a Prejudicial Interest.
- b) If the Personal Interest concerns sensitive information (see paragraph 12 of the Code) - then only the existence of a Personal Interest needs to be declared – not the nature of it.
- c) With regard to Gifts and Hospitality's – only those received in the last 3 years need to be declared.

- 2.3.6 Unless that Personal Interest is also a Prejudicial Interest (as defined by the Code of Conduct) the Member can continue to be involved in the consideration of that application. (Members are reminded that Prejudicial Interests are determined on the basis of an objective viewpoint – and not the members own).
- 2.3.7 Where that interest is a DPI or Prejudicial Interest that Member should declare his/her interest and leave the room during the consideration of the matter – not speaking or voting thereon – unless the exception under the new Code applies – see below. Members should also excuse themselves from any associated site visit or consideration of the application details at the Town/Parish Council. This applies to any Members who wish to attend Planning Committee to merely observe or to address the Committee, as well as to nominated Members of the Committee.
- 2.3.8 The exception to this under the new Code of Conduct allows a member to stay to make representations in relation to Planning Committees provided that the public can attend for the same reason, but once the Member has done so they must leave the room until the matter has been concluded.
- 2.3.9 Unless authorised to speak – see paragraph 9(2) of the Code - a Member with a DPI or prejudicial interest must withdraw from the room and take no further part in the discussion.
- 2.3.10 Even when the Code permits a member with a DPI or Prejudicial Interest still to address the Committee, the Member must leave the room immediately after they have completed their representation and will not be allowed to observe the discussion and the vote – albeit members of the public can do so. The Code of Conduct’s intent here is that a Member’s presence alone can influence a decision or discussion.
- 2.3.11 Where members with a Prejudicial interest are permitted to speak, the Member will get no preferential treatment as a Councillor and any time limit on public speaking will be shared with other members of the public with a right to address the Committee.
- 2.3.12 For the purposes of the Code of Conduct a Member will have a declarable interest where the matter concerns the well being or financial position of not only himself/herself, his/her spouse/partner but also a person with the Member’s family and anyone with whom the Member has a close association. ~~For~~ ~~and for~~ these purposes reference should be made to the Code for relevant definitions.
- 2.3.13 Members should take account of any relevant guidance provided by Officers, the Councils Audit Committee, DCLG, PAS and the Local Government Ombudsman.
- 2.3.14 The sensitivity of planning issues is such that Members are advised to err on the side of caution and if in any doubt as to the existence of an interest, they should make such interest publicly known. The declaration of interest should disclose the existence and nature of the interest – unless it relates to sensitive information as defined in paragraph 12 of the Code i.e. sensitive employment – in which case only the existence of the interest need be disclosed.
- 2.3.15 Members with a Prejudicial Interest can as well as addressing the Committee if the public enjoy the same rights, still present their views by other means i.e. make written

representations and/or they may appoint a planning agent to represent them. They can also arrange for another Member to represent the views of their constituents on matters in which they have a Prejudicial Interest so those views are still expressed. The Members representative – save where they are also a Councillor and have an interest – can remain in the room for the entire matter.

2.3.16 Members are reminded that:

- The responsibility for declaring interests is theirs alone – see also paragraph 2.3.2;
- Failure to register/declare a DPI is an offence;
- Consideration as to whether an interest arises is based on what a reasonable and objective observer with knowledge of all the relevant facts would consider – namely whether the Personal Interest is also a Prejudicial Interest because it is so significant that it would impair the Members ability to judge the public interest – and is not based on what the Member themselves think; and
- Although the duty to report a member for breach of the Code does not appear in the new code, this does not prevent another Member reporting breaches to the Council's Monitoring Officer or indeed members of the public and/or officers.

2.4 Fairness and Equity

2.4.1 Members should treat all their constituents fairly and should avoid giving any intimation of specific support or encouragement for a particular applicant or objector until they are in possession of all the facts. It is legitimate for Members to assist an applicant by explaining how to go about making a planning application. With regards to advice to applicants or objectors about whether or not a proposal is in line with policies, Members must be sure they are fully aware of all policy implications, otherwise an applicant or objector might be misled. It is often safer to refer the enquirer to an Officer of the Council.

2.4.2 Applications should not be subject to bias or predetermination. Predetermination involves the decision maker having a closed mind when making a decision – that is the making of or appearing to make a decision before the matter is submitted for formal determination and all facts disclosed i.e. committee report/debate. Whether predetermination has occurred will be considered on the basis of what a reasonable person would consider - being in possession of all the facts. Whilst predisposition is acceptable, predetermination can invalidate a decision. The Localism Act 2011 has confirmed that a decision maker will not be taken to have had – or appeared to have had, a closed mind when making a decision just because they had previously done anything that directly or indirectly indicated a view that they took or would or might take in relation to a matter and that matter was relevant to the decision. Expressing an opinion on a matter prior to making a formal decision is therefore acceptable as long as the Member has not completely closed their mind to further considerations before making their final decision.

2.5 Lobbying

2.5.1 The lobbying of Members is a legitimate part of the democratic process. Members of the Planning Committee (and others) may be lobbied by applicants, agents, objectors or any other party. Since Members owe an equal duty to the whole community, if they are

prepared to be lobbied by one party, they should afford the same opportunity to all other parties.

- 2.5.2 As an alternative, they may decline to be lobbied by any parties.
- 2.5.3 If lobbying is accepted, Members should advise that, whilst prepared to listen to the arguments put, they have an obligation to hear all sides of an argument and should not agree to speak in Committee or vote in a particular way.
- 2.5.4 When being lobbied Members should take great care to avoid expressing any opinion that may be taken as indicating that they have already made up their mind on the issue and have completely closed their mind to further considerations before they have received/heard all the evidence and arguments.
- 2.5.5 It should be made clear that any final decision will only be reached after considering all the relevant evidence and arguments.
- 2.5.6 If the lobbying is by way of a letter it is suggested a copy is passed to the relevant Area Team Manager as soon as possible following receipt.
- 2.5.7 Where the lobbying is verbal, Members should request such representations to be also submitted in writing to the relevant Area team Manager.
- 2.5.8 Members should not become involved in negotiating on an Application or prospective application.
- 2.5.9 Where a Member has received information on an application that is believed to be new to that contained in the application, this should be reported to the relevant Area Team Manager who can ensure that relevant facts are made known to the whole Planning Committee.
- 2.5.10 Members should not attend any presentations without having sought prior advice from officers. If members thereafter do attend – they are reminded of the responsibility to declare hospitalities – see further below.

2.6 Applications by Members

- 2.6.1 Members may of course submit or have submitted planning applications on their own behalf. Whilst it is perfectly legitimate for such applications to be made, when such applications come before the Planning Committee for consideration the Member will undoubtedly be considered to have a ~~DPI~~Prejudicial Interest in that matter.
- 2.6.2 Such applications will be determined by the Planning Committee in public and any delegated authority to Officers that may otherwise apply will not be relied on in the interests of transparency and impartiality.
- 2.6.3 All such applications will be treated and publicised in the same way as other similar applications submitted by the public at large.

- 2.6.4 Members who act as agents for people pursuing planning applications within the authority should play no part in the decision making process and should not attend the Planning Committee at which such application/s are considered – whether as a Member or as an observer – see also 2.10 below.
- 2.6.5 Whilst a Member with a DPI or prejudicial interest may now address the Committee under the Code if the public enjoy the same rights, the member should still consider whether it would be wise to do so in all the circumstances of the case – including the nature of the DPI/Prejudicial Interest and the relationship of the Councillor with the remainder of the Planning Committee.
- 2.6.6 Members own development proposals should also be treated with transparency and impartiality and will always be submitted to the Committee for approval rather than dealt with under delegated powers.
- 2.6.7 A Member whose cabinet/executive responsibility effectively makes them an advocate for the development should not vote on the application but may still be able to make representations on behalf of the proposal.

2.7 Members as Parish Councillor

- 2.7.1 Members of the Planning Committee may also be Parish Councillors in which case their involvement with planning applications may also fall within certain additional categories:
- a) As a Parish Councillor consultee.
 - b) As an applicant Parish Council.
 - c) As landowner Parish Council but the application is being pursued by a third party.
- 2.7.2 In such cases and in accordance with the Code of Conduct Members are advised as follows:
- a) The Parish Council as consultee – whilst contributing to Parish Council discussions Members should be aware of the need to be in possession of all the facts before deciding whether to support or oppose a proposal. Members are also reminded as to their duty as Parish Councillors to comply with their Parish's Code of Conduct - the same rules apply as to declarations of interest both at Parish and District Committees. Provided a Member has not indicated his/her final opinion on an application at Parish level and has not closed their mind to further considerations that may be brought to their attention before the final District decision is reached, then the Member will be free to determine the application at District level if a Member of the District Planning Committee. Members are reminded that that membership of another public body – be it another authority or an outside body - is a declarable personal interest – but only where it is also a Prejudicial Interest – and this applies to Parish Councillors declaring an interest at the District Council and vice versa.
 - b) The Parish Council as applicant - when a Parish Council application comes before the District Council Planning Committee, where a Member is also a Parish Councillor of that Council, the matter would fall within the category of Prejudicial Interest. Whilst the Member would not be allowed to vote on the matter - the

Code provides for an exemption which can apply to this situation to override the need to otherwise leave the room and take no part in the application determination. Under such circumstances a Member must still declare his/her interest but draw attention to the reliance on the exemption. The exemption is at paragraph 9 of the Code – to address the Committee with the same rights that apply to members of the public – but the Member must then leave the room – see paragraph 2.3 above.

- c) Parish Council as landowner – as above. The exemption can be relied on in relation to what would otherwise be considered a Prejudicial Interest – but Members are reminded they must then leave the room immediately after speaking - and must not vote.

2.8 Social Contact

Members of the Committee are advised to minimise their social contacts where possible with known developers and to avoid altogether such contacts when developments are contemplated or applications are being processed/considered.

2.9 Committee Site Visits

2.9.1 The proper place for discussion of the merits of an application or other matter is in Committee. It is important when Members are on Committee site visits that they demonstrate objectivity and detachment. The visit should be used as a fact-finding opportunity to acquire information about the application site and its implications and Members must avoid formulating a decision on the proposal outside of the context of the Committee. Members should also avoid entering into discussions with applicants and their agents or with objectors at the site visit. These guidelines should also apply for site visits relating to enforcement and tree preservation orders.

2.9.2 The Code of Conduct applies whenever a Councillor is conducting official Council business which will include a site visit. The Council has set procedures when site visits will be undertaken.

2.9.3 Site visits should only be undertaken in the presence of a Planning officer.

2.10 Membership of the Planning Committee

Members involved in the development industry as builder, landowner, agent or planning consultant within the South Bucks District should avoid seeking or accepting membership of the Planning Committee because their frequent declarations of interest would be likely to reduce their effectiveness as Committee Members as well as weakening public confidence in the duty of the Committee to work in the public interest.

2.11 Confidentiality

There are valid reasons why some planning information should remain confidential. Members must not disclose confidential planning information and they must not use such information for personal advantage.

2.12 Gifts and Hospitality

- 2.12.1 Planning decisions can result in financial advantages/disadvantages to parties so the probity and integrity of Members is vital to the maintenance of public confidence in the planning system.
- 2.12.2 Members must observe the Code of Conduct in so far as it relates to notification of gifts and/or hospitalities (over the value of £50.00 – written notification to the Monitoring Officer within 28 days – details held on a public register – registered interest for 3 years) and should be aware that their connection with persons/bodies bestowing such gifts/hospitalities may also amount to a declarable interest.

2.13 Political Parties

As a general rule party politics should have no place in the consideration of individual planning applications or other planning matters. No political group should dictate/decide how councillors should vote. The use of political whips to influence the outcome of planning applications or other planning matters is likely to be regarded as maladministration.

2.14 Dispensations

Unless a dispensation is granted or a relevant exception applies under the Code of Conduct – a Member with a DPI or Prejudicial interest must withdraw from the Committee – whether he is a Member of that Committee or not – and not vote or speak in relation to the subject application. The procedure for seeking and being granted a Dispensation can be sought from the Monitoring Officer or the Deputy Monitoring Officer.

2.15 Relationship Between Members and Officers

- 2.15.1 Both Members and Officers are guided by Codes of Conducts and Officers may further be guided by Codes of Conduct of their Professional Bodies. A successful relationship between Members and Officers can only be based upon mutual trust and understanding of each others positions. This relationship and the trust which underpins it must never be abused or compromised.
- 2.15.2 Reference should also be had to Part C of the Constitution – the Protocol on Member/Officer Relations - in this regard.
- 2.15.3 Members should refrain from seeking to influence the outcome of an officer decision/recommendation.

2.16 Pre-Application Discussions

- 2.16.1 With the recognition by the Government that Councillor engagement in pre-application discussions on major developments is necessary to allow Councillors to fulfil their role of champion of their local community – guidelines have to be established to guard against accusations of pre-determination to protect the Council and Councillors.

2.16.2 Pre-application discussions include discussions before an application is submitted or after submission but before determination.

2.16.3 Such discussions can take place subject to adherence to the following guidelines – and further any advice from Council officers – in particular the Chief Executive, Head of [Planning and Economic Development/Sustainable Development](#), the Monitoring Officer or Deputy Monitoring Officer:

- It being clearly stated at the outset that the discussions will not bind the Council to any particular decision and any views expressed are personal and provisional.
- Advice regarding development plans and material considerations is reserved to officers.
- Pre-application discussions can only take place when an officer is present.
- Councillors should not engage in negotiations.
- A written note should be kept of all meetings and placed on the file as a:
 - public record – confidentiality will be an exception and only respected;
 - with the prior approval of the Head of [Planning and Economic Sustainable Development](#) in liaison with the Monitoring Officer;
 - any advice should not be partial.

2.16.4 In any pre-application discussions, members need to be aware of the Code of Conduct, in particular not using their position to improperly influence decisions.

2.17 Pre-Determination and Pre-Disposition

2.17.1 Pre-determination goes beyond pre-disposition and essentially evades the process of weighing and balancing relevant facts and other views.

2.17.2 Bias and pre-determination are issues to consider which may prevent participation in addition to declaring interests.

2.17.3 Avoidance of bias and pre-determination are principles of natural justice.

2.17.4 Particular care is needed on ward matters where prior views may have been expressed – or members of the [Cabinetexecutive](#) where Local Development Document proposals may be in conflict with a particular planning application submitted to members for determination. The [CabinetExecutive](#) role may lead to a perception of predetermination. In such cases, the LGA [/PAS](#) Guidance indicates that the member may be able to speak on the application but should not vote.

2.17.5 A ward councillor may still be able to attend a committee and make representations - under paragraph 9 of the Code of Conduct provided they then withdraw – see also right to attend Planning Committee in the Council Procedure Rules – para 22 (Part B of the Constitution).

2.17.6 Decisions should only be reached after consideration of all relevant evidence and arguments and Members should avoid deciding or declaring which way they are inclined to vote in advance of a Planning Committee. As stated above, whilst the Localism Act 2011 has confirmed that a decision maker will not be taken to have had (or appeared to have had) a

closed mind when making a decision, just because they had previously done anything that directly or indirectly indicated a view that they took ,or would or might take, in relation to a matter and that matter was relevant to the decision. This falls short of expressing that a Member has already decided how to vote. Expressing an opinion on a matter prior to making a formal decision is acceptable - predetermination goes further and involves the decision maker having already reached a decision before considering all available facts.

- 2.17.7 Members must avoid jeopardising the legality of Council decision making or its reputation by participating in matters where there is an issue of pre-determination – in this respect members are advised to comply with advice from the Monitoring Officer, Deputy Monitoring Officer and/or Chief Executive.

3. Availability and Status of Guidance

- 3.1. This local Guidance is a publicly available document intended to demonstrate the way in which all Members will conduct themselves. It will be kept under review and may be adapted from time to time.
- 3.2. In drawing up this Guidance regard has been had to the LGA/PAS Guidance – “Probity in Planning: ~~the role of Councillors and officers – revised guidance note on good planning practice for councillors and officers dealing with planning matters~~” - 201309, the Localism Act 2011, the revised Code of Conduct adopted by the Council on 24.7.12 and guidance from the DCLG.
- 3.3. Advice is available and will be given to Councillors when sought – in some cases however even when advice is not specifically requested, the Monitoring Officer, Deputy and/or Chief Executive may highlight potential breaches of the Code and advise that an interest should be declared to safeguard the Councils position.

4. Other Reading/References

- LGA/PAS Guidance – “Probity in Planning: ~~for the role of~~ Councillors and officers” – revised guidance note on good planning practice for councillors and officers dealing with planning matters - 201309
- LGA – 2008 – Planning at the heart of local government
- The Localism Act 2011
- The Code of Conduct for Members adopted 24.7.12

PART C

**SECTION I: Licensing Sub-Committee Hearing Procedure
(Updated 7 February 2011)**

This procedure shall apply to any hearings conducted by the Licensing Sub-Committee in relation to matters under the Licensing Act 2003 as amended falling to be determined by them except Interim Hearings (Summary Review of a Premises Licence) conducted pursuant to Section 53B of the Licensing Act 2003, as amended.

1. Administration in Relation to a Hearing

- 1) Prior written notice of the hearing will have been given to the interested/relevant parties.
 - a) In the circumstance where a party has informed the authority that he/she does not intend to attend or be represented the hearing may proceed in their absence.
 - b) Where a party has not replied to the written notice of the hearing and does not attend and is not represented then it will be assumed they do not intend to attend and the Sub-Committee may proceed to hold the hearing in that party's absence or adjourn the hearing if it is considered necessary in the public interest to do so.
 - c) If a party has indicated attendance but does not appear, it will be that party's responsibility to inform the Council of any delay – with reasons - and in consideration thereof the Sub-Committee can decide to proceed with the hearing or adjourn to later the same day or another time. If a party is more than 15 minutes late and has not contacted the Council with details of any delay – the Sub-Committee can decide to proceed with the hearing or adjourn to later the same day or another time.

If the hearing is held in a party's absence, the Sub-Committee shall still consider the application, representation or notice made by that party. Regs 6/20.

- 2) A hearing can be dispensed with if all parties give notice that they consider a hearing unnecessary. Reg 9. If this is the case the application/notice will still be determined by the Sub-Committee ~~in public—unless it is considered to be in the public interest that the determination should be in private—~~ on the basis of the advance papers provided, with the Licensing Officer introducing his/her report and answering any queries the members of the Sub-Committee may have before they make their determination.
- 3) Representations can be withdrawn by prior notice or orally at the hearing. Reg 10.
- 4) Hearings shall take place in public except where the authority considers that the public interest in excluding the public from all or part of the hearing outweighs the public interest in it remaining public. Reg 14.
- 5) At the hearing any party can be assisted or represented by any person whether or not that person is legally qualified. Reg 15. In exceptional circumstances the parties may call any other person (witnesses) to address the hearing to assist (prior written notice must have been given to the Council and permission given). The overriding consideration for the Chairman in making a decision to hear from a witness will be the interests of justice and the conduct of a fair hearing. Reg 8/16/22.

- 6) The hearing will be before the Licensing Sub-Committee which will be made up of three Members of the South Bucks District Council Licensing Committee who will at the beginning of the session agree and identify which of them is to act as Chairman for the hearing.
- 7) A District Councillor who has made relevant representations upon an application may attend a Licensing Sub-Committee Hearing and participate as any member of the public can (make submissions, ask and be asked questions, discuss conditions, make any final comments) BUT cannot stay in the room to hear the Decision of the Licensing Sub-Committee being read out – in accordance with the SBDC Members Code of Conduct - paragraph 12(2). A District Councillor can also attend the Hearing and represent an Objector who has made relevant representations or the Applicant.

If there are Councillors (District or Parish) who attend the Licensing Sub-Committee Hearing, the members of the Licensing Sub-Committee need to consider whether their attendance prevents them from sitting on the Licensing Sub-Committee i.e. because their relationship with the member attending to make representations amounts to a declarable interest (prejudicial).

Regarding Reviews if any of the Members sitting on the Licensing Sub-Committee also sat on a previous Licensing Sub-Committee which determined an application in respect of the Licensed Premises/Club currently under review then they should consider whether their previous involvement prevents them from sitting on the Licensing Sub-Committee.

The Chairman will address any issue of interests regarding the members of the Licensing Sub-Committee at the hearing after the Introductions have been made.

- 8) Members should also consider beforehand if they have or would be considered to have predetermined the matter in which case they should also distance themselves from the determination of the matter and not attend.

A Member with a Personal Interest can still participate but must declare their interest at the start of the Hearing.

Each matter/application will be dealt with individually and three Members must be able to participate in relation to each application for the hearing to proceed and –who must remain until the subject application/notice is determined.

Advice as to Members interests can be obtained from the Head of Legal Services (Monitoring Officer) and/or Principal ~~Assistant~~-Solicitor (Deputy Monitoring Officer) and/or the Legal Advisor to the ~~Committee~~/Sub-Committee.

- 9) Members of the Licensing Sub-Committee will have received in advance (5 clear days) in relation to each application/notice to be considered:
- a) Copy of the relevant application/notice.
 - b) Copy of relevant representations.
 - c) The Licensing Officers observations on the application/notice in consideration of the representations.

- 10) Account can be taken of documentary or other information produced by a party in support of their application, representation or notice (as applicable) either before or - with the consent of all other parties - at the hearing – sufficient copies required for all relevant parties (10 requested). Reg 18.
- 11) The Sub-Committee may disregard any information which is not considered relevant to the application/representation/notice and the promotion of the licensing objectives (crime prevention objective re a police notice). Reg 19.
- 12) The Chairman can also require any person who in his opinion is behaving in a disruptive manner to leave. Reg 25.
- 13) For the purposes of this procedure, Objectors will include anyone who has made relevant representations i.e. an interested party or a responsible authority.
- 14) The parties will be allowed an equal maximum period of time to exercise their rights to address the hearing and ask questions – the Chairman may set such maximum period of time in the interests of the progress of the hearing in the public interest. Reg 24.
- 15) Whilst in some cases the Regulations provide for the decision to be made after the close of the hearing, the Sub-Committee will always endeavour to make its decision at the end of each hearing – to be confirmed in writing as soon as possible thereafter with details of the right of appeal also to be provided in writing. Regs 28/29.
- 16) The Sub-Committee may depart from this procedure if it considers it necessary and/or equitable to do so (as varied/amended by the Head of Legal & Democratic Services from time to time on the basis of changes to law and practice).
- 17) The date of formal notification for the purposes of any appeal against the Licensing Sub-Committee's decision will be the date the letter from the Licensing Officer enclosing the Decision Notice and confirming the rights of appeal and the timescales involved is deemed to have been received_served on the by the parties. (2nd working day after posting if sent by first class post and 4th working day after posting if sent by second class post unless there is any evidence to the contrary – S7 Interpretation Act 1978).

2. At the Hearing

- 1) The Chairman will open the hearing and introduce the parties present and outline their role in the proceedings and invite each of the participants present to introduce themselves. The Chairman should also make clear that if a party is not in attendance their representations/application will ~~still~~ have been read and will still be considered in reaching the decision. The Chairman will also address any interest issues arising regarding the members of the Licensing Sub-Committee.
- 2) If all parties present confirm that they have seen and understand the procedure to be followed at the hearing and agree they are ready to proceed - then the hearing shall commence as set out from para 8 below.

- 3) The Chairman will consider any prior written request for permission for another person to appear at the hearing – permission not to be unreasonably withheld. Reg 8/22.
- 4) The Chairman will remind those present that the purpose of the hearing should be borne in mind at all times i.e:
 - to enable those with a right to appear to advance their point of view and concerns and to test the case of their opponents; and
 - to assist the Sub-Committee to gather evidence and understand the relevant issues.
- 5) The Chairman will advise all those present what advance papers have been received and that these have been read and therefore there is no need to repeat these matters.
- 6) The Chairman will make clear that parties should only address the Sub-Committee in relation to matters previously raised/submitted – late evidence additional matters will can only be considered if the Sub-Committee is of the opinion no other party will be prejudiced by the lateness of the matter being raised, if all parties present present agree give their consent and that it is relevant i.e. it relates to the subject application and the promotion of the licensing objectives. (Reg 18).
- 7) The Chairman will then outline the procedure to be followed by reading out points 8 to 15 below unless all parties present have confirmed that they have seen and understood the procedure and are ready to proceed with the Hearing. Reg 22.
- 8) The Licensing Officer will start by outlining the details of the application/notice and representations received, his/her observations on the application/notice and his/her views as to the determination bearing in mind the representations received.
- 9) Questions may be asked by each objector, the applicant and/or the Members (in that order). Reg 16/17.
- 10) Each Objector will then be invited to address the hearing and to clarify any matters in relation to which prior notice has been given. Each Objector may call any other person (witnesses) to address the hearing to assist (prior written notice must have been given and permission allowed given). The Objector/his representative and/or his witnesses (as the case may be) may be asked questions by the Applicant and/or Members (in that order) Reg 8/16/17.
- 11) The Applicant or his representative will be invited to address the hearing and to clarify any matters in relation to which prior notice has been given. The Applicant may call any other person (witnesses) to address the hearing to assist (prior written notice must have been given and permission allowed given). The applicant/his representative and/or his witnesses as the case may be may be asked questions by the Licensing Officer, Objectors and/or Members (in that order). Reg 8/16/17.
- 12) Before moving onto the next party the Chairman will check there are no further points the current party wishes to make or any further questions that need to be put to that party.

- 13) As part of the Licensing Officers report a schedule of suggested conditions will be set out on a without prejudice basis. Before closing submissions each party will be asked to address/give their views on the suggested conditions and any other appropriate conditions should the application be granted on a without prejudice basis to assist the Sub-Committee. If possible an agreed schedule of conditions will result. It will remain however for the Sub-Committee to determine what conditions will apply should the application be successful.
- 14) Each party will be invited to make closing submissions in the following order:
 - a) Licensing Officer
 - b) Objectors
 - c) The Applicant
- 15) The Sub-Committee will then retire together with the Committee Clerk – and the Committee Legal Advisor in order for a decision to be formulated.
- 16) On returning the Legal Advisor will detail any legal advice given to the Members in private session.
- 17) The Chairman will announce the decision (with reasons as required) and a written version supplied - to be confirmed in writing with details of the right of appeal.

NOTE:

In producing and adopting this procedure the following have been considered:

- Licensing Act 2003 as amended - and Explanatory Notes
- National Guidance
- The Licensing Act 2003 (Hearings) Regulations 2005
- The Licensing Act 2003 (Hearings) (Amendment) Regulations 2005
- The Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007
- The Human Rights Act 1998

Classification: OFFICIAL

PART C

**SECTION J: Member Interests When Determining
Applications or Representing Objectors or
Applicants Re: Applications Pursuant to Licensing
Act 2003 (As at xxxAugust 20182)**

Classification: OFFICIAL

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1. Generally

~~The provisions of the Localism Act 2011 (the Act) re interests came into effect on 1 July 2012 and -In accordance with the Localism Act 2011 the Council adopted a new Code of Conduct on 24 July 2012 and this note reflects has been updated to take the provision of the Code changes into account.~~

~~There are 3 types of interest:~~

- ~~• A Disclosable Pecuniary Interest (DPI) - is provided for under Section 30 of the Act as specified in regulations made by the Secretary of State. The relevant Regulations are The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. A DPI is defined as an interest of a member ~~and~~ which in this case includes the interest of the members spouse or civil partner or anyone with whom he/she lives as a husband or wife ~~It and~~ covers a paid employment, office trade, profession or vocation; any sponsorship; contracts made between the member and the authority; land in which the member has an interest in the area of the authority i.e. their home; any licence to occupy land in the area; any corporate tenancies and certain securities a member holds.~~

~~A member with a DPI must declare the same and must not vote or participate in any discussion on that matter and must leave the room whilst the matter is under discussion. To do otherwise than with the benefit of a dispensation granted by the Council or in reliance on the provisions regarding sensitive interests, is a criminal offence.~~

~~Personal and Prejudicial interests are additional interests and are defined in the Code. The Council's Code of Conduct is in Part 3 of the Constitution.~~

- ~~• A Personal interests – is an interest required to be registered in the members public register of personal interests or one reasonably regarded as affecting the member, or a close associate of the member, to a greater extent than other council tax payers
A members with a personal interest must– declare this at the meeting but can stay/speak/vote i.e– full participation.~~
- ~~• A Prejudicial interests – is a personal interest which is so significant that a member of the public would reasonably regard it as so significant that it is likely to prejudice the members judgement of the public interest ~~and affect the member's financial interests or a planning /licensing application~~
A member with a Prejudicial Interest must– declare and leave room when the item is under discussion ~~and~~ cannot choose to stay in any other capacity i.e. as a parish councillor/local resident – unless the exemption at Paragraph 9 of the Code applies.~~
- ~~• Interpretation of the Code of Conduct is based on the assumptions of a reasonable man.~~

~~This note is written specifically in relation to Licensing Act 2003 applications and Schedule 3 of the Local Government Act 1982 applications and the interests that may arise in relation thereto due to consideration of premises licenses/club premises certificates and Sex Establishment Licences respectively within members' residential areas and/or connection with applicants - and/or other parties who have made representations in relation to applications.~~

~~It does not purport to cover applications/referrals relating to Private Hire or Hackney Carriage taxi applications/referrals which do not involve public participation and tend not to be locationally sensitive. However Members should be aware that interests can and will arise in relation to these~~

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matters which need to be declared and/or considered as to member participation in determining applications and/or considering referrals relating to Private Hire or Hackney Carriages regarding taxis to the Licensing Sub-Committee.

2. District Councillors determining an Application or attending a Licensing Sub-Committee Hearing

- 2.1 A District Councillor with a prejudicial interest in the matter/application to be determined must take no part in the determination of the matter/application unless a dispensation has been granted (unlikely in a licensing scenario as only 3 members needed out of a possible 12 to sit on a Licensing Sub-Committee so there will always be other members available). A District Councillor with a prejudicial interest in the matter/application to be determined must not attend the hearing. This applies whether the Councillor is a District Councillor of that Ward or not and applies to all District Councillors – whether or not they are a member of the Licensing Committee.

The Code of Conduct's intent here is that a District Councillor's presence alone can influence a decision or discussion.

However, the Code provides an exemption at Para 9 (2) which would allow a District Councillor who is a valid objector or is representing a valid objector/applicant to attend the Hearing and to make representations (including asking and being asked questions and making final submissions) provided that the public can attend for the same reason (i.e. the hearing is not in part II), but the District Councillor must leave the room when the members of the Licensing Sub-Committee retire to make their decision and the District Councillor is not allowed to return to hear the decision.

The opportunity to speak at the Hearing will be shared with other members of the public who are allowed to address the sub-committee – be they the applicant, objectors/supporters or representatives - and the District Councillor will get no preferential treatment as a Councillor.

It must be noted however that District Councillors may only speak at/address the Hearing in accordance with the same rights granted to members of the public – this must be in accordance with the Councils adopted Hearing Procedure and if the representation to which they refer/wish to address has been received in writing by the Councils Licensing Team within the period allowed for consultation.

- 2.2 There may be a higher chance that a District Councillor will have a Prejudicial Interest when determining an application from within their own Ward because for example, of the proximity of the premises to their home, they may frequent/attend/have connections to the premises, their family and/or friends may frequent/attend/have connections to the premises, they may know the applicant/an objector, they may have had other involvement in the premises and so on. In which case District Councillors may well find they are unable to be part of the determination process for many of the applications within their Ward. However, the Council does not have a blanket policy that District Councillors cannot determine any application within their Ward and will continue to assess each case upon its individual circumstances.

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3

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- 2.3 Therefore if a Member considers that they have a Prejudicial Interest regarding an application to be determined at a Hearing and they were going to be on the Sub-Committee determining the application then they would need to declare the Prejudicial Interest prior to the application being determined and leave the room or not attend the Hearing at all. However a Member who seeks to address the Sub- Committee in relation to an application where they have a Prejudicial Interest will have the right to make representations and participate as permitted in relation to members of the public – also note italics underlined at 2.1 above - but must then leave the room and not be present when the decision is announced.

3. District Councillors attending a Hearing representing a Town/Parish Council who have objected

- 3.1 As above - a District Councillor with a prejudicial interest cannot attend a meeting/hearing at which the matter is being discussed/considered/determined - this is whether or not the District Councillor Member is a member of the Licensing Committee or not – subject to the Paragraph 9 exemption.
- 3.2 A Town/ Parish Councillor is not subject to the South Bucks District Code of Conduct – whilst they will be subject to their own ~~Parish Council~~ Code of Conduct, an interest at Town/Parish level will not affect their right to participate at District level. If however the Town/Parish Councillor is also a District Councillor then the District code will apply and can restrict their conduct/attendance - they cannot choose between the capacity in which they attend. But note – a Town/Parish Councillor will have a Personal Interest at the District Council and vice versa where the application is considered by either Council.
- 3.3 If the District Councillor has no prejudicial interest they could still attend and represent their Ward provided valid written objections have been submitted in time as above.

BUT a potential problem arises however in that a District or Town/Parish Councillors attendance at the Hearing and also addressing the Sub-Committee may in itself give rise to a “Prejudicial Interest” in relation to Members sitting on the Sub-Committee if they consider the Member attending to be a ‘close associate’ which can give rise to a prejudicial interest of the Member sitting on the Sub-Committee such that by addressing them a Member/s of the sub-committee must debar themselves from sitting.

4. District Councillors supporting a local Applicant/Objector

- 4.1 If asked by an applicant/objector to speak ~~on their behalf as a local resident~~ for/against an application which goes before a Hearing - a Prejudicial Interest may arise due to the location/local connection/knowledge of the premises/applicant and also the District Councillor may be considered as lobbying the Sub-Committee. Again the “close association” problem regarding other Members of the LSC referred to above may arise as well.
- 4.2 However, the District Councillor could write in (within the relevant consultation period) and their representation in support/opposition would be taken into consideration by the LSC.

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4

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5. Lobbying a District Councillor sitting on the relevant Licensing Sub-Committee

- 5.1 If Objectors including other Councillors lobby Members of the relevant Licensing Sub-Committee direct, Members could disqualify themselves from sitting on that Sub-Committee by expressing any opinion or intimating support or sympathy to the objections raised by way of a potential claim of predetermination/bias as this would prejudice a Fair Hearing if the applicant was not given equal opportunity of expressing their case to those Members in this way. Whilst expressing a 'view' is now allowed under Section 25 of the Localism Act 2011 – Members must still be wary of going too far and committing to a decision prior to the hearing.
- 5.2 The objector, as long as he has submitted written representations/objections to the Council within the relevant time scales permitted (consultation period) can attend the Hearing in person or be represented by another person where they would be able to speak and ask questions in accordance with the Councils adopted Hearings Procedure.
- 5.3 If Members of the relevant Licensing Sub-Committee are contacted directly – legal advice is that they should invite the objector to make their representations direct to the L-licensing Team officer within the time scales permitted and attend the Hearing but the Member should not express any opinion on the application or offer to be a recipient or pass on the representation, which may suggest support for the representation submitted.

NOTE:

CIVIL LAW (Administrative Law): Applications must be determined fairly and not subject to bias/predetermination or prejudiced by public reaction/pressure.

- Can you sit on the Committee and determine the Application with an open mind? Or have you prejudged an application and already expressed more than a 'view'?
- Would a reasonable man think you have already shown your colours? i.e. Would the public think you have made up your mind already?

District Councillors may seek legal advice from:

- Monitoring Officer
- Deputy Monitoring Officer
- Chief Executive

ADVICE: Advice is available and will be given to District Councillors. Members are reminded that:

- the responsibility for declaring interests is theirs alone,
- if they have a DPI – failure to register/disclose is an offence unless a dispensation has been obtained or the interest is sensitive,
- consideration as to whether a Prejudicial interest arises is based on what a reasonable and objective observer with knowledge of all the relevant facts would consider – namely whether the Personal Interest is so significant that it would impair the Members ability to judge the public interest – and is not based on what the Member themselves think,
- the provisions re pre-determination under the Localism Act 2011 only apply to a 'view' – anything more can still amount to pre-determination,

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5

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- *although the duty to report a Member for breach of the Code no longer appears in the Code, this does not prevent another Member reporting breaches or indeed members of the public and/or officers.*

If Councillors choose to ignore advice given this will be at their own peril/risk because if by ignoring such advice an offence is committed or a breach of the Code of Conduct is reported – the officer will have to inform the investigator of the advice offered. In some cases even when advice is not specifically requested – the Monitoring Officer (Deputy/Chief Executive) may highlight a potential breach and advise that an interest be declared to safeguard the Council's position.

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6

PART C
SECTION K: Employees Code of Conduct

CHILTERN AND SOUTH BUCKS DISTRICT COUNCILS' EMPLOYEES CODE OF CONDUCT

Version control

| Version | Owner | DATE | DESCRIPTION | REVIEW DATE |
|---------|-------|----------|-------------------------------------|-------------|
| 1 | HR | 01 01 16 | Harmonised Employee Code of Conduct | 01 02 18 |
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CONTENTS

| | |
|--|---|
| 1. Introduction | 3 |
| 2. Status and Scope of the Code | 3 |
| 3. The Councils' Values and Principles of Public Life | 3 |
| 4. General obligations:..... | 4 |
| 5. Disclosure of Information | 4 |
| 6. Confidentiality | 4 |
| 7. Intellectual property..... | 5 |
| 8. Security of Information | 5 |
| 9. Political Neutrality | 5 |
| 10. Conflict of Interest | 5 |
| 10.1. Relationships with Councillors | 6 |
| 10.2. Contact with the Local Community and Service Users..... | 6 |
| 10.3. Appointments/Employment Matters..... | 6 |
| 10.4. Outside interests/Paid employment outside the Council | 6 |
| 10.5. Relationships with Suppliers, Contractors, Planning/Licensing/Grant Applicants | 6 |
| 10.6. What happens if you are suspected/convicted of a fraudulent, criminal or civil conviction? | 7 |
| 11. Bribery and Corruption | 7 |
| 12. Gifts and Hospitality | 7 |
| 13. Sponsorship | 8 |
| 14. Council Resources | 8 |
| 15. Use of Financial Resources..... | 8 |
| 16. Productivity at Work | 8 |
| 17. Contact with the Media..... | 8 |
| 18. Equality Issues..... | 9 |

19. Health and Safety 9

20. Safeguarding Children and Vulnerable Adults 9

21. Reporting Breaches of the Code and Whistleblowing 9

1. INTRODUCTION

The Councils exist to provide services to the public. The customers and communities we serve are entitled to expect the highest standard of conduct from employees of Chiltern and South Bucks District Councils. This code sets out the minimum standards of conduct that are expected from you as a Council employee. The aim of the Code is to set guidance for employees to help maintain and improve standards and protect employees from criticism or misunderstandings.

2. STATUS AND SCOPE OF THE CODE

This Code of Conduct applies to all employees and sets out what is expected from you in your daily work while employed by either Council. Wider workers such as agency workers, consultants and volunteers are also required to abide by the Code. Managers of these workers are responsible for ensuring they comply with the code.

The code does not affect your rights or responsibilities under the law. Its purpose is to provide clear and helpful advice to you. Because of the nature of your work, some parts of the code may apply more to some of your colleagues than to you. It is important you read the code and ask about anything that isn't clear as failure to comply with these standards will be viewed as misconduct and may give rise to disciplinary action.

If you have management responsibilities please ensure that your direct reports, including wider workers you are responsible for have access to this Code and that they are given opportunities for training/discussion where appropriate.

3. THE COUNCILS' VALUES AND PRINCIPLES OF PUBLIC LIFE

The Councils have agreed a set of shared values which all employees are expected to adopt and demonstrate in all Council related business. These can be found in the Councils' Business Plans.

How employees can put the Councils' Values into practice:

Governance and accountability: Accept personal responsibility for your decisions and actions. Provide the highest standards of service and act with integrity and transparency. Always act within the Councils' constitutions, policies and the law.

Equality and diversity: Respect the diversity, individuality and dignity of the people of Chiltern and South Bucks, and all those you come in contact with while working for the Councils, promoting equality and fairness for all.

Staff: Maintain and seek to improve professional knowledge and competence and where you have management responsibilities ensure that those working for you have the appropriate level of competence, supervision and support.

Working with others: Put customers first and work flexibly, innovatively and collaboratively with colleagues, Members and partners to the benefit of the communities of Chiltern and/or South Bucks

Personal responsibility: Work with partners and residents to promote personal responsibility and positive lifestyle choices.

Employees are also required to abide by "The Nolan Principles of Public Life". These are:

- **Selflessness:** You should not take any decisions which will result in any financial or other benefit to yourself, your family, or your friends. Decisions should be based solely on the best interests of the Councils.
- **Integrity:** You should not place yourself under any financial or other obligation to an individual or an organisation which might influence you in your work with the Councils.

- **Objectivity:** Any decisions must be made solely on merit, including making appointments, awarding contracts, or recommending individuals for rewards or benefits.
- **Accountability:** You are accountable for your actions and your part in making decisions, you must co-operate with whatever scrutiny is appropriate to your post.
- **Openness:** You should be as open as possible in all the decisions and actions that you take. You should give reasons for your decisions and should not restrict information, unless this is clearly required by Council policy or by the law.
- **Honesty:** Be truthful. You have a duty to declare any private interests which might affect or be perceived to affect your work with the Councils.
- **Leadership:** Actively promote and exhibit these principles by behaving in a way that gives people complete confidence in the Councils. Report/challenge poor behaviour.

4. GENERAL OBLIGATIONS:

The Councils' Obligation

The Councils will ensure:

- You are clear about what is expected of you
- You have a safe and healthy working environment
- You have a work environment that is free from discrimination, harassment or bullying
- You are offered relevant training and development

It is important to maintain conduct of the highest standard such that public confidence in your integrity is sustained. For the Councils to provide excellent services to the communities they serve it is vital that you understand your role and your responsibilities whilst at work and undertake your role in a safe and effective manner. Your role as an employee is to serve the Councils in providing impartial advice, implementing their policies and delivering services to the local communities. In performing your duties you should act in accordance with the Councils' Vision and Values, policies and procedures, all of which are available on the Councils' shared intranet. Please familiarise yourself with these together with your job description and annual objectives.

5. DISCLOSURE OF INFORMATION

The Councils' decision-making processes should be transparent and open. The Councils provide the public with clear and accessible information about how they operate. The Freedom of Information Act 2000 gives a right to access to information held by the Councils in accordance with their publication scheme. There is also a complaints procedure in place for the public to use when things go wrong. You may be required in the course of your duties to make certain information available to councillors, auditors, government departments or service users.

There are exceptions to the principle of openness where confidentiality is involved, and information may be withheld if, for example it would compromise a personal or commercial confidentiality, unless there is a legal duty to provide this information.

Employees should not use any information obtained while working for the Councils for personal gain or benefit, nor should they pass it on to others who might use it in such a way.

6. CONFIDENTIALITY

You are required to safeguard all confidential, commercially sensitive and personal data that you have access to and adhere to the Councils' Joint Data Protection and Confidentiality Policy. Confidential information obtained must only be used for Council business and only for the purpose it was obtained.

- You will not, without written consent, make personal use of or divulge to any unauthorised person confidential or sensitive information either during or after your employment.

- You will use your best endeavours to prevent the publication or disclosure of confidential information, unless this is in the proper performance of your duties.

7. INTELLECTUAL PROPERTY

Intellectual property includes inventions, patents, drawing, records, papers and other documents and papers relating to the Councils. If these were created or acquired by an employee during the course of their employment then they will remain the property of the Councils.

Knowledge and information held by the Councils is the property of the Councils and must not be used for other purposes including outside paid employment.

8. SECURITY OF INFORMATION

Use of the Councils' equipment, systems and network is provided as part of your role. You must adhere fully to the Councils' Joint ICT Security Policy. This details the standards expected from staff in protecting the security of information including standards on the use of the Internet, External E-mail, computer security, accessing files and data held on your computer. You are also required to comply with the Councils' Joint Data Protection and Confidentiality Policy and Social Media Policy.

9. POLITICAL NEUTRALITY

The public expects you to carry out your duties in a politically neutral way. Employees serve the Councils as a whole and must serve all councillors equally, not just a single political group. You must not allow personal or political opinions to interfere with your work and you are required to implement the decisions / policies of the Councils irrespective of your personal views. The Councils respect the rights of employees to hold personal or political opinions; employees should ensure that the expression of those opinions does not constitute a conflict of interest. Employees who have concerns about whether there is a potential conflict of interest should raise the matter with their manager.

If employees are asked by a councillor to provide assistance with a matter which is clearly party political, or does not have a clear link to the work of the Council, they should politely refuse and inform the councillor that the matter will be referred to their manager.

Some employees will have a close working relationship with councillors of the majority political group (or groups) which form the administration of the Council. Political groups may sometimes seek advice from Council employees. Where this occurs the Chief Executive must be informed in advance of any meeting or advice being given.

The political activities of a small number of staff are restricted by law. If your post is politically restricted this will be set out in your Statement of Particulars and you will need to comply with the statutory restrictions on your political activities. This includes not standing for elected office as a County, District or London Borough Councillor, MP or MEP, not writing, speaking or canvassing to affect public support for a political party and not holding office in a political party.

10. CONFLICT OF INTEREST

As a Council employee you must not undertake an act or omission which brings you into conflict with your employment or allow any private interest or opinions to influence your decisions at work. You must not use your position to further your own interests or the interests of others who do not have a right to benefit under the Councils' policies. You or a close family member/friend

may have a private interest which relates to the work of the Councils. That interest may be a financial one, or one which a member of the public might reasonably think could influence your judgement. All such interests must be declared to your line manager. If in doubt seek advice from your line manager.

10.1. RELATIONSHIPS WITH COUNCILLORS

Both councillors and employees are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Employees are responsible to the Councils through their senior managers and in many cases they give advice to councillors. Mutual respect between employees and councillors is essential for good service provision. Close personal familiarity between employees and individual councillors can damage this relationship and should therefore be avoided. Employees should deal with councillors in a polite and efficient manner. You must not attempt to influence a councillor out of a personal motive and must report to your line manager if a councillor attempts to pressurise you to deal with a matter outside of the Councils' policies.

10.2. CONTACT WITH THE LOCAL COMMUNITY AND SERVICE USERS

All citizens and service users have a right to be treated with fairness and equity. You must be courteous, effective and impartial in dealing equitably and consistently with the public.

10.3. APPOINTMENTS/EMPLOYMENT MATTERS

Employees involved in appointments, decisions in relation to discipline, promotion or pay adjustments for other employees where a family relationship or a personal friendship exists must declare any potential conflict of interest to their line manager.

10.4. OUTSIDE INTERESTS/PAID EMPLOYMENT OUTSIDE THE COUNCIL

Generally, what you do outside of work is your own concern, however as a Council employee you need to take care that your private activities including your use of social media does not adversely affect the reputation of the Councils or put you in a position where there is a conflict of interest which may bring one of the Councils into disrepute.

The Councils will normally allow you to undertake paid employment in addition to your work for the Councils, unless there is a clear conflict of interest, or it is likely to have an adverse effect on the work of the Councils. For all Officers grade 5 and above there is a requirement in your Statement of Particulars for you to obtain approval from your Head of Service to take up any other additional employment or appointment. Depending on your role there may also be restrictions on the private work you may undertake. For all Officers below grade 5 it is advisable to first obtain approval before taking up any other role or outside appointment, this is in your interest and to protect you. Please note you are not allowed to use the equipment or resources of either Council in any other paid employment.

You must also seek consent from your Head of Service before accepting any voluntary position in which you are acting on behalf of either Council or where there may be a conflict of interest.

If you are a member of an organisation or club, and membership might result in a conflict of interest in relation to any aspect of your work with the Councils, you must declare this.

10.5. RELATIONSHIPS WITH SUPPLIERS, CONTRACTORS, PLANNING/LICENSING/GRANT APPLICANTS

All Council decisions including orders, contracts, grants, planning and licensing decisions must be made on merit and no special favour shown in the tendering or decision making process and no part of the community should be discriminated against. You must let your manager know of any relationship or beneficial interest which may affect or perceive to affect such a decision.

Officers purchasing goods/services are required to follow the Councils' Contracts Procedure Rules which set out the Councils' approach to dealing with all aspects of Procurement. You must declare any direct or indirect financial interest that you or a close family member/friend has or have previously had to your line manager. You should also declare any non-financial interests such as voluntary work for an organisation in receipt of a grant from the Councils.

If you are an employee involved in the tendering process and dealing with contractors you need to be clear on the separation of client and contactor role. Senior employees who have both a "client" and "contractor" responsibility in the tendering process must observe the requirement for accountability and even handedness in undertaking these two roles.

10.6. WHAT HAPPENS IF YOU ARE SUSPECTED/CONVICTED OF A FRAUDULENT, CRIMINAL OR CIVIL CONVICTION?

You will not be subjected to a detriment or face prejudicial treatment as a result of being the subject of an investigation by an official body, arrested or charged with a criminal offence. However, depending on the nature of the investigation/offence we may have to assess whether there is any conflict of interest and your suitability to continue to carry out your role.

You must tell your manager if at any time during your employment with the Councils you are the subject of an investigation by an official body, arrested or convicted of a criminal charge: this includes motoring offences with the exception of road traffic offences dealt with by way of a fixed penalty notice. We will then assess whether or not this affects your suitability to continue to carry out your role.

11. BRIBERY AND CORRUPTION

You need to be aware it would be considered corrupt for an employee to demand or accept any fee or reward other than their normal remuneration from anyone who may benefit from a decision, work, information or funding provided by the Councils. Please see section on gifts and hospitality below and ensure you comply with the Councils' Joint Anti-Fraud, Bribery and Corruption Policy.

Under the Bribery Act 2010 it is a criminal offence to offer or give someone a reward to induce them to perform an activity improperly or to accept or agree to accept a reward in return for performing a relevant activity improperly.

12. GIFTS AND HOSPITALITY

In the acceptance of any gift or hospitality you need to be sure you will not be subject to legitimate criticism, if you are in any doubt you should seek advice from your line manager. You need to be careful as even with the best intentions, people could legitimately think gifts or hospitality might influence, or be intended to influence your judgement. You must follow the Councils' procedure for declaring gifts and hospitality including any authorisation required.

You should not accept significant personal gifts from contractors, suppliers or members of the public, although you may keep items of token value such as pens, diaries etc. Offers to attend

social or sporting functions should be accepted only when they are part of the life of the community or where either Council would be expected to be represented.

13. SPONSORSHIP

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

Where either Council wishes to sponsor an event neither an employee nor close family/friend must benefit from such sponsorship in a direct way without there being full disclosure to your line manager of any such interest.

14. COUNCIL RESOURCES

You have a responsibility to make sure that the Councils use their resources prudently and in accordance with the law. Please remember this principle when you use Council equipment, materials and resources, in order to ensure value for money. You should not utilise property, vehicles or other facilities of the Councils for personal use unless authorised to do so.

Some limited personal use of telephones, photocopiers and computers is permitted provided you have your manager's permission. This use should be restricted to outside of working hours, e.g. in your lunch break, except in urgent or exceptional circumstances. Please refer to your Council's Acceptable Use policies.

15. USE OF FINANCIAL RESOURCES

The use of public funds entrusted to employees is to be used in a responsible and lawful manner. You should strive to ensure value for money to the local community and to avoid legal challenge to the Councils. Care should be taken in dealing with the Councils' financial resources and any errors or fraud should be reported. If you have responsibility for budgets or purchasing you must ensure you understand and comply with the Councils' Standing Orders and Financial Procedure Rules.

16. PRODUCTIVITY AT WORK

Residents may reasonably expect the highest standards of productivity from all those who work for the Councils. Personal activities should be kept to a minimum whilst working, for example this will include non-urgent private phone calls, text messaging and private internet activities.

17. CONTACT WITH THE MEDIA

In your work with the Councils, contact with the media should only take place where this has been authorised by the Councils. Please take advice from the Communications, Performance and Policy Team and ensure all press releases are issued via the Communications, Performance and Policy Team. Any subjects that appear to have legal implications should also be referred to the Legal Services Team.

As a citizen, you are entitled to express your views about the Councils provided you do not make use of any information gained through your work with either Council. It is advisable to take care in making any comments and to take all reasonable steps to ensure it is seen as representing your personal views as a private citizen.

18. EQUALITY ISSUES

One of the Councils' Values is equality and diversity. All members of the local community, councillors and employees have a right to be treated with fairness and equity and we ask all employees to endeavour to promote best practice in this area at all times. You are required to comply with the Councils' Equality Policies in addition to the requirements of the law.

19. HEALTH AND SAFETY

The Councils are committed to promoting a healthy and safe working environment. You are expected to know and to comply with all Health and Safety policies available on the joint intranet site and you have an obligation to take reasonable care of your own safety and for the safety of others who may be affected by your actions/omissions.

In the event of an accident or near miss involving yourself, a colleague or customer you should follow the accident reporting procedure. If you are involved in an incident involving a possible claim against either Council or an individual, you should not admit liability; the decision as to legal liability rests with the Councils' insurers.

20. SAFEGUARDING CHILDREN AND VULNERABLE ADULTS

The Councils are committed to best practice with regards safeguarding the health, wellbeing and human rights of children and vulnerable adults. If during the course of your duties you have any concerns about the treatment of a child or vulnerable adult you must contact your manager and the designated officer, currently Martin Holt, Head of Healthy Communities, immediately. It is important any concerns are reported via the proper channels in accordance with the Councils' Joint Safeguarding Policy.

The Councils will determine which posts require a DBS (Disclosure and Barring Service) check. Where an employee is questioned, cautioned or arrested on a safeguarding matter they should notify their Director immediately.

21. REPORTING BREACHES OF THE CODE AND WHISTLEBLOWING

Employees are expected, in accordance with procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of services. A separate Joint Whistle Blowing Policy has been developed to enable staff and others to voice concerns.

PART C
SECTION L: Petitions Scheme (Adopted 11 May 2010)

1. Introduction

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

Petitions can be sent to:

Chief Executive
South Bucks District Council
Capswood
Oxford Road
Denham
Bucks UB9 4LH

Petitions can also be presented to a meeting of the Council. These meetings take place at approximately eight weekly intervals, dates and times can be found by visiting <http://www.southbucks.gov.uk/meetings>. If you would like to present your petition to the Council, or would like your Councillor or someone else to present it on your behalf, please contact the Democratic & Electoral Services Manager on 01895 837227 at least 10 working days before the meeting and they will talk you through the process. If your petition has received 3,000 signatures or more it will also be scheduled for a Council debate and if this is the case we will let you know whether this will happen at the same meeting or a later meeting of the Council.

2. What are the guidelines for submitting a Petition?

Petitions submitted to the Council must include:

- A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take.
- The name and address and signature of any person supporting the petition.

The Council will normally require petitions to be signed by at least 10 persons to be treated as a petition. A valid address shall relate to a person who lives, works or studies within the Council's area.

Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the Council

may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

3. What will the Council do when it receives my Petition?

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply.

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

4. How will the Council respond to Petitions?

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- Taking the action requested in the petition
- Considering the petition at a council meeting
- Holding an inquiry into the matter
- Undertaking research into the matter
- Holding a public meeting
- Holding a consultation
- Holding a meeting with petitioners
- Referring the petition for consideration by the Council's Overview and Scrutiny Committee*
- Calling a referendum
- Writing to the petition organiser setting out our views about the request in the petition

*The Overview and Scrutiny Committee is a Committee of Councillors who are responsible for scrutinising the work of the Council – in other words, the Overview and Scrutiny Committee has the power to hold the Council's decision makers to account.

In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition. The table below gives some examples.

| Petition Subject | Appropriate Steps |
|---|--|
| Alcohol related crime and disorder | <p>If your petition is about crime or disorder linked to alcohol consumption, the Council will, among other measures, consider the case for placing restrictions on public drinking in the area by establishing a designated public place order or, as a last resort, imposing an alcohol disorder zone. When an alcohol disorder zone is established the licensed premises in the area where alcohol related trouble is being caused are required to contribute to the costs of extra policing in that area. The Council's response to your petition will set out the steps we intend to take and the reasons for taking this approach.</p> |
| Anti-social behaviour (ASB) | <p>As the elected representatives of your local area, as social landlord and licensing authority, the Council plays a significant role to play in tackling anti-social behaviour. The Council, in conjunction with our partners in the local crime and disorder partnership have set out minimum service standards for responding to issues of anti-social behaviour.</p> <p>When responding to petitions on ASB, we will consider in consultation with our local partners, all the options available to us including the wide range of powers and mechanisms we have to intervene as part of our role as social landlord and licensing authority. For example, we will work with the neighbourhood policing team in the affected area to identify what action might be taken including what role CCTV might play, consider identifying a dedicated contact within the Council to liaise with the community and neighbourhood partners on issues of ASB in the area in question and, where appropriate, we will alert the crime and disorder reduction partnership and crime and disorder overview and scrutiny committee to the issues highlighted in the petition.</p> |

If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you.

If your petition is about something that a different Council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event we will always notify you of the action we have taken.

5. Full Council debates

If a petition contains more than 3,000 signatures it will be debated by the full Council unless it is a petition asking for a senior council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The

petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one on which the Council's Cabinet are required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

6. Officer evidence

Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If your petition contains at least 1,500 signatures, the relevant senior officer will give evidence at a public meeting of the Council's Overview and Scrutiny committee. The relevant senior officers for this purpose are the Chief Executive, Director of Resources and Director of Services. You should be aware that the Overview and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The Committee may also decide to call the relevant councillor to attend the meeting. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the Chairman of the Committee up to three working days before the meeting.

7. What can I do if I feel my Petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Council's Overview and Scrutiny Committee review the steps that the Council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.

The Committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council's Cabinet and arranging for the matter to be considered at a meeting of the full Council.

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.