

**Codes and Protocols**  
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## PART E CODE 1 - MEMBERS CODE OF CONDUCT

### E1.01 INTRODUCTION

- (a) This Code of Conduct ('Code') has been adopted by North Lincolnshire Council ('Authority') as required by Section 27 of the Localism Act 2011 ('Act').
- (b) The Authority has a statutory duty under the Act to promote and maintain high standards of conduct by its Members.
- (c) This Code is not intended to be an exhaustive list of all the obligations that are placed on Members. It is the responsibility of individual Members to comply with the provisions of the Code as well as such other legal obligations as may apply from time to time. Members should also comply with the following "Nolan" principles:

Selflessness  
Integrity  
Objectivity  
Accountability  
Openness  
Honesty  
Leadership

### E1.02 WHO DOES THIS CODE APPLY TO AND WHEN DOES IT APPLY?

- (a) This Code applies to all Members of the Authority and to all co-opted Members of any committee, sub-committee or joint committee of the Authority.
- (b) This Code applies whenever a person is acting in his/her official capacity as a Member of the Authority or co-opted Member in the conduct of the Authority's business, or acting as a representative of the Authority, including -
  - (i) at meetings of the Authority, its Committees and Sub-Committees, its Cabinet and Cabinet Committees;
  - (ii) when acting as a representative of the Authority;
  - (iii) in discharging their functions as a ward Councillor or as a member of the Executive;
  - (iv) at briefing meetings with officers; and
  - (v) at site visits, and

- (vi) to all forms of communication and interaction including:
- at face-to-face meetings
  - at online or telephone meetings
  - in written communication
  - in verbal communication
  - in non-verbal communication
  - in electronic and social media communication, posts, statements and comments
- (c) Any allegation received by the Authority that a Member has failed to comply with this Code will be dealt with under the Arrangements which the Authority has adopted for such purposes.

### **E1.03 WHAT STANDARDS OF CONDUCT ARE MEMBERS EXPECTED TO OBSERVE?**

- (a) You must treat others with respect and courtesy.
- (b) You must not bully or harass any person, as further defined in Appendix 2.
- (c) You must not do anything which may cause the Authority to breach any equality laws.
- (d) You must not conduct yourself in a manner which could reasonably be regarded as bringing the Authority, or your office as a Member of the Authority, into disrepute.
- (e) You must not knowingly prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
- (f) You must act solely in the public interest and not use, or attempt to use, your position as a Member improperly to confer or secure for yourself or any other person an advantage or disadvantage.
- (g) You must not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Authority.
- (h) You must only use, or authorise the use of, the Authority's resources for proper purposes (non-political with regard being had to any applicable Code of Recommended Practice on Local Authority Publicity) and in accordance with the Authority's procedural and policy requirements.
- (i) You must not disclose information which is given to you in confidence, or information which you believe, or ought to be aware, is of a confidential nature, except where:

- (i) you have the consent of the person authorised to give it;
  - (ii) you are required to do so by law;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is reasonable in the public interest, made in good faith, and that you have consulted the Monitoring Officer.
- (j) You must:
- (i) undertake Code of Conduct training provided by the Authority.
  - (ii) co-operate with any Code of Conduct investigation and/or determination
  - (iii) not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
  - (iv) comply with any sanction imposed on you following a finding that you have breached the Code of Conduct.
- (k) You must not accept gifts and hospitality regardless of value where it may lead any reasonable person with knowledge of the relevant facts to believe that you might be influenced by the gift or hospitality given.

#### **E1.04 DISCLOSABLE PECUNIARY INTERESTS ('DPI')**

- (a) You have a Disclosable Pecuniary Interest (DPI) in any business of the Authority if that interest falls under any of the descriptions at Appendix 1 of this Code.

##### **Disclosure Requirement**

- (b) You must, within 28 days of taking office as a Member or co-opted Member, notify the Authority's Monitoring Officer of any DPI as defined in Regulations made by the Secretary of State and set out in Appendix 1 of this Code, where the DPI is yours or your partner's (which means spouse or civil partner, a person with whom you are living with as husband or wife or a person with whom you are living with as civil partners). You must also notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your DPIs.
- (c) You must make verbal declaration of the existence and nature of any DPI at any meeting of the Authority at which you are present at which an item of business which affects or relates to the subject matter of that

interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent. Where the interest is deemed a “sensitive interest” (see paragraph E1.04(e), you need only declare the existence of the DPI but not the detail.

- (d) If you are present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, and you have a DPI in any matter to be considered or being considered at the meeting, unless a dispensation has been granted,
  - (i) you must not participate in any discussion of the matter at the meeting.
  - (ii) you must not participate in any vote taken on the matter at the meeting.
  - (iii) you must withdraw from the room or chamber whilst the matter is being discussed and voted on.
  - (iv) if the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

### **Sensitive Interest**

- (e) Where you consider that disclosure of the details of a DPI could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a DPI, the details of which are withheld under Section 32(2) of the Act.

## **E1.05 CRIMINAL SANCTIONS RELATING TO DISCLOSABLE PECUNIARY INTERESTS**

- (a) A Member commits a criminal offence if, without reasonable excuse, you -
  - (i) fail to notify the Monitoring Officer of any DPI within 28 days of election;
  - (ii) fail to disclose a DPI at a meeting if it is not on the register;
  - (iii) fail to notify the Monitoring Officer within 28 days of a DPI that is not on the register that you have disclosed to a meeting;
  - (iv) participate in any discussion or vote on a matter in which you have a DPI (including taking a decision as an Executive Member acting alone);

- (v) as an executive Member discharging a function acting alone, and having a DPI in such a matter, fail to notify the Monitoring Officer within 28 days of the interest; and
  - (vi) knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.
- (b) The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a Councillor for a maximum of 5 years.

## **E1.06 PERSONAL INTERESTS**

- (a) You have a personal interest in any business of the Authority where either it relates to or is likely to affect -
- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;
  - (ii) any body -
    - exercising functions of a public nature;
    - directed to charitable purposes; or
    - one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management.
  - (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25, such gift or hospitality to be registered within 28 days of receipt.
- (b) You have a personal interest in any business of the Authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a *relevant person* to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision, or relates to or is likely to affect any interests you have registered as a DPI.
- (c) A *relevant person* is -
- (i) a member of your family or any person with whom you have a close association; or

- (ii) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (iii) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (iv) any body of a type described in sub-paragraphs E1.06(a) (i) and E1.06(a) (ii)

### **Disclosure Requirement**

- (d) If you have a personal interest as defined in paragraph E1.06(a), you must, within 28 days of 1st July 2012 or of taking office as a Member or co-opted Member (where that is later), notify the Authority's Monitoring Officer in writing of such interest. You must also notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your personal interests defined in paragraph E1.06(a).
- (e) Subject to paragraph E1.06(f), you must make a verbal declaration of the existence and nature of any personal interest you have under this paragraph, at any meeting of the Authority at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent. Where the interest is deemed a "sensitive interest" (see paragraph E1.04(e)), you need only declare the existence of the interest but not the detail.
- (f) Where you have a personal interest in any business of the Authority which relates to or is likely to affect a body defined in paragraphs E1.06(a)(i) and E1.06(a)(ii) you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (g) Having disclosed a personal interest and providing it is not a prejudicial interest, you may still continue to participate and vote on the matter at that meeting.
- (h) Where you have a personal interest in any business of the Authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

### **E1.07 PREJUDICIAL INTERESTS**

- (a) Where you have a personal interest in any business of the Authority you also have a prejudicial interest in that business where the interest



is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest (unless the matter falls within one of the exempt categories detailed in paragraph E1.08) and where that business -

- (i) affects your financial position or the financial position of a person or body described in paragraph E1.06(c); or
- (ii) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph E1.06(c).

### **Disclosure Requirement**

- (b) Subject to paragraph E1.07(c), where you have a prejudicial interest in any business of the Authority, you must make verbal declaration of the existence and nature of such interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent and, unless a dispensation has been granted, -
  - (i) you must not participate in any discussion of the matter at the meeting.
  - (ii) you must not participate in any vote taken on the matter at the meeting.
  - (iii) you must, unless paragraph E1.07(c) applies, withdraw from the room or chamber whilst the matter is being discussed and voted on.
- (c) Where you have a prejudicial interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room or chamber where the meeting is held immediately after making representations, answering questions or giving evidence.
- (d) Where, as an executive member, you may discharge a function alone, and you become aware of a prejudicial interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

## **E1.08 EXEMPT CATEGORIES**

- (a) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of the Authority in respect of -
- (i) housing, where you are a tenant of the Authority provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (iv) an allowance, payment or indemnity given to Members;
  - (v) any ceremonial honour given to Members; and
  - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

#### **E1.09 OVERVIEW AND SCRUTINY COMMITTEES**

- (a) In any business before an overview and scrutiny committee of the Authority (or of a sub-committee of such a committee) where –
- (i) that business relates to a decision made (whether implemented or not) or action taken by an executive or another of the Authority's committees, sub committees, joint committees or joint sub-committees; and
  - (ii) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph E1.09(a)(i) and you were present when that decision was made or action was taken, you may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room or chamber where the meeting is held immediately after making representations, answering questions or giving evidence.

#### **E1.10 REGISTER OF INTERESTS**

- (a) Any interests notified to the Monitoring Officer will be included in the register of members' interests. A copy of this register will be available for public inspection and will be published on the Authority's website.
- (b) For the purposes of this Code a DPI is the subject of a 'pending notification' where it has been notified to the Authority's Monitoring Officer but has not yet been entered in the register of members' interests in consequence of that notification.

## APPENDIX 1

A 'Disclosable Pecuniary Interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

| <b>Interest</b>                                   | <b>Description</b>  |
|---|---|
| Employment, office, trade, profession or vocation | Any employment, office, trade, profession or vocation carried on for profit or gain.  |
| Sponsorship                                       | Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. |
| Contracts   | Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority -  |
| Land  | (a) Under which goods or services are to be provided or works are to be executed; and<br><br>(b) which has not been fully discharged.<br><br>Any beneficial interest in land which is within the area of the relevant authority.  |

|                     |   |
|---------------------|---|
| Licences            | Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.  |
| Corporate tenancies | Any tenancy where (to M's knowledge) -<br>(a) the landlord is the relevant authority; and<br>(b) the tenant is a body in which the relevant person has a beneficial interest.   |
| Securities          | Any beneficial interest in securities of a body where -<br><br>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and<br>(b) either -<br><br>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or<br><br>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class. |

These descriptions on interests are subject to the following definitions;

"the Act" means the Localism Act 2011;

"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

"director" includes a member of the committee of management of an industrial and provident society;

"land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

"M" means a member of a relevant authority;

"member" includes a co-opted member;

"relevant authority" means the authority of which M is a member;

"relevant period" means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

"relevant person" means M or any other person referred to in section 30(3)(b) of the Act;

"securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## **APPENDIX 2**

### **Bullying and Harassment**

The following should be read in conjunction with the paragraph E1.03(b) of this Code.

Bullying maybe characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, denigrate or injure the recipient.

Harassment maybe characterised as: unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

Bullying and harassment is not necessarily face to face, it may occur through written communications, visual images or by email and phone. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual.

Some examples of bullying and harassment include:

- Spreading malicious rumours, or insulting someone by word or behaviour
- Exclusion or victimisation
- Ridiculing or demeaning someone
- Unfair treatment
- Deliberately undermining the competence of an employee by constant criticism.
- Unwanted sexual advances
- Threats to a person's wellbeing, reputation or employment.

These examples are not exhaustive and due regard will be had to any guidance issued by ACAS, from time to time, on the definition of bullying and harassment in the application of paragraph E1.03(b) of this Code.

## **PART E CODE 2 - OFFICERS' CODE OF CONDUCT**

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### **E2.01 CODE OF CONDUCT**

Section 82 of the Local Government Act 2000 permits the Secretary of State to issue a code as regards the conduct which is expected of employees of the council. This has not yet been done but when it is the Code of Conduct will be deemed to have been incorporated in the Terms of Appointment and Conditions of Employment of every employee.

In the meantime the Council expects all officers to have regard to the Code of Conduct issued by the Local Government Management Board (or equivalent, to date)



## PART E CODE 3 - PROTOCOL ON MEMBER/OFFICER RELATIONS

### E3.01 GENERAL PRINCIPLES

The following general principles shall govern the relations between members and employees.

- (a) Members and employees recognise that they have an essential role to play in the success of the council in achieving its vision, mission and promise.
- (b) Members and employees will work to develop relationships which are based on mutual respect, trust and support.
- (c) Members and employees recognise that both are subject to and must abide by national and local codes of conduct.
- (d) Members and employees will avoid actions which may be seen as promoting personal gain but will work to achieve the Council's agreed objectives.
- (e) Employees will at all times abide by the politically restricted post provisions of the Local Government and Housing Act 1989 and Regulations made thereunder and, except in the case of political assistants, will not act in the course of their employment in a manner which could create a suspicion that they favour one political group above another.
- (f) Members and political groups will seek advice only on Council business and not use council resources for political business.
- (g) It is recognised by members and employees that occasions will arise when politically sensitive information is communicated to an employee in confidence. In those circumstances the employee will not communicate that information to other party groups.

## PART E CODE 4 - ROLES AND RESPONSIBILITIES OF MEMBERS

### E4.01 MAYOR AND DEPUTY MAYOR

#### Constitutional Role

In the ceremonial role to promote North Lincolnshire Council and the area of North Lincolnshire.

To chair meetings of the Full Council.

#### Duties and Responsibilities

- (a) To promote North Lincolnshire Council and the area of North Lincolnshire as its first citizen and ambassador.
- (b) To attend such civic and ceremonial functions as the council and the Mayor determine appropriate.
- (c) To act as host to overseas visitors including students to local schools/colleges in the area and where appropriate to lead official visits overseas.
- (d) To uphold and promote the purposes of the constitution and to interpret the constitution when necessary.
- (e) To preside over meetings of the council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community.
- (f) To ensure that the council meeting is a forum for the debate of matters of concern to the local community and a place at which members who are not on the executive or hold committee chairs are able to hold the executive and committee chairs to account.
- (g) To promote public involvement in the council's activities.
- (h) To nominate charities for the year of office and to raise funds for these causes during that period.
- (i) To be the conscience of the council.

## **E4.02 LEADER OF THE COUNCIL**

### **Constitutional Role**

To provide visible and pro-active political leadership in relation to citizens, stakeholders and partners in the overall co-ordination of council policies, strategies and service delivery.

To lead on behalf of the council the development of local, regional, national and European policy and strategic partnerships.

To promote a sustained community planning process.

To communicate the council's position to its many publics so as to project the authority and the wider area positively.

### **Duties and Responsibilities**

- (a) To appoint and chair the Cabinet and to lead the Cabinet and Cabinet members as an effective body in driving forward the council.
- (b) To represent the council and wider area; acting as an ambassador, leading the development of strategic partnerships with agencies, citizens and stakeholders in relation to the delivery of strategic objectives and the provision of services to citizens.
- (c) To ensure a whole council response to strategic policy initiatives and cross cutting issues in line with the council's priorities and objectives.
- (d) To promote the development, implementation, and evaluation of the community plan.
- (e) To ensure effective management of the council's capital and revenue budgets, probity and financial monitoring including proposals on annual budget allocations.
- (f) To communicate the council's values, vision and priority objectives to citizens, partners, stakeholders, councillors, staff and trade unions.
- (g) To ensure that robust management systems exist to appraise the performance of senior managers and in support of greater emphasis in joint working across service areas.
- (h) To represent the council on appropriate bodies/organisations whose objectives are considered to be beneficial to the area.

- (j) To oversee the pro-active development of public engagement and consultation and lead the council in developing initiatives with the public and organisations in North Lincolnshire.

## **E4.03 DEPUTY LEADER OF THE COUNCIL**

### **Constitutional Role**

To assist the Leader and other Cabinet members in providing visible and proactive political leadership in relation to citizens, stakeholders and partners in the overall co-ordination of council policies, strategies and service delivery.

To work with the Leader in developing local, regional, national and European policy and strategic partnerships with particular emphasis on regeneration.

To drive forward the marketing of North Lincolnshire and the North Lincolnshire area.

### **Duties and Responsibilities**

- (a) In the absence of the Leader to deputise for him/her including chairing Cabinet.
- (b) To have oversight and responsibility for the service, organisational and council-wide portfolios detailed in the council's schedule of Cabinet member portfolios.
- (c) To work together with other members of the Cabinet to achieve the authority's aims, objectives and action plans.

## **E4.04 LEADER OF THE OPPOSITION**

### **Constitutional Role**

To contribute to political leadership in relation to citizens, stakeholders and partners on the overall co-ordination of Council policies, strategies and service delivery.

To comment, challenge and review the council's controlling group's performance in the co-ordination and implementation of its policies and procedures.

### **Duties and Responsibilities**

- (a) To attend meetings of the council and other appropriate groups as necessary.
- (b) To work with the controlling group to ensure that the council's duties and responsibilities can be carried out.
- (c) To contribute to the development, implementation and evaluation of the community plan.
- (d) To contribute to the work of the Scrutiny function.
- (e) To oversee the group's electoral duties and strategies.
- (f) To act as lead spokesperson on behalf of the group and as a representative of the authority to external bodies/organisations as appropriate.
- (g) To lead the group's dealings with the media.
- (h) To deal with correspondence to the group from the public and other bodies and external organisations.
- (i) To determine policy matters in consultation with the group.
- (j) To act as a focus for political opposition of the controlling group on behalf of the relevant group.
- (k) To determine priorities for the staff supporting the group within the resources available.

#### **E4.05 ALL CABINET/EXECUTIVE MEMBERS**

- (a) To be responsible for the service, organisational, councilwide and representative portfolio as detailed in the council's scheme of cabinet member portfolios.
- (b) Working within that scheme and within the scheme of delegation to cabinet members, to take decisions on behalf of the executive based on professional, technical and other advice within the rules, procedures and protocols contained within the constitution.
- (c) To work with "lead members" to assist in the development of specific aspects of policy.
- (d) To facilitate and encourage public participation and consultation and to ensure the effective communication of council policies and strategies to citizens, partners, stakeholders, the media, councillors, staff and trade unions.
- (e) To promote the core values and objectives of the council.
- (f) To contribute to the community planning process.
- (g) To work in partnership with relevant external organisations.
- (h) To develop new policies consistent with the overall strategic approach of the council.
- (i) To set targets and monitor officer performance in relation to the pursuance of policies and strategies.
- (j) To speak on behalf of the council.
- (k) To represent the council, and in consultation with the group secretary to identify other councillors to do so, on relevant external bodies.
- (l) To request or commission research or other studies on matters of policies or service provision, particularly within the individual member's portfolio.
- (m) To refer to the Cabinet all matters with corporate implications or political sensitivity, again particularly in relation to the individual member's portfolio.
- (n) To value the independence and the contributions made by the Scrutiny Panels and to treat panel findings with the utmost respect, giving full debate and consideration to recommendations.
- (o) To give guidance on budget priorities.

- (p) To receive presentations from councillors acting in their capacity as ward members in relation to the provision of services to citizens in their areas.



## **E4.06 LEAD MEMBERS**

### **Main Role**

To champion and assist individual cabinet members with specific aspects of their portfolio by carrying out policy development work.

### **Duties and Responsibilities**

- (a) To contribute to the process of setting policy direction, development and review, by assisting a cabinet and committee member to develop specific aspects of their individual portfolio, for example in relation to a community plan objective or a new policy area.
- (b) To work on aspects of policy development on a time limited, task based approach in accordance with evolving corporate priorities. For each task a specific brief would be drawn up by the relevant cabinet member in consultation with other cabinet members as appropriate.
- (c) To report to relevant cabinet members in respect of progress in carrying out lead member duties.
- (d) To promote the core values, corporate priorities and objectives of the council.
- (e) To contribute to policy developments as a member of the relevant cabinet member(s) team(s).

#### **E4.07 SCRUTINY PANEL CHAIRS**

- (a) To chair meetings of the panel and regulate and control proceedings in accordance with good practice having particular regard to the council's overview and scrutiny procedure rules and protocols.
- (b) To proactively raise awareness, develop and drive forward the scrutiny function within a new political management structure.
- (c) To ensure that the arrangements for the calling-in of decisions of the executive are managed by the Panel.
- (d) To ensure that appropriate and meaningful deliberation is given to consultation on the Council's budget and policy framework and other consultation.
- (e) To ensure that Scrutiny Panel members are aware of and adhere to their responsibilities, remit and relationship with full council and the cabinet.
- (f) To liaise with the Scrutiny Officer as to all matters relating to the management of the scrutiny process and meetings of the Panel or other public meetings.
- (g) To discuss with the Scrutiny Officer the scope of scrutiny reviews and investigations including the research and information sources to be considered including appropriate witnesses to be interviewed.
- (h) To ensure that witnesses are questioned carefully, but courteously, by members of the Panel.
- (i) To liaise with appropriate officers as to the training and development requirements for Panel members.
- (j) To liaise with the Scrutiny Officer to ensure that the final report accurately reflects decisions made by the Panel and to write an introduction to the report.
- (k) To lead the member presentation of any reports produced by the Panel and to liaise with the council's Media Relations Section over any media statements or other publicity.
- (l) To monitor the implementation of any recommendations made by the Panel.
- (m) Where the cabinet or individual cabinet members wish to take an urgent key decision, to agree or otherwise that the matter is urgent and is consistent with the rules, procedures and protocols.

#### **E4.08 SCRUTINY PANEL VICE-CHAIRS**

- (a) In the absence of the Chair, to chair meetings of the Panel and regulate and control proceedings in accordance with good practice having particular regard to the Council's overview and scrutiny procedure rules and protocols.
- (b) To assist the Chair in proactively raising awareness, developing and driving forward the role of the scrutiny function within a new political management structure.
- (c) To assist the Chair in ensuring that the arrangements for the calling in of decisions of the executive are managed effectively by the Panel.
- (d) To assist the Chair in ensuring that appropriate and meaningful deliberation is given to consultation on the Council's budget and policy framework and other consultation.
- (e) To assist the Chair in all other aspects of the work of the Scrutiny Panel/function, to ensure that this work is carried out effectively efficiently and to the benefit of the whole Council.

## **E4.09 CHAIRS OF REGULATORY COMMITTEES - PLANNING, AUDIT, LICENSING, AND APPEALS (GENERIC - TO APPLY TO ALL CHAIRS OF SUCH COMMITTEES)**

### **Constitutional Role**

To undertake the regulatory responsibilities of the Council in accordance with the Council's Policies and Procedures.

To carry out these duties at all times in a professional manner.

### **Duties and Responsibilities (all committees)**

- (a) To chair meetings of one of the regulatory committees in accordance with the relevant terms of reference and the Council's constitution and procedure rules.
- (b) To assist in the determination of the agenda of committee meetings.
- (c) To consider the submission of late items and to determine whether or not these are sufficiently urgent to be considered by the committee.
- (d) To investigate and arrange proper consideration of the issues presented to the committee and ensure that it has all the necessary information before it to make informed decisions.
- (e) To represent the Council in all dealings with the public, media and other bodies.
- (f) To maintain an awareness of national and local issues and regulations relating to the particular sub-committee.
- (g) To liaise with appropriate officers as to the training and development requirement for committee members.

### **Duties and Responsibilities (applicable to the committee indicated)**

- (a) To assist in the arrangement of site visits as required - (planning and licensing committees).
- (b) To act as a point of reference or contact to officers proposing enforcement action where appropriate - (planning and licensing committees).
- (c) To deal with and decide upon all appeals under the local conditions of service relating to gradings, grievances, disciplinary matters and dismissals on grounds of redundancy or capability - (appeals committee).

## **E4.10 ALL COUNCILLORS (REPRESENTATIVE ROLE)**

### **Constitutional Role**

To contribute towards the good government of the whole area and actively encourage community participation and citizen involvement in the democratic decision-making processes.

To effectively represent the interests of the ward and of individual constituents and deal with constituents' enquiries and representations fairly and without prejudice insofar as this does not conflict with the legal requirements as a councillor working within existing rules and regulations.

### **Duties and Responsibilities**

- (a) To use local knowledge in the development of council policies, including listening to the needs of local people and taking their view into account when considering policy proposals and decision making.
- (b) To contribute to local people being informed about -
  - services in their area
  - decisions that affect them
  - the reasons why decisions are taken by the council
  - the rights of constituents in North Lincolnshire
- (c) To champion the causes which best relate to the interests and sustainability of the community and campaign for the improvement in the quality of life in the community in terms of equity, economy, environment and citizenship.
- (d) To participate in the activities of any outside body to which the councillor is appointed, providing two-way communication between the outside body and the council, and to develop and maintain a working knowledge of the authority's policies and practices in relation to that body and of the community's needs and aspirations in respect of that body's role and functions. To ensure that the council receives value for money from outside bodies particularly where the council provides grant aid or funding.
- (e) To develop and maintain a working knowledge of the organisations, services, activities and other factors which impact upon the community's well being and identity.
- (f) To carry out case work on behalf of constituents and to represent their interests to the council.
- (g) To contribute constructively to open government and democratic renewal through actively encouraging the community to participate in

the government of the area and take up their roles in terms of effective citizenship.

- (h) Promote and maintain the highest standards of conduct and ethics and observe the Code of Conduct.
- (i) To ensure consistency of culture within the council.
- (j) To promote and support the principles of leadership in all aspects of involvement with the council and outside organisations.
- (k) To maintain effective relationships with members of minority parties and to meet with them, on a regular basis or as required, on any issues relevant to the council.
- (l) To promote the council as an authority, regionally and nationally.
- (m) To identify individual training and development needs and ensure that these are considered and actioned.

## **E4.11 GROUP SECRETARY (MAJORITY GROUP)**

### **Constitutional Role**

To foster and maintain a co-ordinated approach by the group collectively to allow councillors to work effectively together, using their abilities to the full as the foundation for political success.

To aspire to the highest standards of personal and group behaviour and ethics.

### **Duties and Responsibilities**

In relation to the management of the council -

- (a) To be a member and attend meetings of the Cabinet.
- (b) To contribute to the political process of setting policy direction, development and review, by assisting the leader in managing councillors' roles as elected representatives and politicians.
- (c) To play a lead role in the regular review of council structures and processes to ensure effectiveness in meeting councillors' needs, to enable them effectively to perform their roles in serving the community.
- (d) To act as a main point of liaison between the Cabinet, non-executive members and individual councillors on the development of effective procedures and protocols for the efficient management of the scrutiny process.
- (e) To ensure majority group members receive all relevant information in order to inform themselves and debate issues sufficiently to take a coherent and co-ordinated approach to complex decisions.
- (f) In liaison with the leader, to arrange the allocation of committee places and seats on outside bodies.
- (g) To ensure that all members register and declare their interests in accordance with appropriate regulations and guidelines.
- (h) To liaise with the Head of Democracy on all matters relating to meetings of full council and the decision making process.
- (i) To promote and participate in appropriate member training and development in order for all councillors to be able to effectively undertake their roles.
- (j) To liaise as appropriate and necessary with the minority group secretary.

In relation to the management of a specific political group -

- (a) To convene group meetings and preparation of the agenda.
- (b) To convene the annual meeting of the group for the election of officers etc prior to the statutory annual meeting of the council.
- (c) To act with other group officers to maintain the unity, identity and integrity of the group.
- (d) To liaise with the local party to ensure that there are at least four meetings during the year to discuss developments and policy.
- (e) To receive correspondence to and from the group and to copy and distribute information to group members.
- (f) To facilitate support/interest groups for non-executive members' concerns to be voiced and addressed and to ensure that all members contribute towards achieving key objectives.



## **E4.12 GROUP SECRETARY (OPPOSITION GROUP)**

### **Constitutional Role**

To foster and maintain a co-ordinated approach by the group collectively to allow councillors to work effectively together, using their abilities to the full as the foundation for political success.

To aspire to the highest standards of personal and group behaviour and ethics.

### **Duties and Responsibilities**

In relation to the management of the council -

- (a) To contribute to the political process of setting policy direction, development and review, by assisting the group leader in managing councillors' roles as elected representatives and politicians.
- (b) To play a lead role in the regular review of council structures and processes to ensure effectiveness in meeting councillors' needs, to enable them effectively to perform their roles in serving the community.
- (c) To act as a main point of liaison between members of the group and individual councillors on the development of effective procedures and protocols for the efficient management of the scrutiny process.
- (d) To ensure members receive all relevant information in order to inform themselves and debate issues sufficiently to take a coherent and co-ordinated approach to complex decisions.
- (e) In liaison with the group leader, to arrange the allocation of committee places and seats on outside bodies.
- (f) To ensure that all members register and declare their interests in accordance with appropriate regulations and guidelines.
- (g) To liaise with the Head of Democracy on all matters relating to meetings of full council and the decision making process.
- (h) To promote and participate in appropriate member training in order for all councillors to be able to effectively undertake their roles.
- (i) To liaise as appropriate and necessary with the majority group secretary.

In relation to the management of a specific political group -

- (a) To convene group meetings and preparation of the agenda.
- (b) To convene the annual meeting of the group for the election of officers etc prior to the statutory annual meeting of the council.
- (c) To act with other group officers to maintain the unity, identity and integrity of the group.
- (d) To receive correspondence to and from the group and to copy and distribute information to group members.
- (e) To facilitate a forum for members' concerns to be voiced and addressed and to ensure that all members contribute towards achieving key objectives.

## **E4.13 PARTY WHIPS**

### **Constitutional Role**

To foster and maintain a disciplined approach by the group collectively, to allow councillors to work effectively together using their abilities to the full as the foundation for political success.

To aspire to the highest standards of personal and group behaviour and ethics.

### **Duties and Responsibilities**

- (a) To contribute to the political process of setting policy direction, development and review, by assisting the group leader in managing councillors' roles as elected representatives and politicians.
- (b) To play a lead role in the regular review of council structures and processes to ensure effectiveness in meeting councillors' needs to enable them effectively to perform their roles in serving the community.
- (c) To ensure members receive all relevant information in time to inform themselves and debate issues sufficiently to take a coherent approach to complex decisions.
- (d) In liaison with the group leader, to arrange the allocation of committee places and seats on outside bodies and establish with colleagues a fair system of allowances to support the process of sensible decision making and develop the work of councillors.
- (e) To ensure that all members attend formal and informal meetings of the council and its committees and to take appropriate disciplinary action against members who do not do so, where no reasonable explanation is offered.
- (f) To promote and participate in appropriate member training in order for all councillors to be able to effectively undertake their roles.

In relation to the management of a specific political group -

- (a) To have responsibility for resolving any perceived conflict of interest for councillors bound by group decisions through support and discussion to ease the tension between carrying out representative responsibilities and political responsibilities.
- (b) To facilitate an adequate forum for members' concerns to be voiced and addressed and to ensure that all members can contribute towards achieving key objectives.

- (c) To take appropriate disciplinary measures, as laid down in party rules, to maintain a well functioning group.

## PART E CODE 5 – GOOD PRACTICE GUIDE FOR ALL MEMBERS AND OFFICERS INVOLVED WITH PLANNING APPLICATIONS AND RELATED MATTERS

### E5.01 GOOD PRACTICE GUIDE

- (a) This Good Practice Guide was produced after taking into account current advice and examples of good practice. In particular it incorporates the resolutions made by the Development and Environment Committee in January 1998 in the light of the Report on Standards of Conduct in Local Government (“The Nolan Report”) and the Royal Town Planning Institute Report on the Role of Elected Members in Plan-making and Development Control. It will be reviewed from time to time to ensure it remains up-to-date but may be varied only by formal resolution of the Council. This latest revision has been prepared to reflect the changes in legislation notably the Localism Act 2011 and the Council’s Constitution.
- (b) This Guide is intended to supplement the Council’s **Codes of Conduct for Members and Officers**. The provisions of this Guide continue to have full force and effect in relation to all **members and officers** involved with planning matters.
- (c) In this Good Practice Guide, unless otherwise stated, the word “committee” means the Planning Committee or any other committee of the Council that has responsibility for the determination of planning applications. “Planning application” means any application for permission, consent or approval under the provisions of the Town and Country Planning Acts and related legislation.

### E5.02 BACKGROUND

- (a) In 1997, the Third Report of the Committee on Standards in Public Life (known as the Nolan Report) resulted in pressures on councillors to avoid contact with developers in the interests of ensuring probity. In today’s place-shaping context, early councillor engagement is encouraged to ensure that proposals for sustainable development can be harnessed to produce the settlements that communities need.
- (b) This Guide is intended to reinforce councillors’ community engagement roles whilst maintaining good standards of probity that minimizes the risk of legal challenges.
- (c) Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework.

- (d) Decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and decision notices. Nevertheless, it is important that the decision-making process is open and transparent.
- (e) One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. Opposing views are often strongly held by those involved.
- (f) Whilst councillors must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. It is important, therefore, that planning authorities make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons.
- (g) The process should leave no grounds for suggesting that those participating in the decision were biased or that the decision itself was unlawful, irrational or procedurally improper.

### **E5.03 THE GENERAL ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS**

- (a) Councillors and officers have different but complementary roles. Councillors and officers are responsible to both the public and the electorate, whilst officers are responsible to the Council as a whole. Officers advise councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual councillors. A successful relationship between councillors and officers will be based upon mutual trust, understanding and respect of each other's positions. Any Committee member who wishes to attend the Planning Chairman's briefing, may do so upon request being made and approval given by the Chairman.
- (b) Officers act as part of a management structure and therefore councillors should only discuss a planning matter, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a councillor level.
- (c) Both councillors and officers are guided by codes of conduct. Members are covered by the Code of Conduct which was adopted on 1 July 2012. Officers are bound by the Code of Conduct for Employees adopted in 2005 which is incorporated in their terms and conditions of employment.
- (d) Staff who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute.

- (e) In addition to these codes, the Council's Constitution sets down rules which govern the conduct of council business.
- (f) Councillors and officers should be cautious about accepting gifts and hospitality and should exercise their discretion. The requirements for members are set out in the Code of Conduct and those for officers in the Code of Practice for Gifts and Hospitality. Copies of, and advice on, these codes can be obtained from Democratic Services.
- (g) Officers and councillors must not act as agents for people pursuing planning matters within their authority even if they are not involved in the decision making on it.
- (h) Whilst the determination of a planning application is not a 'quasi-judicial' process (unlike, say, certain licensing functions carried out by the local authority), it is a formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. All involved should remember the possibility that an aggrieved party may seek a Judicial Review and/or complain to the Ombudsman on grounds of maladministration or a breach of the authority's code.

#### **E5.04. TRAINING**

- (a) Training on planning procedures and issues, particularly important new or changed policies and procedures, will be provided each year and will include events presented by officers with the help of experts from outside the Council where appropriate. In accordance with the recommendation of the Nolan Committee, all members of the Planning Committee must attend and members who have not undergone training will not be eligible to sit on the committee as a substitute.
- (b) An induction course for new members of the committee will be prepared for presentation by Council officers.
- (c) Planning officers responsible for the preparation of written reports and for advising members at committee meetings will be qualified to an appropriate level in Town Planning. They will be required to undertake continuing professional development to a level required of its members by the Royal Town Planning Institute (RTPI) whether or not they are actual RTPI members.
- (d) Other officers of the Council may attend the committee to give appropriate advice from time to time. Such officers may possess qualifications in some or all of the following disciplines: archaeology, conservation, environmental health, highways, and law (this list is not exhaustive).

## **E5.05. REGISTRATION AND DISCLOSURE OF INTERESTS**

- (a) Chapter 7 of the Localism Act 2011 places requirements on councillors regarding the registration and disclosure of their pecuniary and other interests and the consequences for a councillor taking part in consideration of an issue in the light of those interests. The definitions of disclosable pecuniary interests are set out in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. A failure to register a disclosable pecuniary interest within 28 days of election or co-option or the provision of false or misleading information on registration, or participation in discussion or voting in a meeting on a matter in which a councillor or co-opted member has a disclosable pecuniary interest, are criminal offences.
- (b) It is always best to identify a potential interest early on. If a councillor thinks that they may have an interest in a particular matter to be discussed at planning committee he or she should raise this with the monitoring officer as soon as possible.
- (c) Councillors are referred in particular to the Council's Code of Conduct to be found at Part E of the Council's Constitution which sets out the interests that councillors need to register and declare
- (d) Appendix 1 illustrates how interests should be dealt with.

## **E5.06 PREDISPOSITION, PREDETERMINATION, OR BIAS**

- (a) Members of the committee need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application or on planning policies.
- (b) The courts have sought to distinguish between situations that involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a 'closed mind' approach and likely to leave the committee's decision susceptible to challenge by Judicial Review.
- (c) Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a councillor makes it clear they are willing to listen to all the considerations presented at the committee before deciding on how to vote (predisposition). The latter is acceptable, the former is not and may result in a Court quashing such planning decisions.
- (d) Section 25 of the Localism Act 2011 also provides that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter.



- (e) This reflects the common law position that a councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in light of all the information presented at the meeting. Nevertheless, a councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the councillor was biased.
- (f) For example, a councillor who states  
  
"Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the committee" will be perceived very differently from a councillor who states: "Many people find windfarms, ugly and noisy and I will need a lot of persuading that any more windfarms should be allowed in our area."
- (g) If a councillor has predetermined their position, they should withdraw from being a member of the committee. This would apply to any member of the planning committee who wanted to speak for or against a proposal, as a campaigner (for example on a proposal within their ward). The member concerned may wish to consider being substituted for the relevant meeting.

#### **E5.07 APPLICATIONS CONCERNING MEMBERS, SENIOR OFFICERS OR THEIR SPOUSES/PARTNERS**

- (a) Where a planning application is submitted by any of the following: -
  - (i) A member of the Council;
  - (ii) a senior officer (which in this context means any officer at or above Unit Manager level)
  - (iii) any officer responsible to the Director Operations
  - (iv) or the spouse or partner of any of the foregoing who resides at the same addressor relates to any land in which any of the foregoing have an interest, that application will be reported to the committee for decision.
- (b) In these circumstances it is the responsibility of both the applicant and of the member or officer concerned, provided he or she has been served with the requisite notice, to draw the Local Planning Authority's attention to the existence of such an interest at the time that the application is made
- (c) The officer's report will include reference to these particular circumstances.

## **E5.08 PLANNING APPLICATIONS MADE BY THE COUNCIL**

- (a) Where the committee is considering such planning applications it shall base its decision on planning policy and other material planning considerations only and shall disregard all other considerations, however worthy. Decisions relating to the Council in its role of landowner are the responsibility of the relevant cabinet member(s).
- (b) Proposals for the Council's own development should be treated with the same transparency and impartiality as those of private developers.

## **E5.09 LOBBYING OF AND BY COUNCILLORS**

- (a) Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward member or to a member of the planning committee.
- (b) As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves".
- (c) Lobbying, however, can lead to the impartiality and integrity of a councillor being called into question, unless care and common sense is exercised by all the parties involved.
- (d) As noted earlier in this Guide, the common law permits predisposition but nevertheless it remains good practice that, when being lobbied, councillors (members of the planning committee in particular) should try to take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such situations, they could restrict themselves to giving advice about the process and what can and can't be taken into account.
- (e) Councillors can raise issues which have been raised by their constituents, with officers. If councillors do express an opinion to objectors or supporters, it is good practice that they make it clear that they will only be in a position to take a final decision after having heard all the relevant arguments and taken into account all relevant material and planning considerations at committee.
- (f) Any councillor, not being a member of the committee, who attends the committee meeting and speaks on behalf of a lobby group should consider withdrawing once any public or ward member speaking opportunities had been completed in order to counter any suggestion that

members of the committee may have been influenced by their continuing presence.

- (g) It is very difficult to find a form of words which conveys every nuance of these situations and which gets the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual councillor.
- (h) Planning committee members should in general avoid organising support for or against a planning application, and avoid lobbying other councillors

### **E5.10 GROUP MEETINGS**

- (a) There is nothing either in law or in the Code of Conduct to prohibit political group meetings being held prior to committee meetings, the consideration of planning applications should not, however, be discussed at such meetings. Decisions should not be made until the actual committee meeting, when all material information is to hand. Any group meeting that is held must not be used to decide how members will vote.
- (b) Planning decisions cannot be made on a party political basis in response to lobbying; the use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.

### **E5.11 PRE-APPLICATION DISCUSSIONS**

- (a) Pre-application discussions between a potential applicant and the council can benefit both parties and are to be encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.
- (b) In the past concerns have been raised about probity issues with regard to the involvement of councillors in pre-application discussions in that councillors may be accused of predetermination when the subsequent application came in for consideration. Now, through the Localism Act 2011 and previously the Audit Commission, it is recognised that councillors have an important role to play in pre-application discussions, bringing their local knowledge and expertise, along with an understanding of community views. Involving councillors can help identify issues early on, helps councillors lead on community issues and helps to make sure that issues don't come to light for the first time at committee.
- (c) The Localism Act 2011, and in particular Section 25, by endorsing this approach, has given councillors much more freedom to engage in pre-application discussions. Nevertheless, in order to avoid perceptions that councillors might have fettered their discretion, such discussions should take place within the following guidelines. (NB Although the term 'pre-

application' has been used, the same considerations should apply to any discussions which occur before a decision is taken).

- Clarity at the outset that the discussions will not bind the council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
  - An acknowledgement that consistent advice will be given by officers based upon the development plan and material planning considerations.
  - Officers should be present with councillors in pre-application meetings. Councillors should avoid giving separate advice on the development plan or material considerations as they may not be aware of all the issues at an early stage. Neither should they become drawn into any negotiations, which should be done by officers (keeping interested councillors up to date) to ensure that the authority's position is co-ordinated.
  - Confirmation that a written note should be made of all meetings. An officer should make the arrangements for such meetings, attend and write notes. A note should also be taken of any phone conversations, and relevant emails recorded for the file. Notes should record issues raised and advice given. The note(s) should be placed on the file as a public record. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised or advice given can still normally be placed on the file to reassure others not party to the discussion.
  - A commitment that care will be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to committee could appear to be advocacy.
  - The scale of proposals to which these guidelines would apply. Councillors talk regularly to constituents to gauge their views on matters of local concern. The Nolan Committee argued that keeping a register of these conversations would be impractical and unnecessary. However thought should be given as to when discussions should be registered and notes written.
- (d) Similar arrangements can also be used when authorities are looking at new policy documents and particularly when making new site allocations in emerging development plans and wish to engage with different parties, including councillors, at an early stage in the process.
- (e) The Statement of Community Involvement sets out the council's approach to involving communities and other consultees in pre-application discussions.

## **E5.12 MEETINGS INVOLVING PLANNING OFFICERS**

- (a) Officers will inevitably meet applicants and third parties as part of their normal duties. They will:
- (i) record any significant contacts on the relevant application file along with the outcome, if any;
  - (ii) report orally to the committee any significant contacts made subsequent to the report being prepared;
  - (iii) be prepared to offer their professional opinion, but in so doing will avoid giving, or appearing to give, a commitment as to the likely outcome and will make it clear that any views expressed are their own and not necessarily those of the Council;
  - (iv) not disclose the content of the officer's report until after publication with the agenda for the relevant committee meeting.

## **E5.13 OFFICER REPORTS TO COMMITTEE**

- (a) As a result of decisions made by the courts and ombudsman, officer reports on planning applications must have regard to the following:
- Reports should be accurate and should include the substance of any objections and other responses received to the consultation.
  - Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the National Planning Policy Framework (NPPF), any local finance considerations, and any other material planning considerations.
  - Reports should have a written recommendation for a decision to be made.
  - Reports should contain technical appraisals which clearly justify the recommendation.
  - If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated. This is not only good practice, but also failure to do so may constitute maladministration or give rise to a Judicial Review challenge on the grounds that the decision was not taken in accordance with the provisions of the development plan and the council's statutory duty under s38A of the Planning and Compensation Act 2004 and s70 of the Town and Country Planning Act 1990.
- (b) Any oral updates or changes to the report should be recorded.

- (c) Councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity.

#### **E5.14 PUBLIC SPEAKING AT COMMITTEE MEETINGS**

- (a) Applicants and third parties, or their representatives, are permitted to address the committee in accordance with Procedure Rule D.1. 35b.

#### **E5.15 DECISIONS WHICH DIFFER FROM A RECOMMENDATION**

- (a) The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the NPPF) indicate otherwise (s38A Planning & Compensation Act 2004 and s70 of the Town and Country Planning Act 1990).
- (b) This applies to all planning decisions. Any reasons for refusal must be justified against the development plan and other material considerations.
- (c) The courts have expressed the view that the committee's reasons should be clear and convincing. The personal circumstances of an applicant or any other material or non-material planning considerations which might cause local controversy will rarely satisfy the relevant tests.
- (d) Planning committees can, and often do, make a decision which is different from the officer recommendation. Sometimes this will relate to conditions or terms of a S106 obligation. Sometimes it will change the outcome, from an approval to a refusal or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.
- (e) The committee should consider taking the following steps before making a decision which differs from the officer recommendation:
- discussing the areas of difference and the reasons for that with planning officers beforehand (as part of a standard 'call-over' meeting where all items on the agenda are discussed).
  - recording the detailed reasons as part of the mover's motion.
  - adjourning for a few minutes for those reasons to be discussed and then agreed by the committee.
  - where there is concern about the validity of reasons, considering deferring to another meeting to have the putative reasons tested and discussed.
- (f) If the planning committee makes a decision contrary to the recommendation of the officers (whether for approval or refusal or

changes to conditions or S106 obligations), a detailed minute of the committee's reasons should be made and a copy placed on the application file. Councillors should be prepared to explain in full their planning reasons for not agreeing with the officer's recommendation. Pressure should never be put on officers to 'go away and sort out the planning reasons'.

- (g) The officer should also be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome, and chances of a successful award of costs against the Council, should one be made.
- (h) All applications that are clearly contrary to the development plan must be advertised as such, and are known as 'departure' applications. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated.
- (i) The application may then have to be referred to the relevant Secretary of State, depending upon the type and scale of the development proposed (s77 of the Town and Country Planning Act 1990). If the report of the officer recommends approval of such a departure, the justification for this should be included, in full, in that report.
- (j) Where a decision taken contrary to the officer's recommendation results in an appeal, particularly one to be heard at a public inquiry or hearing, it will be necessary for all Council members and officers to work together to determine the best way of supporting the committee's decision in a unified manner and in the best interests of the Council. In certain circumstances it may be determined that evidence is best presented by expert witnesses from outside the Council and/or by members. Planning officers representing the Council in these circumstances will do so to the best of their ability without prejudice to their professional integrity.
- (k) Once the committee's decision has been taken all Council officers and members should not express views that may compromise the outcome of any appeal.
- (l) Copies of appeal decisions will be sent to the Group offices as soon as practical after they have been received.

#### **E5.16 SITE VISITS**

- (a) As far as possible officers will provide information that enables the committee to reach a decision at the meeting. Site visits by the committee have a place in the planning process. They are intended to be a means of providing members of the committee with an opportunity to inspect the application site and its surroundings in order to gather information which enables them to gain a better understanding of the proposal. Site visits are expensive and time-consuming and delay the determination of the

application. They should be viewed as an exception to the usual process which can be justified only by the importance or complexity of the application.

A site visit is only likely to be necessary if:

- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers.
  - the comments of the applicant and objectors cannot be expressed adequately in writing or
  - the proposal is particularly contentious.
- (b) With the exception of Major planning applications, site visits will be arranged only by resolution of the committee. Any member proposing a site visit should identify the benefit that will accrue from such a visit. The reasons for holding a site visit will be recorded in the minutes of the meeting.
- (c) The procedure governing the conduct of site visits is set out in the Council's Constitution. However, in future the Group Manager: Development Management (or as titled) and the Chairman can consider whether or not a site visit is necessary for each individual major application and it can be foregone should it be perceived that no benefit will be gained from attending.
- (d) Site visits are for observing the site and gaining a better understanding of the issues. Visits made by committee members, with officer assistance, are normally the most fair and equitable approach. They should not be used as a lobbying opportunity by objectors or supporters.
- (e) This should be made clear to any members of the public who are there. Once a councillor becomes aware of a proposal they may be tempted to visit the site alone. In such a situation, a councillor is only entitled to view the site from public vantage points and they have no individual rights to enter private property. Whilst a councillor might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the councillor is no longer impartial.
- (f) Only members who take part in the site visit or who have sufficient relevant knowledge and familiarity with the site can take part in the decision making process.

## **E5.17 CONTACT WITH THE MEDIA**

- (a) Media comment is usually co-ordinated by the Council's Communications Team. Whether advising the Team or responding directly, if asked to



comment on a planning application before its determination, members and officers should adopt the general approach outlined in this Guide and avoid saying anything which commits, or appears to commit, the Council, or any group, to a particular course of action.

- (b) If commenting to the media after a decision is taken, members and officers should avoid saying anything that is likely to compromise the Council's ability to defend that decision successfully.

#### **E5.18 PRE-MEETING BRIEFINGS**

- (a) Before each committee meeting the officers who will attend the meetings will hold a briefing with the Chairman and Vice Chairman. If requested, arrangements will be made for a similar briefing to be held with a representative of any minority political grouping represented on the committee.
- (b) The purpose of such briefings will be:
  - (i) to bring those members present up-to-date with any information received since the officer's report was printed;
  - (ii) to ensure that the rationale behind the recommendations are understood;
  - (iii) to allow members to identify issues of particular concern and where additional information or explanation is necessary;
  - (iv) to identify any special procedural or other practical arrangements that may need to be made.

#### **E5.19 DELEGATION OF DECISION-MAKING TO OFFICERS**

- (a) Planning applications are delegated to officers except in those circumstances specified in the Council's Scheme of Delegation, which will be reviewed from time to time.

#### **REFERENCES**

Report to Development and Environment Committee on 27 January 1998 on the Third Report of the Committee on Standards in Public Life (The Nolan Report) and The Role of Elected Members in Planning and Development Control (RTPI)

North Lincolnshire Council Publicity for Planning Applications  
North Lincolnshire Council Constitution.

Probity and planning for councillors and officers. The LGA and PAS.

North Lincolnshire Council :Code of Conduct (members).

North Lincolnshire Council : Code of Conduct (officers).

North Lincolnshire Council : Code for Gifts and Hospitality.

Statement of Community Involvement.

(Reviewed by Legal Services September 2021)

**Enter Personal, and Disclosable Pecuniary Interest into Register**  
 If it becomes evident during a meeting that there is a Disclosable Pecuniary Interest or a Personal Interest that requires disclosure, disclose and inform Monitoring Officer within 28 days.

Councillor is a member of Planning Committee.

Councillor has a Disclosable Pecuniary Interest which relates to an item at the Planning Committee.

Councillor has a Personal Interest which relates to an item at the Planning Committee.

Declare and vacate the room not participating in any discussion or vote unless Dispensation is granted.

Is it prejudicial?

Not prejudicial.

Declare as appropriate, remain, debate and vote.

Declare and vacate the room not participating in any discussion or vote unless Dispensation granted  
 or  
 Declare, speak if a member of the public has the same right, then vacate before the debate or vote.

Notes:  
 In any case, if the interest is a sensitive interest as agreed with the Monitoring Officer declare the existence of the Interest not the detail.

It is a criminal offence not to follow the rules on Discloseable Pecuniary Interests.

If in doubt consult the Monitoring Officer.