

GOVERNANCE COMMITTEE

AGENDA

7.30pm

Wednesday
21 November 2007

Havering Town Hall
Main Road, Romford

Members 10: Quorum 4

COUNCILLORS:

**Conservative Group
(6)**

Frederick Thompson
(Chairman)
Kevin Gregory (Vice-
Chairman)
Steven Kelly
Eric Munday
Roger Ramsey
Michael White

**Residents' Group
(2)**

Gillian Ford
Barbara Matthews

**Rainham &
Wennington
Independent
Residents' Group
(1)**

Jeffery Tucker

**Labour Group
(1)**

Keith Darvill

**For information about the meeting please contact:
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NOTES ABOUT THE MEETING

1. HEALTH AND SAFETY

The Council is committed to protecting the health and safety of everyone who attends meetings of its Committees.

At the beginning of the meeting, there will be an announcement about what you should do if there is an emergency during its course. **For your own safety and that of others at the meeting, please comply with any instructions given to you about evacuation of the building, or any other safety related matters.**

2. MOBILE COMMUNICATIONS DEVICES

Although mobile phones, pagers and other such devices are an essential part of many people's lives, their use during a meeting can be disruptive and a nuisance. Everyone attending is asked therefore to ensure that any device is switched to silent operation or switched off completely.

3. CONDUCT AT THE MEETING

Although members of the public are welcome to attend meetings of the Committee, they have no right to speak at them. Seating for the public is, however, limited and the Council cannot guarantee that everyone who wants to be present in the meeting room can be accommodated. When it is known in advance that there is likely to be particular public interest in an item the Council will endeavour to provide an overspill room in which, by use of television links, members of the public will be able to see and hear most of the proceedings.

The Chairman of the meeting has discretion, however, to invite members of the public to ask questions or to respond to points raised by Members. Those who wish to do that may find it helpful to advise the Committee Officer before the meeting so that the Chairman is aware that someone wishes to ask a question.

PLEASE REMEMBER THAT THE CHAIRMAN MAY REQUIRE ANYONE WHO ACTS IN A DISRUPTIVE MANNER TO LEAVE THE MEETING AND THAT THE MEETING MAY BE ADJOURNED IF NECESSARY WHILE THAT IS ARRANGED.

If you need to leave the meeting before its end, please remember that others present have the right to listen to the proceedings without disruption. Please leave quietly and do not engage others in conversation until you have left the meeting room.

AGENDA ITEMS

1 CHAIRMAN'S ANNOUNCEMENTS

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

2 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS
(if any) - receive.

3 DECLARATION OF INTERESTS

Members are invited to declare any interests in any of the items on the agenda at this point of the meeting. Members may still declare an interest in an item at any time prior to the consideration of the matter.

4 MINUTES

To approve as correct records the minutes of the meeting of the Committee held on 3 October 2007, and to authorise the Chairman to sign them

5 ALTERNATIVE BUDGETS

6 POLLING DISTRICTS AND POLLING PLACES REVIEW

7 ETHICAL GOVERNANCE SURVEY – FINDINGS

8 CODE OF CONDUCT AND RELATED MATTERS

9 LOCAL IMPROVEMENT NETWORK FOR HEALTH AND SOCIAL CARE (LINK)

10 OUTSIDE BODIES AND OTHER ORGANISATIONS – representation by Members – proposed guidance

To follow

11 **URGENT BUSINESS**

To consider any other item in respect of which the Chairman is of the opinion, by reason of special circumstances which shall be specified in the minutes, that the item should be considered at the meeting as a matter of urgency.

Cheryl Coppel
Chief Executive

**MINUTES OF A MEETING OF THE
GOVERNANCE COMMITTEE
Havering Town Hall
3 October 2007 (7.30pm – 7.55pm)**

Present:

COUNCILLORS:

Conservative Group Frederick Thompson (in the Chair), Steven Kelly, Roger Ramsey, +Barry Tebbutt and +Melvin Wallace

Residents' Group Gillian Ford and Barbara Matthews

Rainham & Wennington Independent Residents' Group Jeffrey Tucker

Labour Group Keith Darvill

+ Substitute Members: Councillors Barry Tebbutt (for Kevin Gregory) and Melvin Wallace (for Michael White)

Apologies were received for the absence of Councillors Kevin Gregory, Eric Munday and Michael White

All decisions were taken with no vote against

The Chairman reminded Members of the action to be taken in an emergency

15 MINUTES

The Minutes of the meeting of the Committee held on 5 July 2007 were approved as a correct record and were signed by the Chairman.

16 TENTH LONDON LOCAL AUTHORITIES BILL

The Committee received a report setting out details of London Councils' proposal to promote a tenth London Local Authorities Bill (known as the Joint London Authority and Transport for London Bill). The Committee noted the proposals provisionally included in the Bill, the action needed by Havering to be included in the Bill (which included a resolution of full Council), and the financial implications and risks.

RESOLVED:

- (1) That the Council be **RECOMMENDED** that the resolution in connection with the approval of the Tenth London Local Authorities Bill to be promoted by Westminster, as set out in the Appendix to these minutes, be adopted.
- (2) That the promotional costs, estimated to be £9,500, be met from the contingency.
- (3) That the Assistant Chief Executive (Legal and Democratic Services) be authorised to complete any formal documentation.
- (4) That it be noted that any costs directly relating provisions to be adopted will be the subject of further reports to Members in due course.

17 **APPOINTMENT OF SCHOOL GOVERNORS**

The Committee noted that the panel established to make recommendations as to the re-appointment of school governors by the Council as LEA had recently met. The names of three prospective governors identified by the panel who were Members of the Council were now submitted for approval.

RESOLVED:

That the under-mentioned Members be re-appointed Governors of the Schools indicated:

Councillor:

Len Long
Michael White
Steve Whittaker

School:

Whybridge (Infant and Junior)
Royal Liberty
Scargill Infant

18 **APPOINTMENTS TO OTHER ORGANISATIONS, 2007/08 - further report**

The Committee was invited to consider the appointment of a Member to serve as Trustee of the Lucas Children's Playsite Charity.

RESOLVED:

That Councillor Long Len Long be re-appointed a trustee of the Lucas Children's Play Charity for the term of office expiring October 2011.

19 **EXCLUSION OF THE PUBLIC**

RESOLVED:

That the public be excluded from the meeting on the grounds that it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public were present during the following item there would be disclosure to them of exempt information within the meaning of paragraph 1 of Schedule 12A to the Local Government Act 1972 which it is not in the public interest to publish.

20 **GOVERNANCE (APPEALS) SUB-COMMITTEE**

The Committee received the minutes of the Sub-Committee meeting held on 4 September 2007.

[FIRST RESOLUTION OF COUNCIL]

(As provided by London Councils)

HAVERING LONDON BOROUGH COUNCIL

RESOLVED -

That the Council approves the inclusion in a bill or bills to be promoted by Westminster City Council or, as the case may be in a bill or bills to be promoted jointly by Westminster City Council and any other person as appropriate, of provisions effecting all or some of the following purposes -

- (a) to make provision about the decriminalisation of offences relating to public health, highways and road traffic and making contravention of the relevant legislation subject to a civil penalty charge regime; the introduction of a local levy, administered by London borough councils, on the provision of disposable shopping bags or to introduce a prohibition on the provision of disposable shopping bags; the introduction of a local levy administered by the London borough councils on the sale of chewing gum; an extension of the type of premises in respect of which a street litter control notice can be issued under the Environmental Protection Act 1990 to include a wider range of non-domestic premises; to enable councils to better control the feeding of wild birds; to enable borough councils to make charges for the use of urinals; to make further provision about the control of the placing of items on the highway; altering London borough councils' powers to fix signs and apparatus to buildings; amending London borough councils' powers to charge for the provision of amenities on highways under Part VIIA of the Highways Act 1980; controlling the placing of household waste in street litter bins; to enable London borough councils to recover costs incurred by them in rectifying damage caused by them when removing unlawful advertisements; to enable London borough councils, as local housing authorities, to take enforcement action and recover costs in cases where there has been a failure to comply with a duty imposed in relation to the management of houses in multiple occupation under regulations made under Section 234 of the Housing Act 2004; imposing a requirement in respect of food premises which are subject to inspection by London borough councils under the Food Safety Act 1990 to display copies of inspection notices or summaries thereof on the premises; to impose a new licensing regime for social clubs; to alter the requirements relating to the service of documents under the City of Westminster Act 1996, which deals with sex establishments; to enable London borough councils to exert better control over the licensing of premises which, but for the Licensing

Act 2003 would be required to be licensed as sex encounter establishments; to enable London borough councils to delegate their functions under existing street trading legislation and enable other bodies to manage street markets; to alter the street trading legislation in the City of Westminster so as to enable Westminster City Council, without a court order, to dispose of articles seized under the Act; to make further alterations to street trading legislation in London; to control the distribution of free refreshments on the highway and in other public open places; to enable the highway authority to recover traffic management and street cleansing costs incurred as a result of public events and to have the power to close or manage traffic for certain special events; to enable the highway authority to provide charging points for electric vehicles in the highway; to enable local planning authorities to require that a deposit is provided prior to commencement of development, to be offset against costs arising from making good damage to the highway caused by the construction of the development; to enable action to be taken against persons who interfere with gates placed in pursuance of powers under road traffic legislation; to enable councils to better control pedicabs; to enable councils to serve penalty charge notices by post where there has been a parking contravention, and where service was prevented by the vehicle driving away; to allow decriminalised enforcement in respect of advanced stopping areas for cyclists at traffic lights; to allow decriminalised enforcement in respect of the use of mobile phones whilst driving; to enable London borough councils to vary fixed penalty levels for cycling on the footway; to enable the better control of the depositing of builders' skips on the highway; and to provide for a decriminalised regime of enforcement in relation to the driving of abnormal vehicles on the highway;

- (b) to enact any additional, supplemental and consequential provisions that may appear to be necessary or convenient.

Governance Committee, 3 October 2007



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	21 NOVEMBER 2007	5

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: ALTERNATIVE BUDGETS

SUMMARY

This report reviews the current arrangements to deal with alternative budgets.

RECOMMENDATION

1. Members agree the report and recommend the proposed changes to the Constitution to full Council.

REPORT DETAIL

1. The Constitution, under Part 4, Section 2, Paragraph 9 states

“During preparation of the budget or alternative budgets prepared by the opposition leading to the Council Tax Setting meeting, the Council’s Group Director Finance & Commercial and/or relevant finance staff designated by her will give group leaders and/or their nominated Members such advice and assistance as the Group director Finance & Commercial deems appropriate in connection with the preparation of the budget or alternative budget.

This information will be given in strictest confidence and staff will not copy other Members into the information. Members shall not share the paperwork or information provided outside the political group or outside the organisation.

The advice will specifically cover whether the proposals would allow the Chief Finance Officer to consider the budget to be balanced and the impact any proposals would have on Council balances in subsequent years.

The information will be treated as provided in the preparation of alternative budgets if provided with effect from 1st February up to and including the date of the Council Tax Setting Meeting, in any given year.”

2. In addition Council Procedure Rules states an amendment must be: *specified in sufficient detail to show the service, financial and staffing effects of any proposals in order that staff may report to the Council on the likely effect of the amendment upon the budget (Council Procedure Rule 13.8(vi)); and notified to the Chief Executive no later than midnight on the Monday before the meeting, and must be such that it would, if passed, enable a robust budget to be set in the view of the Chief Finance Officer (Council Procedure Rule 13.9(ii)).*

This rule goes further to say: as it is imperative that there is a level playing field, any new base information relating to or affecting Council Tax that comes to light after the Cabinet has made its Council Tax recommendations will be supplied to all Groups at the same time.

3. At the Council Tax Setting Meeting, the Constitution currently requires budget amendments to be submitted by the midnight of the Monday proceeding the Council Meeting. Advice and comments are then issued to all Members of the Council by the Corporate Management Team and Chief Finance Officer in her capacity as S151 Officer required to comment on budget robustness.
4. The robust budget assessment is covered under the Local Government Act 2003, which states that the Chief Finance Officer (CFO) is required to comment, at the meeting of Council at which the Council Tax is set on the robustness of estimates and the adequacy of the financial reserves.

The 2003 Act also states that the CFO needs to be content that the estimates used to formulate the alternative opposition budget are robust (s.25 (1a) of the 2003 Act).

5. Officers have reviewed the current arrangements and, in doing so, have sought information from other London Boroughs. In essence, alternative budgets are generally kept confidential, the CFO confirms accuracy/calculations and raises any robustness issues and the Management Team comment on the overall deliverability.
6. In addition to the above, the Constitution, under Part 4, Section 2, Paragraph 3, states:

.....

(b) In the light of views expressed, the Government's financial announcements and after liaising with senior officers, Cabinet will issue detailed proposals for consultation. There will be one joint briefing of the Overview and Scrutiny Committees. Key local stakeholders, including members of the Havering Strategic Partnership, will also be consulted on the proposals. Area Committees will also be consulted.

7. In the light of the above, it would seem appropriate to amend the Constitution by reflecting that:

"In order for a budget to be set, which provides the best possible result for the community, an amendment to Rule 13.9(ii) of the Council Procedure rules take place. This would require an amendment to a motion/report on the annual Council tax setting to be submitted to the Chief Executive no later than midnight on the Thursday before the Council tax setting meeting ..."

This would provide more time for review by the Administration.

8. Furthermore, it is suggested that an additional provision is included in Part 4 Section 2 paragraph 3 (d) as follows:

"All Councillors and parties are actively encouraged to contribute issues and ideas into the budget process via the Overview and Scrutiny Committees."

Financial Implications and risks:

None arising directly from this report.

Legal Implications and risks:

Amendments to the Constitution need the support of full Council

Human Resources Implications and risks:

None arising directly from this report.

Staff Contact
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CHERYL COPPELL
Chief Executive

Background Papers List

None.



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	21 NOVEMBER 2007	6

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: POLLING DISTRICTS AND POLLING PLACES REVIEW

WARDS: ALL

SUMMARY

This report sets out the outcome of a review undertaken as required by the Electoral Administration Act 2006. This review must be undertaken by the end of 2007.

Consultation has been undertaken with Councillors, Members of Parliament and the public including groups representing the disabled to see if they have any proposals for change. A review was last taken in 2006 and changes were put in place, but no further changes are proposed at this particular review.

RECOMMENDATION

That Council note the outcome of the polling district and polling places review and agree that no amendments are required to the present arrangements.

REPORT DETAIL

- 1) The Electoral Administration Act received Royal Assent on 11th July 2006. One of the provisions is a requirement to carry out a polling district review within twelve months of the relevant part of the Act

Governance Committee, 21 November 2007

coming into force and every fourth year thereafter. The Review of Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006 were made on 10th November 2006 and came into force on 1st January 2007. Therefore the review must be carried out and adopted by full Council before the end of 2007.

- 2) A thorough review of polling districts and polling places was carried out in Havering in 2006 and the proposals were implemented in the Register of Electors published on 1st December 2006, following the approval of Council on 29th March 2006.
- 3) No Borough-wide elections have been held subsequent to the implementation of agreed proposals so it has not yet been possible to gauge whether electors are content with the outcome of that review.
- 4) As Returning Officer I have no further changes to propose.
- 5) As part of the required 2007 review the following timescale has been used -

Consultation with electors, politicians and other groups	1 st to the 31 st October
Recommendations formulated to Governance Committee in the light of responses to consultation	21 st November
Council meeting to decided upon the Governance Committee's proposals	5 th December
Publication of revised Register (if required)	1 st January 2008

6) The consultation has also been publicised on the Council's website and libraries and the responses received are as follows:

- a) Councillors Kelly and Ramsey noted that Emerson Park Ward would be in the new Hornchurch and Upminster Parliamentary Constituency not Romford as mentioned in the report.
- b) Councillor Ramsey was concerned about the polling place for polling district EM2 – Gidea Park Church, Manor Avenue.
- c) Councillor John Mylod was concerned about the polling place used for polling district ST5 Benhurst School, as it was situated across the busy Abbs Cross Lane and suggested using instead the clinic in Abbs Cross Lane or Abbs Cross School.

- d) A member of the public complained about the Ward boundaries of Cranham and Upminster Wards.
 - e) Councillor Morgon commented on the disparity of sizes of the existing Ward boundaries.
 - f) Councillor Ford responded with no comments but mentioned by way of a reminder that Front Lane Community Hall has a lift.
- 7) The Election Services Manager addresses these as follows:-
- a) This was an error and has been corrected.
 - b) Agreed this is unsatisfactory, however this was looked into at the last polling district review and no alternative venue could be found and no other suitable polling place has subsequently become available.
 - c) The current polling place is a primary school, however Abbs Cross School is a large secondary school, which if used as a polling place would inconvenience a much larger number of pupils. Also other electors on the west side of Abbs Cross Lane would be disadvantaged. Use of the clinic (if permission were to be given, which is unlikely) would inconvenience patients.
 - d) The Ward boundaries are decided by a Local Government Boundary Commission and are outside the remit of this review.
 - e) This comment was noted but the Ward boundaries are decided by a Local Government Boundary Commission and are outside the remit of this review.
 - f) The Returning Officer is aware of this and ensures that priority is given to repairing the lift (if it is not working) at election time.
- 8) The appendix to this report shows the current polling districts and polling places.
- 9) It should be noted that the Election Services Manager is authorised to allocate electors to any suitable polling place if unable to use the designated one at any election.
- 10) An accessibility review of polling places will separately be undertaken as recommended by the Governance Committee on 21 March 2006.

11) Financial Implications and risks:

As there are no amendments recommended following the review, there are accordingly no financial implications arising.

The accessibility review of polling places will be undertaken from within existing resources.

12) Legal Implications and risks:

It is now a legal requirement to carry out reviews on a four yearly basis and the next review will be undertaken in 2011.

13) Human Resources Implications and risks:

None

14) Equalities and Social Inclusion Implications and risks:

None

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CHERYL COPPELL
Chief Executive

Background Papers List

Letters and emails of respondents.

Appendix

BROOKLANDS WARD

This ward is divided into five polling districts and the polling places allocated to each polling district are as follows:-

BL1 - St Johns Hall, Pretoria Road

BL2 – Mawney School, Mawney Road

BL3 – Crowlands School, London Road

BL4 – Rush Green Gospel Hall, Birkbeck Road

BL5 – Romford /Gidea Park Rugby Club, Crow Lane

Parliamentary Constituency

Brooklands Ward is currently in the Romford Parliamentary Constituency and will be in the new Romford Parliamentary Constituency which will be formed at the next Parliamentary General Election.

CRANHAM WARD

This ward is divided into five polling districts and the polling places allocated to each polling district are as follows:-

CM1 - St Lukes Church Hall, Front Lane

CM2 - Front Lane Community Hall, Front Lane

CM3 – Cranham Church, Severn Drive

CM4 – Cranham Community Centre, Marlborough Gardens

CM5 – Methodist Church Hall, Hall Lane

Parliamentary Constituency

Cranham Ward is currently in the Upminster Parliamentary Constituency and will be in the new Hornchurch and Upminster Parliamentary Constituency which will be formed at the next Parliamentary General Election.

ELM PARK WARD

This ward is divided into four polling districts and the polling places allocated to each polling district are as follows:-

EL1 - Scargill Junior School, Mungo Park Road

EL2 – R.J. Mitchell School, Tangmere Crescent

EL3 – Baptist Church Hall, Rosewood Avenue

EL4 – Elm Park Hall, Eyhurst Avenue

Parliamentary Constituency

Elm Park Ward is currently in the Hornchurch Parliamentary Constituency and will be in the new Dagenham and Rainham Parliamentary Constituency which will be formed at the next Parliamentary General Election.

EMERSON PARK WARD

This ward is divided into five polling districts and the polling places allocated to each polling district are as follows:-

EM1 - Harold Wood Primary School, Recreation Avenue

EM2 – Gidea Park Church, Manor Avenue

EM3 – Nelmes School, Wingletye Lane

EM4 – Nelmes Hall, Burntwood Avenue

EM5 – Whittaker Hall, Woodhall Crescent

Parliamentary Constituency

EM1; EM2; EM4 and EM5 are currently in the Upminster Parliamentary Constituency and EM3 is currently in the Romford Parliamentary Constituency. All Emerson Park Ward will be in the new Hornchurch & Upminster Parliamentary Constituency which will be formed at the next Parliamentary General Election.

GOOSHAYS WARD

This ward is divided into six polling districts and the polling places allocated to each polling district are as follows:-

GS1 - Harold Hill Library, Hilldene Avenue

GS2 - Old People's Home, Chippenham Gardens

GS3 - Broadford School, Faringdon Avenue

GS4 - Brookside School, Dagnam Park Road

GS5 - Holy Redeemer Church, Petersfield Avenue

GS6 – Pyrgo Priory School, Settle Road

Parliamentary Constituency

Gooshays Ward is currently in the Upminster Parliamentary Constituency and will be in the new Hornchurch and Upminster Parliamentary Constituency which will be formed at the next Parliamentary General Election.

HACTON WARD

This ward is divided into five polling districts and the polling places allocated to each polling district are as follows:-

HN1 - St Georges Hall, Kenilworth Gardens

HN2 – St Matthews Hall, Chelmsford Drive

HN3 – Hacton School, Chepstow Avenue

HN4 – Suttons School, Suttons Lane

HN5 – Ayloff School, South End Road

Parliamentary Constituency

Hacton Ward is currently in the Hornchurch Parliamentary Constituency and will be in the new Hornchurch and Upminster Parliamentary Constituency which will be formed at the next Parliamentary General Election.

HAROLD WOOD WARD

This ward is divided into five polling districts and the polling places allocated to each polling district are as follows:-

HW1 - Mead Infants School, Amersham Road

HW2 - Baptist Church Hall, Ingreway

HW3 - Ingrebourne Centre, Gubbins Lane

HW4 – Methodist Church Hall, The Drive

HW5 – Harold Court School, Church Road

Parliamentary Constituency

Harold Wood Ward is currently in the Upminster Parliamentary Constituency and will be in the new Hornchurch and Upminster Parliamentary Constituency which will be formed at the next Parliamentary General Election.

HAVING PARK WARD

This ward is divided into seven polling districts and the polling places allocated to each polling district are as follows:-

HP1 - Forest Lodge Activity Centre, Lodge Lane

HP2 - Clockhouse School, Clockhouse Lane

HP3 - Chase Cross Neighbourhood Centre, Hillrise Road

HP4 - St James Church Hall, Chase Cross Road

HP5 - North Romford Community Centre, Clockhouse Lane

HP6 - Dame Tipping School, North Road

HP7 - Dame Tipping School, North Road

Parliamentary Constituency

HP1 – HP6 are currently in the Romford Parliamentary Constituency.

HP7 – is currently in the Upminster Parliamentary Constituency but will automatically be incorporated into polling district HP6 and all of Havering Park Ward will be included in the new Romford Parliamentary Constituency at the next Parliamentary General Election.

HEATON WARD

This ward is divided into five polling districts and the polling places allocated to each polling district are as follows:-

HT1 - Ingrebourne School, Ashbourne Road

HT2 - St Ursulas School, Straight Road

HT3 - United Reformed Church, Chaucer Road

HT4 - Betty Strathern Centre, Myrtle Road

HT5 – Betty Whiting Centre, Briar Road

Parliamentary Constituency

Heaton Ward is currently in the Upminster Parliamentary Constituency and will be in the new Hornchurch and Upminster Parliamentary Constituency which will be formed at the next Parliamentary General Election.

HYLANDS WARD

This ward is divided into five polling districts and the polling places allocated to each polling district are as follows:-

HY1 - Dukes Hall, Maygreen Crescent

HY2 - Towers School, Windsor Road

HY3 - St Marys School, Hornchurch Road

HY4 - Albany School, Broadstone Road

HY5 – Wykeham School, Rainsford Way

Parliamentary Constituency

Hylands Ward is currently in the Hornchurch Parliamentary Constituency and will be in the new Romford Parliamentary Constituency which will be formed at the next Parliamentary General Election.

MAWNEYS WARD

This ward is divided into six polling districts and the polling places allocated to each polling district are as follows:-

MN1 - Ascension Church Hall, Collier Row Road

MN2 - St Patricks School, Lowshoe Lane

MN3 - Havering Road Church, Moray Way

MN4 - Good Shepherd Church Hall, Redriff Road

MN5 - Scout Hall, Abbotts Close

MN6 – Crownfield School, White Hart Lane

Parliamentary Constituency

Mawneys Ward is currently in the Romford Parliamentary Constituency and will be in the new Romford Parliamentary Constituency which will be formed at the next Parliamentary General Election.

PETTITS WARD

This ward is divided into five polling districts and the polling places allocated to each polling district are as follows:-

PT1 - Tweed Way Social Hall, Tweed Way

PT2 - Rise Park School, Annan Way

PT3 - Parklands School, Havering Road

PT4 - Marshalls Park School, Pettits Lane

PT5 - St Michaels Church Hall, Main Road

Parliamentary Constituency

Pettits Ward is currently in the Romford Parliamentary Constituency and will be in the new Romford Parliamentary Constituency which will be formed at the next Parliamentary General Election.

RAINHAM & WENNINGTON WARD

This ward is divided into five polling districts and the polling places allocated to each polling district are as follows:-

RW1 - Parsonage School, Farm Road

RW2 - Wennington Village Hall, Wennington Road

RW3 - Brady School, Wennington Road

RW4 - Rainham Village School, Upminster Road South

RW5 - Parsonage School, Farm Road

Parliamentary Constituency

Rainham & Wennington Ward is currently in the Hornchurch Parliamentary Constituency but will be in the new Dagenham and Rainham Parliamentary Constituency which will be formed at the next Parliamentary General Election.

ROMFORD TOWN WARD

This ward is divided into five polling districts and the polling places allocated to each polling district are as follows:-

RT1 - Central Library, Main Road

RT2 - Manor School, Shaftesbury Road

RT3 - Andrews Church Hall, St Andrews Road

RT4 - Gidea Park School, Lodge Avenue

RT5 - Edwin Lambert School, Malvern Road

Parliamentary Constituency

RT1 to RT4 are currently in the Romford Parliamentary Constituency. RT5 is currently in the Hornchurch Parliamentary Constituency. But the whole of Romford Town Ward will be in the new Romford Parliamentary Constituency which will be formed at the next Parliamentary General election.

ST ANDREWS WARD

This ward is divided into five polling districts and the polling places allocated to each polling district are as follows:-

- ST1 - Fairkytes Arts Centre, Billet Lane
- ST2 Langtons School, Westland Avenue
- ST3 Robert Beard Youth Centre, Inskip Drive
- ST4 The Herons, Abbs Cross Gardens
- ST5 Benhurst School, Benhurst Avenue

Parliamentary Constituency

St Andrews Ward is currently in the Hornchurch Parliamentary Constituency and will be in the new Hornchurch and Upminster Parliamentary Constituency which will be formed at the next Parliamentary General Election.

SOUTH HORNCHURCH WARD

This ward is divided into five polling districts and the polling places allocated to each polling district are as follows:-

- SX1 - St Johns Church Hall, South End Road
- SX2 La Salette School, Rainham Road
- SX3 Whybridge School, Blacksmiths Lane
- SX4 Newtons School, Lowen Road
- SX5 South Hornchurch Airfield Community Association, Nelson Road

Parliamentary Constituency

South Hornchurch Ward is currently in the Hornchurch Parliamentary Constituency but will be in the new Dagenham and Rainham Parliamentary Constituency following the next Parliamentary General Election.

SQUIRRELS HEATH WARD

This ward is divided into six polling districts and the polling places allocated to each polling district are as follows:-

SQ1 - Royal Liberty School, Upper Brentwood Road

SQ2 - Catholic Church Hall, Brentwood Road

SQ3 - Squirrels Heath School, Salisbury Road

SQ4 - Baptist Church, Ardleigh Green Road

SQ5 - Emerson Park Community Hall, Slewins Lane

SQ6 - Ardleigh Green School, Ardleigh Road

Parliamentary Constituency

Squirrels Heath Ward is currently in the Romford Parliamentary Constituency and will be in the new Romford Parliamentary Constituency which will be formed at the next Parliamentary General Election.

UPMINSTER WARD

This ward is divided into seven polling districts and the polling places allocated to each polling district are as follows:-

UP1 James Oglethorpe School, Ashvale Gardens

UP2 Corbets Tey School, Harwood Hall Lane

UP3 Upminster School, St Marys Lane

UP4 Gaynes School, Brackendale Gardens

UP5 Baptist Church Hall, Springfield Gardens

UP6 Branfil School, Cedar Avenue

UP7 Corbets Tey School, Harwood Hall Lane

Parliamentary Constituency

UP1 to UP6 are currently in the Upminster Constituency and UP7 is currently in the Hornchurch Parliamentary Constituency. However at the next Parliamentary General election UP7 will be amalgamated with UP2 and all of Upminster Ward will be in the new Hornchurch and Upminster Constituency.



MEETING	DATE	ITEM
Governance Committee Standards Committee	21 November 2007 27 November 2007	7

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: Ethical Governance Survey – findings

SUMMARY

The Ethical Governance Survey is a "...survey of members and officers including awareness and understanding of ethical behaviour". This refers to all 54 members and all top 140 managers. The survey is administered by the Audit Commission and is conducted online.

This report outlines the findings of the report and recommendations arising.

RECOMMENDATIONS

Governance Committee

1. That Members note the contents of this report
2. That Governance Committee monitor the delivery of the action plan
3. That consideration is given to what steps Members could take to support the implementation of the action plan

Standards Committee

4. That Members note the contents of this report
5. That consideration is given to what steps Members could take to support the implementation of the action plan

REPORT DETAIL

1. During the summer, the Council carried out an ethical governance survey (hosted by the Audit Commission), targeted at all Members and all top managers.
2. The key finding is that there are no areas of major concern – the Audit Commission noted no areas of major concern.
3. Key Points
 - 3.1. The return rate for Members was comparatively low, but of those that completed the survey, the responses were more positive than for officers and are significantly above national averages in a number of cases;
 - 3.2. The Leader of the Council and the Chief Executive are viewed as positive role models and both are considered to be proactive in promoting the ethical agenda. Results in this respect are more positive than the national picture;
 - 3.3. Members are provided with clear guidelines regarding their personal conduct and their responsibilities under the ethical framework;
 - 3.4. Decision-making by Members is generally considered to be transparent and Members are considered to be accountable for their decisions and actions with the public generally having easy access to information on who has taken particular decisions;
 - 3.5. Most Members and officers consider that the whistle-blowing policy is used appropriately and without fear of reprisal; and
 - 3.6. Survey findings indicate that the public can easily access the Members' code of conduct, the register of Member interests, and documents relating to the Standards Committee.
4. However there were some areas that were identified as less positive:
 - 4.1. Member perceptions were generally positive. These include responses regarding: how open and constructive communication is with officers; ease at which the monitoring officer can fulfil his/her role appropriately; how good relationships and trust are between Members and senior officers; transparency of decision-making by Members and accountability for their decisions; whether there is a culture for challenging decisions without fear of reprisal; and strength of partnership working. However, without a more complete survey of Members it is difficult to assess if these perceptions are shared by other Members;
 - 4.2. There are a number of Members and officers who are unclear about what action to take if they believe there has been a failure to comply with the Member code of conduct;
 - 4.3. Member training/briefings on key legislation falls below national averages in a number of cases;

- 4.4. A significant percentage of senior officers disagree that the Council's approach to promoting ethical standards is building public confidence in local democracy;
 - 4.5. The role of the Standards Committee is not always well understood, particularly by officers. Not all respondents were convinced that it was making a difference or is effective;
 - 4.6. While the majority of respondents reported they had a good understanding of what a conflict of interest involved, a number of Members did not know what to do if they were appointed to an external body with a different code of conduct.
5. Recommendations made by the Audit Commission:
- 5.1. Provide further information to Members and officers about what action to take if they believe there has been a failure to comply with the Member code of conduct.
 - 5.2. The Council should establish the reasons why a significant percentage of senior officers tend to disagree that the Council's approach to promoting ethical standards is building public confidence in local democracy. The Council should then reconsider its approach as necessary to ensure that its actions have greater impact.
 - 5.3. Consider why the role of the Standards Committee is not always well understood. Consider whether more internal and external publicity is needed or whether the Committee needs to become more proactive.
 - 5.4. Re-publicise the whistle-blowing policy to Members and officers.
 - 5.5. Ensure that the requirements of Codes of Conduct are integrated into other schemes, policies and procedures, such as human rights, freedom of information, data protection and equalities policies, and conveyed to Members and officers.
 - 5.6. Ensure that Members receive appropriate training on key legislation such as the Human Rights, Data Protection and Freedom of Information Acts.
 - 5.7. Clarify what Members appointed to represent the Council on an external body should do if that body's internal rules conflict with the Council's code.
 - 5.8. The Council should undertake more thorough research on the views of Members to establish a firmer evidence base to plan the way forward and demonstrate:
 - 5.8.1. that the Council's approach to promoting ethical standards is encouraging appropriate behaviour;
 - 5.8.2. the extent to which Members are a focus for positive change;

- 5.8.3. how well the Monitoring Officer is supported to carry out her role effectively;
 - 5.8.4. open and constructive communication and trust between Members and officers;
 - 5.8.5. transparency of decision-making by Members and Member accountability for their decisions;
 - 5.8.6. that organisational culture allows officers, partners and the public to challenge decisions without fear of reprisal; and
 - 5.8.7. the strength of partnership working
6. Governance Group, chaired by Rita Greenwood (Group Director, Finance & Commercial) will ensure that these recommendations are implemented. It is suggested that Governance Committee oversee this implementation – see Recommendations at the head of this report.
7. Members can refer to the detailed 'Recommendations Action Plan' (see background papers) for responsibilities and timescales.

Financial Implications and risks:

There are no financial implications or risks arising directly as the report and the recommendations of the Audit Commission impose no costs (with the exception of officer time, which is already currently funded) and does not impact on any future funding.

Legal Implications and risks:

There are no legal implications or risks as the report concludes that all statutory requirements are being met.

Human Resources Implications and risks:

There are no Human Resources implications. Most of the recommendations can be met through existing processes.

Equalities and Social Inclusion implications:

The results of the survey show that there are some improvements required to ensure that the requirements of Codes of Conduct are integrated into other schemes, policies and procedures, such as human rights, freedom of information, data protection and equalities policies. The report also finds that the Council should ensure that Members are fully briefed on key legislation such as the Human Rights, Data Protection and Freedom of Information Acts.

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CHERYL COPPELL
Chief Executive

Background Papers List

- Previous report to Governance Committee (20th March)
- 'Why undertake this survey?'
- Setting High Ethical Standards (Audit Commission)
- Recommendations Action Plan

Governance Committee, 21 November 2007
Standards Committee, 28 November 2007



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	21 November 2007	8

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: CODE OF CONDUCT AND RELATED MATTERS

SUMMARY

1. The Council adopted the new Members' Code of Conduct on 18 July 2007 effective from that date.
2. As there is a new Code of Conduct it is prudent to now consider ancillary matters and other Codes and Protocols and whether they require updating.

RECOMMENDATIONS

1. To include the General Principles of Public Life and the Code of Publicity in the Constitution immediately after the Members' Code of Conduct and authorise the Monitoring Officer to amend the Constitution.
2. To agree the Protocol on Gifts and Hospitality set out in Appendix 2 and recommend that Council adopt the same.
3. To consider whether public speaking rights should be permitted at Overview & Scrutiny committees.
4. To consider whether public speaking rights should be extended/formalised on other committees.
 - 4.1 To consider whether the public speaking rights at Regulatory Services Committee should be amended to 2 minutes.

and, if so, to recommend accordingly to the Council.

5. To agree the amended Protocol on Probity in planning matters and recommend that Council adopt the same.
6. To agree the amended Protocol on Member/Officer relations and recommend that Council adopt the same.
7. To agree the amendments to the Business Systems Policy.

REPORT DETAIL

1. The new Members' Code of Conduct makes reference in paragraph 1(2) to the General Principles and in paragraph 6(c) to the Local Authority Code of Publicity made under the Local Government Act 1986. It is suggested that both the General Principles and Code of Publicity might properly be included in the Constitution after the Members' Code of Conduct for easy reference. See *Appendix 1*.
2. The new Members' Code of Conduct requires members to register the interests of any person from whom they have received a gift or hospitality with an estimated value of at least £25. In addition such interest needs to be disclosed for a period of three years as a personal or prejudicial interest at a meeting of the authority where a decision in relation to that person (or body) is being made. Gifts and hospitality are now included in the Register of Member Interests and must be notified to the Monitoring Officer within 28 days of receipt. This authority has never had a separate policy on Gifts and Hospitality relying previously on the Member Code of Conduct and the Employee Code of Conduct which states:

Employee Code of Conduct

4.11 Gifts, Hospitality & Entertainment

- 4.11.1 It is essential that employees do not offer or accept any payments, bribes, favour or inducement which might influence (or appear to influence) an official action.
- 4.11.2 Gifts, hospitality and entertainment should only be offered or accepted in situations where there is a genuine need to impart information or represent the Authority. This must be expressly approved by the Executive Director/ Assistant Chief Executive as detailed in the hospitality register guidelines.
- 4.11.3 All such offers/gifts must be entered in the hospitality register with details as to whether the offer has been accepted or declined. For further details see the hospitality register guidelines.

It is suggested that Members might wish to adopt the Protocol on Gifts and Hospitality set out in *Appendix 2*. for Members.

3. The new Members' Code of Conduct contains rules in respect of Overview & Scrutiny Committees. A Member has a prejudicial interest in any business before an Overview & Scrutiny Committee where the following conditions are met:
 - a. The business relates to a decision made or action taken by the authority's executive or another of the authority's committees.
 - b. The member was a member of the decision making body at the time and was present when the decision was taken.

A member of the executive can be required by the committee under Section 21 of the Local Government Act 2000 to attend before it to answer questions. This does not extend further than answering questions, and the member must be required by the Committee to attend. The Code of Conduct extends this to making representations, answering questions or giving evidence to all members who might have a prejudicial interest but only if members of the public are allowed to attend for the same purpose. The Council's Overview & Scrutiny rule paragraph 15 is set out below:

15. Attendance by others

An overview and scrutiny committee may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and staff in other parts of the public sector and shall invite such people to attend.

Members will note that an Overview & Scrutiny Committee may invite others to attend. There is no public right to attend and speak. Are Members content with this or do they wish to extend rights to members of the public?

4. The Committee should note that the same rules apply at Regulatory Services and other Committee meetings. A Member who has a personal and prejudicial interest may attend a meeting for the purpose of making representations and/or answering questions provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Current public rights to make representation, answer questions or give evidence are restricted to the Regulatory Services Committee as follows:

4 minutes (This entitlement is set out in the Constitution but was amended by Regulatory Services Committee provided notification is given in advance to Head of Planning and if there is more than one objector they agree among themselves who shall speak.

4.1 Do the Committee wish to amend the public speaking rights within the Constitution from 4 to 2 minutes?

Members may also attend Licensing Sub-Committee hearings as “interested parties” to represent constituents living or having businesses within the vicinity of the applicant premises. At hearings, any “interested party” has a maximum of 10 minutes to present their case. No change is required to the Committee Procedure Rules in this respect as the arrangement is governed by Licensing regulations.

There are no specific speaking rights at other Committee meetings for members of the public but Chairmen are free to invite members of the public to contribute to Committees' discussions if it is appropriate to do so.

5. The Protocol on Probity in planning matters requires some amendment to comply with the Code of Conduct. An amended version is included as Appendix 3
6. The Protocol on Member/Officer relations requires some amendment to comply with the Code of Conduct. An amended version is included as Appendix 4.
7. The Business Systems Policy has been amended to comply with the Code of Conduct and the Protocol on Member/Officer relations. This policy does not need the approval of Council as it does not form part of the Constitution.

Financial Implications and risks

There are none arising

Legal Implications and risks

The adoption of the new Members' Code of Conduct on 18 July necessitates a review of the various local Protocols to ensure that they are compatible with the new Code.

Human Resource Implications and risks

There are none arising.

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Background Papers

None

APPENDIX 1

A. THE TEN GENERAL PRINCIPLES OF PUBLIC LIFE

1. **Selflessness** – members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
2. **Honesty and integrity** – members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.
3. **Objectivity** – members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
4. **Accountability** – members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.
5. **Openness** – members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
6. **Personal judgement** – members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
7. **Respect for others** – members should promote equality by not discriminating against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.
8. **Duty to uphold the law** – members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.
9. **Stewardship** – members should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.
10. **Leadership** – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

(Relevant Authorities (General Principles) Order 2001 (S.I. 2001/1401))

B. CODE OF RECOMMENDED PRACTICE ON PUBLICITY

1. Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972, sections 69, 88 and 90 of the Local Government (Scotland) Act 1973 and sections 15 and 16 of the Local Government and Planning (Scotland) Act 1982; but there are several others.
2. Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. For example, sections 142(1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them or by other local authorities; and Section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.
3. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.
4. In considering the subject areas in which publicity is to be issued, the following matters will be important:
 - (i) the publicity should be relevant to the functions of the authority.
 - (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority.
 - (iii) in areas where central government, another tier of local government, or another public authority have the primary service or policy responsibility, local authorities should issue publicity only on matters that are directly relevant to their own functions.

Costs

5. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.
6. For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.
7. To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.

8. Local authorities should therefore always have in mind the extent to which expert advice is needed for publicity.
9. In some cases publicity may justify its cost by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as compared with other uses to which the resources could be put.
10. In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant:
 - (i) whether the publicity is statutorily required or is discretionary.
 - (ii) where it is statutorily required, the purpose to be served by the publicity.
 - (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity.

Content and style

11. Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.
12. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.
13. Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative, and accurate. It should aim to set out the reasons for the council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.
14. Publicity relating to the provision of a service should concentrate on providing factual information about the service.
15. In some cases promotional publicity may be appropriate - for example about the local authority's sports and leisure facilities or about tourist attractions.
16. Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the council,

should be handled with particular care. It should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.

17. Publicity should not attack, nor appear to undermine, generally accepted moral standards.
18. Publicity campaigns by local authorities are appropriate in some circumstances: for example, to promote the effective and efficient use of local services and facilities, or to attract tourists or investment. Publicity campaigns may also be an appropriate means of influencing public behaviour or attitudes on such matters as health, safety, crime prevention or race relations.
19. Legitimate concern is, however, caused by the use of public resources for some forms of campaigns which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority's policies in relation to that function and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.

Dissemination

20. The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.
21. Information and publicity produced by the council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.
22. Where material is distributed on matters closely affecting vulnerable sections of the community - for example, the elderly - particular care should be taken to ensure that it is unambiguous, readily intelligible, and unlikely to cause needless concern to those reading, seeing or listening to it.
23. Local authority newspapers, leaflets, and other publicity distributed unsolicited from house to house are inevitably more intrusive than publicity available on application to the council.

- 24.** Publicity that reaches the public unsolicited should be targeted as far as practicable on those whose interests are clearly and directly affected by its content.
- 25.** Material touching on politically controversial issues should be distributed unsolicited only where there is a strong case for letting a particular group of people have information of direct concern to them and no other equally efficient and effective means can be found.
- 26.** Local authority newspapers or information bulletins are a special case. They are often a cost-effective means of disseminating information, but they may touch on controversial issues. If they do, they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11 -19 of the Code.
- 27.** Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations.

Advertising

- 28.** Advertising, especially on billboards or on television and radio, is a highly intrusive medium. It can also be expensive. It may however provide a cost effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities on tourism, and in the area of economic development generally.
- 29.** The primary criterion for decisions on whether to use advertising should be cost-effectiveness.
- 30.** Advertisements are not normally likely to be appropriate as a means of explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments, and markets views and opinions.
- 31.** Advertising in media which cover an area significantly wider than that of the authority is not likely to be an appropriate means of conveying information about a local authority's policies as opposed to attracting people to the authority's area or to use its facilities.
- 32.** The attribution of advertising material leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.
- 33.** It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation. Such support should be given

openly through the normal grant arrangements. However, the conditions attached to a grant may require the provision of publicity, including publicity for the work of the authority.

34. Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.
35. Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

Recruitment advertising

36. Local authorities have respected in their staff employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority staff are expected to serve the authority as a whole, whatever its composition from time to time.
37. The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local authority staff.
38. Advertisements for staff should not be placed in party political publications.

Publicity about individual members of an authority

39. The functions of a local authority are discharged by the council corporately. It is therefore inappropriate for public resources to be used to publicise individual councillors.
40. In the interests of public accountability, however, it may be appropriate to give publicity to the views or activities of individual members when they are representing the council as a whole: for example, when the chairman of a council speaks or acts as the first citizen of the whole community, or when a chairman of a committee opens a new scheme or launches a policy approved by the council or by his committee on the council's behalf.
41. For the same reason a local authority may justifiably in certain circumstances issue press releases reporting statements made by individual members. Examples of cases where such press releases may be appropriate are as reports of the discussion at the meetings of the council or committees, or quotations of comments made by leading members of the council in response to particular events which call for a particularly speedy reaction from the council.

- 42.** This does not prevent a member of staff of a local authority from responding to questions about individual members, since that is not publicity as defined in the 1986 Act.

Timing of Publicity

- 43.** Particular care should be taken when publicity is issued immediately prior to an election or by-election affecting the authority's area to ensure that this could not be perceived as seeking to influence public opinion, or to promote the public image of a particular candidate, or group of candidates. Between the time of publication of a notice of an election and polling day, publicity should not be issued which deals with controversial issues, or which reports views or policies in a way that identifies them with individual members or groups of members.

Assistance to others for publicity

- 44.** The principles set out above apply to decisions on publicity issued by local authorities. They should also be taken into account by local authorities in decisions on assistance to others to issue publicity. In all such decisions local authorities should, to the extent appropriate:

- (a) incorporate the relevant principles of the Code in published guidance for applicants for grants;
- (b) make the observance of that guidance a condition of the grant or other assistance;
- (c) undertake monitoring to ensure that the guidance is observed.

- 45.** It can be appropriate for local authorities to help charities and voluntary organisations by arranging for pamphlets or other material produced and paid for by the organisation to be available for collection by the public in public libraries and other suitable locations. Such material should not offend against any legal provision, but (subject to this) any such facility should be made available on a fair and equal basis.

PROTOCOL ON GIFTS AND HOSPITALITY

1. Meaning of gifts and hospitality

- 1.1 The expressions 'gifts' and 'hospitality' have wide meanings and no conclusive definition is possible. Gifts and hospitality include:
 - (a) The gift of any goods or services;
 - (b) The opportunity to acquire any goods or services freely or at a discount or at terms not available to the general public;
 - (c) The offer of food, drink, accommodation or entertainment or the opportunity to attend any cultural or sporting event on terms not available to the general public.
- 1.2 Common gifts include pens, diaries, calendars and other business stationery, key rings, articles of clothing, books, flowers, bouquets and promotional items.
- 1.3 Common hospitality includes lunches, dinners or refreshments.

2. General Caution

- 2.1 The fundamental principle must always be that any offer of a gift or hospitality should be treated with great care. Your prime duty as a Member is to ensure that there is no conflict of interest in the performance of your duties. Treat with caution any gift or hospitality that is made to you personally. Your personal reputation and that of the Council can be seriously jeopardised by the inappropriate acceptance by you of a gift or hospitality.
- 2.2 You should consider carefully all the circumstances surrounding the offer of a gift or hospitality. The scale, amount of the offer and the potential frequency and source are relevant factors. Also be sensitive to the timing of the offer in relation to decisions which the Council may be taking, affecting those making the offer.
- 2.3 You should avoid hospitality in situations where you would be the sole guest.
- 2.4 You may have to estimate the value of the gift or hospitality.
- 2.5 The decision for you in every case is whether or not it is appropriate to accept any gift or hospitality that might be offered to you, having regard to how it might be perceived by an ordinary member of the public. No hard and fast rules can be laid down to cover every circumstance as to

what is appropriate or inappropriate. In any case of doubt, advice should be sought from the Monitoring Officer.

To refuse may cause misunderstanding or offence; however to accept may give rise to questions of impropriety or conflict of interest.

Where the decision whether to accept hospitality is left to your judgement, you must ask yourself some commonsense questions: for instance, whether there is a benefit to the Council in your accepting the invitation; whether the entertainment is lavish, on a scale which you could not personally afford; whether you are accepting too much hospitality from the same source; and, if your position is prominent, whether just your attendance at an event might be open to interpretation as a signal of support.

3. Code of Conduct requirements

- 3.1 The Member Code of Conduct requires that you register in your Register of Personal Interests (maintained by the Monitoring Officer), any gifts or hospitality with an estimated value of £25 or more, which are received and accepted by you, in the conduct of the business of the Council, the business of the office to which you have been elected or appointed or when you are acting as representative of the Council. You must also register the source of the gift or hospitality.
- 3.2 You must register the gift or hospitality within 28 days of its receipt/ acceptance.
- 3.3 The Member Code of Conduct provides that you automatically have a personal interest in a matter under consideration at a Council meeting, if it is likely to affect the person who gave you the gift or hospitality which you have registered. In practical terms, this means that, although you have registered the gift or hospitality and its source in your Register of Personal Interests, you must still orally, at the meeting, disclose as a personal interest, the existence and nature of the gift and hospitality, the person who gave it to you and how the business under consideration relates to that person and then decide whether your interest is also prejudicial. If the interest is prejudicial, then you must declare you have a prejudicial interest and comply with the rules on prejudicial interests.
- 3.4 You must continue to disclose the existence and nature of the gift or hospitality etc at relevant Council meetings, for 3 years from the date you first registered the gift or hospitality. This disclosure requirement ceases for gifts and hospitality interests registered more than 3 years ago.

- 3.5 Where any gift (no matter the value) is accepted, the donor should always be advised that acceptance will not confer any advantage for that donor in his/her dealings with the Council.

4. Series of gifts or hospitality adding up to £25 or more in value

The registration requirement in the Code is limited to gifts or hospitality worth £25 or more. If you receive a series of gifts or hospitality from the same source that add up to £25 or more, then this must be registered on your Register of Personal Interests as an accumulation. You may have to estimate the value of the gifts or hospitality.

5. What to avoid

- 5.1 In deciding whether it is appropriate to accept any gift or hospitality, you must apply the following principles:
- (a) do not accept a gift or hospitality as an inducement or reward for anything you do as a Member. If you have any suspicion that the motive behind the gift or hospitality is an inducement or reward, you must decline it. 'Reward' includes remuneration, reimbursement and fee.
 - (b) do not accept a gift or hospitality of significant value or whose value is excessive in the circumstances.
 - (c) do not accept a gift or hospitality if you believe it will put you under any obligation to the provider as a consequence.
 - (d) do not solicit any gift or hospitality and avoid giving any perception of doing so.
 - (e) do not accept a gift or hospitality, if acceptance might be open to misinterpretation. Such circumstances will include gifts and hospitality:
 - (i) from parties involved with the Council in a competitive tendering or other procurement process.
 - (ii) from applicants for planning permission and other applications for licences, consents and approvals.
 - (iii) from applicants for grants, including voluntary bodies and other organisations applying for public funding.
 - (iv) from applicants for benefits, claims and dispensations.
 - (v) from parties in legal proceedings with the Council.
- 5.2 It is a criminal offence corruptly to solicit or receive any gift, reward or advantage as an inducement to doing or forbearing to do anything in respect of any transaction involving the Council. The onus would be on

you to disprove corruption in relation to the receipt of a gift or hospitality from a person holding or seeking to obtain a contract from the Council.

5.3 Cash or monetary gifts should always be refused without exception and the refusal notified to the Monitoring Officer.

It is a well-established and recognised rule that no Councillor or other public servant should accept gifts, hospitality, or services from anyone, which would or might appear to place him/her under an obligation. If you are in doubt about what is proper, there are three particular things you should bear in mind;

- ***DO** err on the side of caution. If the thought of the acceptance of the gift or hospitality becoming public makes you uncomfortable, do not accept;*
- ***DO** consult the Monitoring Officer or Deputy Monitoring Officer if you are still unsure;*
- ***DO** consider if you decide to go ahead to record with the Monitoring Officer that you have addressed the issue of propriety and setting out your reasons for believing that your actions comply with this Protocol.*

6. Gifts and hospitality which need not be registered

There are some circumstances where you may accept gifts and hospitality without the need to register the gift or hospitality. Some situations will require the exercise of your personal judgement. You should always be cautious, when additional services, privileges or advantages are offered, which might be related to your position as a Member. Remember - always register a gift or hospitality if it could be perceived as something given to you because of your position.

- (i) Official hospitality such as a civic reception or a working/business lunch in Council owned premises or hosted elsewhere, by a partner organisation of the Council.
- (ii) Civic hospitality provided by another public authority.
- (iii) Refreshment in connection with any meeting in the course of your work as a member e.g. tea, coffee and other normal beverages and refreshments.
- (iv) Meals or refreshments funded by other public sector partners, as part of joint working/collaboration.
- (v) Meals or refreshments provided as part of a ceremony or event to promote/or launch a project or initiative.
- (vi) Meals or refreshments provided at design/progress meetings, by a consultant, contractor or advisor who is already appointed by the Council for that project, scheme or initiative.
- (vii) Drinks or other refreshment in the normal course of socialising arising consequentially from Council business e.g. inclusion in a round of drinks after a meeting.

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- (viii) Small low value gifts, such as pens, calendars, diaries, flowers and other mementos and tokens.
- (ix) Gifts and hospitality arranged and paid for wholly by your own political party.
- (x) Gifts and hospitality not related or connected with your membership of the Council i.e. received by you outside the performance of your functions as a Member.
- (xi) Gifts and hospitality you may receive from family and friends e.g. birthday presents that are not related to your position as a Member.
- (xii) Gifts given to the Council that you accept formally on the Council's behalf and are retained by the Council and not by you personally e.g. a commemorative goblet for display in the Mayor's parlour.
- (xiii) Gifts given as prizes at exhibitions, conferences, seminars etc. as part of a free raffle or draw.
- (xiv) Gifts and hospitality which you do not accept (refer to the guidance in para. 7 of this Protocol).
- (xv) Gifts which you donate to the Mayor's charity, subject to you indicating this intention to the donor of the gift.
- (xvi) Gifts known to be available to all members of the Council e.g. badges and ties bearing the Council's coat of arms.
- (xvii) Souvenirs and gifts from other public bodies intended as personal gifts e.g. arising from town-twinning and other civic events.
- (xviii) Hospitality known to be available to all members of the Council e.g. Annual Meeting/Mayor making refreshments
- (xix) Hospitality ancillary to the Council business being conducted, such as an overnight stay for an 'away – day with a partner organisation of the Council'.
- (xx) Hospitality ancillary to attendance at conferences, seminars and courses where the hospitality is corporate, rather than personal.
- (xxi) Hospitality ancillary to attendance at functions where you represent the Council (opening ceremonies, public speaking events, conferences).
- (xxii) Hospitality ancillary to attendance as Mayor or Deputy Mayor, at charity events, garden parties, fetes, schools, concerts etc.
- (xxiii) Trips in the UK or abroad which are paid for by the Council or which involve reciprocity of payment with other local authorities, government bodies/ departments or outside bodies/organisations, together with any hospitality associated with such visits and available to all participants.

7. Gifts and hospitality declined

There is no requirement to register gifts and hospitality offered but declined. When gifts or hospitality are declined, the offeror should be courteously but firmly informed of the procedures and standards operating within the Council.

8. Reporting of inappropriate gifts and hospitality offered

It is a criminal offence for a person corruptly to give or offer any gift, reward or advantage as an inducement or reward to you for doing or forbearing to do anything as a member of the Council. You must immediately report to the Monitoring Officer any circumstances where an inappropriate gift or hospitality has been offered to you. You may thereafter be required to assist the Police in providing evidence.

9. Overseeing this Protocol

The Standards Committee has responsibility for overseeing compliance with this guidance and allegations of any failure to meet the guidance must be made in writing to the Monitoring Officer.

PROTOCOL ON PROBITY IN PLANNING MATTERS

Summary

The Council's function of development raises various issues of conduct and procedure for members including sometimes difficult matters of reconciling their role as ward member with their role as decision maker. The planning process allows decisions to be challenged either through the appeal process or the courts, or to be tested through the Ombudsman for maladministration or the District Auditor in some cases, with potentially severe consequences if decisions cannot be justified.

Consequently, it is of the utmost importance that the Council's processes and decision making should be open, accountable and objective.

This protocol applies to members and staff involved in the planning process and is concerned with maintaining the integrity of the planning system, including the conduct of members and staff in its processes and procedures. This Protocol should be read in conjunction with the Members Code of Conduct, the Staff Code of Conduct, and the Protocol on Member/Officer Relations.

Provisions

The following general areas of advice take into account earlier Local Government Association guidance on planning issues for local authorities. They require members and staff involved in the planning process to conduct themselves according to certain standards.

1 Declaration and registration of interests

- (a) Members are required to declare and register their interests, and should review their interests regularly. A register of members' interests will be maintained by the Monitoring Officer.
- (b) Where a member has a personal interest in a matter, he must declare it, but he is not necessarily debarred from participation in the discussion of the matter.
- (c) If a member has personal interest which is also a prejudicial interest, then he should leave the room, unless members of the public are allowed to make representations, give evidence or answer questions about the matter either because they have a statutory right to do so or because the Constitution permits them to do so. In this case a member can attend the meeting to exercise this right but must immediately leave the room afterwards and cannot remain in the public gallery. A member with a prejudicial interest cannot participate in the discussion,

vote and must not seek to improperly influence a decision on the matter.

- (d) A member must regard him or herself as having a personal interest in a planning matter:
- (i) if the matter relates to an interest in respect of which the member has given notice in the statutory register of members' interests; or
 - (ii) if a decision upon it might reasonably be regarded as affecting to a greater extent than other council tax payers, ratepayers or inhabitants of the ward, the well-being or financial position of themselves, members of their family, or people with whom they have a close association or
 - an employment or business carried on by such persons
 - any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors
 - any corporate body in which such persons have a personal interest in a class of securities exceeding the nominal value £25,000 or one hundredth of the total issued share capital (whichever is the lower)
 - any body which the member is required to register in the statutory register of interests, in which such persons hold a position of general control or management.
 - The interests of any person from whom a member has received a gift or hospitality with an estimated value of at least £25 within a period of 3 years before the date of the meeting.
- (e) A member with a personal interest in a planning matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest and (i) the matter does not fall within any exempt categories (ii) the matter affects a member's financial interests or relates to a licensing or regulatory matter. Further information on personal and prejudicial interests is contained in the Members' Code of Conduct and the Guide for Members 2007 issued by the Standards Board.
- (f) Members who are unsure whether an interest should be declared should seek advice of the Monitoring Officer. However, the ultimate decision is for the member.

2 Role and Conduct of Members and Officers

(a) Role of Councillors

- (i) It is advisable for Members not to become directly involved in pre- or post-submission discussions or negotiations with applicants or objectors.
- (ii) Members serving on planning committees or who become involved in making planning decisions (where the full Council deals with a planning application) must not in their official capacity, or in any other circumstances, use or attempt to use their position as a member improperly to confer on or secure for themselves or any other person, an advantage or disadvantage.
- (iii) Members should take account of opposing interests involved in planning decisions, but should not favour any person, company or group or locality, nor put themselves in a position where they appear to do so.
- (iv) Members must treat others with respect and must not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
- (v) Members should not bully staff nor seek to put undue influence on staff for a particular recommendation nor to instruct staff to make a particular recommendation. Instructions to staff may only be given through a decision of the Council, Executive, or committee decision.
- (vi) Members can seek information from staff on behalf of constituents in the normal way. Members will need to be aware that there is often a fine line between seeking information and appearing to support or oppose an application. Further advice is given in the section on lobbying.
- (v) Confidential information must not be disclosed save for and strictly in accordance with the limited circumstances set out in the Members' Code of Conduct and only after seeking legal advice.

(b) Role of staff

- (i) Unless given clear delegation by the Council to act on behalf of the authority, staff can only advise.

- (ii) It is part of the normal role of staff, and acknowledged as good practice, to give advice and guidance to potential applicants, landowners, or interested third parties in relation to an application being made.
- (iii) All advice is given “without prejudice” either to the applicant’s rights or the Council’s decision.
- (iv) Staff must always act impartially.
- (v) It is part of the role of staff to facilitate consultation with appropriate interest groups and third parties – for example, statutory consultees, nearby occupiers to a proposal etc. – and to guide them, as necessary, to enable their participation and understanding of schemes.
- (vi) Wherever possible, staff of the Council should decline offers of hospitality from people with an interest in a planning matter. If the receipt of hospitality is unavoidable, officers should ensure that it is of a minimal level and declare its receipt as soon as possible in the hospitality register. Offers of hospitality should be recorded whether accepted or not and the register will be reviewed regularly by the Monitoring Officer. Reference should be made to the Gifts and Hospitality Protocol which contains more detailed advice.
- (vii) Professionally qualified staff are bound by the relevant codes of conduct of their own institutes or societies and the National Code of Conduct for Local Government Employees. All officers involved in the planning process should comply with the relevant parts of the Royal Town Planning Institute’s Code of Professional Conduct
- (viii) The Council as a whole is entitled to unbiased and carefully considered professional opinion.

3 Development proposals submitted by the Council, members and all Planning staff, Chief Officers and Heads of Service

Proposals for a Council’s own development can easily give rise to suspicions of impropriety. So indeed can proposals to their own authority by Members and staff and their close friends and relatives. It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in a way which gives no grounds for accusations of favouritism.

- (a) Proposals for a Council’s own development should be treated in the same way as those by private developers.

- (b) Members who act as agents for people pursuing planning matters within the authority should play no part in the decision-making process for those proposals.
- (c) Members who submit their own proposals to the authority on which they serve, should play no part in its processing and a member should not seek to improperly influence a decision about the matter. The consideration of a proposal from a member in such circumstances would be considered a prejudicial interest and the member would be required to withdraw from any consideration of the matter, save that a member attends on the same basis as a member of the public in accordance with the Constitution and in order to make representations but must not attend any other part of the meeting.
- (d) Staff responsible for processing planning applications shall not act as agents for people pursuing a planning matter.
- (e) Staff described above who submit their own planning proposals to the authority, should take no part in its processing.
- (f) The Monitoring Officer shall be informed of development proposals submitted by the Council, members and staff described above when they occur.
- (g) Proposals by Members and staff described above should be reported to the Regulatory Services Committee as main items and not dealt with by staff under delegated powers; as part of the report the Monitoring Officer should confirm whether it has been processed normally.

4 Pre-application/post submission discussions

Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit. However it would be easy for such discussions to be seen as part of a lobbying process by the applicant. In order to avoid this perception pre-application and post-application discussions should take place within the guidelines outlined below.

- (a) It should be made clear at the outset that any discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional.
- (b) Any advice given to an applicant should be consistent and based upon the development plan and material considerations. Advice should only be given after careful consideration and must be unbiased.

- (c) All members and staff taking part in such discussions should make clear whether or not they are the decision-maker.
- (d) A written note should be made of all potentially contentious meetings. At least one member of staff should attend such meetings and a follow-up letter should be written. A note should be made of all similarly contentious telephone discussions.
- (e) Care should be taken to ensure that any advice given is not partial.

5 Lobbying

- (a) In making a decision on a planning application the need for impartial assessment is sometimes at variance with the role which a member may feel they should fulfil as a ward member representing their own constituents' views.
- (b) Lobbying is a normal and proper part of the political process. Those who may be affected by a planning decision or an applicant who is aware of a likely adverse recommendation by a member of staff will often seek to influence it by approaching their elected ward member or a member of the committee which will determine the application.
- (c) However such lobbying can, if not properly handled, lead to the impartiality of a member serving on the committee which determines the application being called into question.
- (d) Ward members and members of the planning committee who are lobbied should avoid expressing an opinion that may be taken as indicating they have already made a decision on the issue before they have been exposed to all the evidence and arguments.
- (e) Members of the planning committee should not openly declare which way they intend to vote in advance of the planning meeting, and of hearing evidence and arguments on both sides.
- (f) A member can easily find his or her position prejudiced by inadvertently participating in advocacy, lobbying and the use of pressure on other members. Unless common sense is exercised by all parties concerned, such situations could lead to the impartiality of a Councillor being called into question and the need for an interest to be declared.
 - (i) If a member expresses an opinion in public on a planning application before it comes to committee it will be virtually impossible for that member to argue convincingly when

the committee comes to take its decision that he or she has carefully weighed the evidence and arguments presented. Many of these may only become apparent when the item is discussed at committee.

- (ii) If it is difficult or inappropriate not to express an opinion members are advised to make it clear that they have yet to hear all the arguments and see the evidence before forming a final view. Ideally this caveat should be put in writing to the applicant/objector.
- (iii) Political group meetings prior to the planning committee meeting should not be used to decide how Councillors should vote. The use of political “whips” at group meetings over planning applications is contrary to the National Code and could amount to maladministration.
- (iv) If a meeting or phone call with objectors or applicants is likely to be contentious, members are advised to make a note at the time of what is said and, preferably, to arrange for a member of staff to be present.
- (v) In committee, members should ensure that they are able to concentrate on the application and the discussion.
- (vi) If a member decides that they must lobby for or against a proposal, or publicly expresses support of a particular outcome, they should attend the committee as an individual and not take part in the decision making process for any matter being considered at that meeting.

6 Written reports to committee

To avoid public concern and loss of confidence in the probity, quality and consistency of decision making and the possibility of maladministration or judicial review, committee reports will:

- (a) normally be available to the public five clear days prior to the meeting
- (b) be accurate, objective and fair and cover amongst other things, the proposal, policy and background issues, the substance of any objections, and the views of those consulted
- (c) include an exposition of the development plan; site or related history; and any other material considerations
- (d) contain a recommendation clearly justified by technical appraisals.

- (e) 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.
- (f) oral reporting to committee will as far as possible be confined to updating the meeting on developments since the publication of the report – for example, late representations or suggested additional conditions.

7 Decisions contrary to staff recommendation and/or the development plan

- (a) Decisions on planning applications are to be made in accordance with the development plan unless material considerations dictate otherwise. This is a requirement of the Town and Country Planning Act 1990.
- (b) Decisions contrary to the development plan should:
 - (i) be identified as soon as possible.
 - (ii) be advertised in accordance with section 8 of the Town and Country Planning Act 1990.
 - (iii) if it is intended to approve such an application, the material considerations leading to the conclusions must be clearly identified, and how the considerations justify overriding the development plan clearly identified.
- (c) Where the planning committee makes a decision contrary to a staff member's recommendation:
 - (i) a detailed minute of the committee's reasons should be made and a copy placed on the application file.
 - (ii) the staff member should be given the opportunity to explain the implications of the contrary decision.
 - (iii) reasons for departing from the recommendation should be clear and convincing. The personal circumstances of an applicant will rarely provide such grounds (a notable exception is where a planning policy allows for this).
- (d) A senior legal officer will always attend committee meetings to ensure appropriate procedures are followed.

8 Committee site visits

- (a) Site visits are used for fact finding and members are always accompanied by staff.
- (b) Committee site visits can only be authorised by the Regulatory Services committee, should only be made where the expected benefit is substantial, and will be arranged by staff.
- (c) A site visit will only be necessary if the impact of the proposed development is difficult to visualise from the plans and supporting material, or there is good reason why the comments of the applicant and objectors cannot be expressed adequately in writing, or the proposal is particularly contentious.
- (d) Site visits are not decision-making meetings.
- (a) All committee members will be invited and will be accompanied by staff. Relevant ward members will be invited.
- (f) Where applicant and objector are present it is important that the interested parties are not allowed to make further submissions so as to avoid inappropriate lobbying.
- (g) To avoid prejudice to third parties, the landowner/operator/applicant will be advised that only factual answers/information should be given and that lobbying will be unacceptable.
- (h) Where the committee consider it appropriate, objectors premises may also be visited and similar rules on lobbying will apply.
- (i) site visits and the reasons they were made will be recorded.

9 Reviews

- (a) A review of planning decisions should be undertaken annually. Such a review should include samples from a broad range of planning decisions and briefing notes should be prepared on each case. The planning committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

APPENDIX 4

PROTOCOL ON MEMBER/OFFICER RELATIONS

Introduction

1. Given the variety and complexity of Member and Officer relations, this Protocol does not seek to cover everything or be prescriptive in its application. General guidance is offered on some of the issues that most commonly arise or cause concern. It is hoped, therefore, that the approach, which this Protocol adopts, will serve as a guide to dealing with other issues that may arise from time to time.
2. This Protocol seeks to encourage best practice and to promote greater clarity and certainty between the various relationships. If any Member is unsure about any matter, s/he should contact the Monitoring Officer for appropriate advice and assistance. If any Officer is unsure about any matter, s/he should contact the relevant Group Director and/or the Monitoring Officer. If there is any disagreement in the interpretation of this Protocol, the opinion of the Chief Executive and/or Monitoring Officer will prevail.
3. The Standards Committee and the Monitoring Officer will issue general guidance on Havering's Code of Conduct for Members, this Protocol on Member/Officer relations and the Protocol on Probity in Planning. Where appropriate, the Monitoring Officer will also consult the Chief Financial Officer and the Chief Executive on any further general guidance.

General Member/Officer Issues

4. The opportunity is taken to reinforce the following points:-
 - (i) In order to ensure the business of the Council is transacted in an effective and efficient manner and with a view to ensuring that the Council is not brought into disrepute, the key guiding principle for Members and Officers has to be one of "engendering mutual trust, openness, honesty, fairness, transparency and treating everyone with respect";
 - (ii) Officers, being employees of the Council, must act in the best interests of the Council, as a whole, and must not give politically partisan advice. Anyone breaching this requirement, will face disciplinary action and may, ultimately, be dismissed by the Council;
 - (iii) Political Group meetings, whilst they perform an important part in the preliminaries to Council decision-making, are not formal decision-making bodies of the Council and, as

such, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions and it is essential that Members and Officers understand and interpret such decisions accordingly;

(iv) Officer support to Political Groups must not extend beyond providing information and advice in relation to Council business (not Party politics/business);

(v) it is good practice for Party political debates and decision-making to take place in the absence of Officers, in order to avoid any suspicion of impropriety or misunderstanding;

(vi) Officers must respect the confidentiality of any Political Group discussions at which they are present; and

(vii) any breach of this part of the Protocol by an Officer must be brought to the attention of the Chief Executive and / or the Monitoring Officer for consideration.

Legal and Audit Commission Considerations

5. Members of the Council do not, as elected members, have any special immunity from civil or criminal wrongs that they may commit against fellow Members, Officers or members of the public. Members must abide by Havering's Code of Conduct for Members and ensure they do not, for example, slander or libel another person. During the course of their normal duties for the Council, Members will, therefore, only have a qualified (not absolute) protection against prosecution or civil action. This requires that there must of necessity be an absence of malice.
6. Members must also not pressurise any Officer to change his/her professional opinion on any Council business matter or do anything that compromises, or which is likely to compromise, the impartiality of Officers or those who work for, or on behalf of the Council. It is also imperative that Members are clear about their roles and the roles of Officers, so as to avoid getting inappropriately involved in, for example, the internal office management, discipline and/or other employment related issues, as the actions of the Member(s) may be held to be the actions of the Council, as an "employer".

Standards Board for England Issues

7. Any member of the public (including Officers and other members) can complain to the Standards Board for England against a Member's breach of Havering's Code of Conduct for Members and/or bring private civil litigation proceedings against an elected member. The District Auditor can also take legal action against an elected member and the Council, as a whole, for any breaches of the law.

Public Relations Issues

8. The Council's Communications Section are responsible for dealing with the press and other media organisations on behalf of the Council. It is important, therefore, that all official communication relating to the Council (but not party political or private matters) is dealt with by this section, so as to ensure the proactive, effective and efficient management of the Council's public image, relations and interface.

Specific Points on Member/Officer Relations

9. The relationship between Members and Officers generally is characterised by mutual trust, respect and courtesy. These are essential for good local government and serve to enhance local democracy.
10. Close personal familiarity between individual Members and Officers can damage professional relationships and can prove embarrassing to other Members and Officers. Situations should be avoided, therefore, that could give rise to suspicion and/or appearance of improper conduct or behaviour.

Employer/Employee Issues

11. Any dealing between Members and Officers should, therefore, be conducted with mutual trust, respect and courtesy, and neither party should seek to take an unfair advantage of his/her position. In particular, Members should recognise and pay due regard to their role as an employer in their dealings with Officers, as Officers could use inappropriate behaviour and conduct of Members in bringing employment cases against the Council.
12. Members must guard against putting inappropriate pressure, in particular, on junior officers and must ensure that all communication between them (including written communication) does not bring the Council into disrepute, cause any embarrassment to them, or lead to the breakdown of mutual trust, respect and courtesy in Member/Officer relations.
13. In seeking advice and support, Members should have due regard to the seniority of the Officer with whom they are dealing and recognise that, whilst those Officers owe an overriding a duty to the Council as a whole, such duties are first expressed to their respective line managers and the Chief Executive and not to any individual Member. For this reason, Members should not give direct instructions to staff, and where possible should ensure their communications are with staff at an appropriate level within the Council.

Equality Issues

14. The Council has statutory duties with regard to equality issues and in accordance with Havering's Code of Conduct for Members, Members must also promote equality by not discriminating against others. Members and Officers shall not, therefore, by their behaviour or speech act in a discriminatory manner with regard to, for example, a person's gender, race, disability, religion, ethnicity, nationality, sexual orientation or age. Such principles will apply to the implementation of personnel policies, recruitment and promotion as they apply to day to day dealings with fellow human beings.

Officer Conduct or Capability Issues

15. Members should not raise matters relating to the conduct or capability of an Officer (or of Officers, collectively) at meetings held in public or before the Press, as Officers have no means of responding to the same in public. Neither should members display any inappropriate behaviour or language to Officers at such meetings or at any other meetings to which they are invited or are represented. Inappropriate behaviour or language is considered to be as described in paragraph 26. If any Member feels that s/he has not been treated with the proper mutual trust, respect or courtesy or has any concern about the conduct or capability of an Officer, s/he should raise the matter, in private, with the relevant Officer and, if necessary, the Group Director of the directorate concerned. Any concerns with regard to an Group Director should be discussed, in private, with the Chief Executive and/or the Leader of the relevant Political Group. Whispering campaigns against Members and Officers do not project a healthy environment for engendering mutual trust, openness, honesty, fairness, transparency, respect or courtesy and should be avoided.
16. Members will be in breach of Havering's Code of Conduct for Members if they require any Officer to:
 - (a) change his/her professional advice; or
 - (b) take any action which the Officer considers to be unlawful or illegal or which could amount to maladministration or breach any relevant Codes of Conduct (including professional codes of conduct).

Monitoring Officer/Chief Financial Officer Consultations

17. Members are required to consult with the Monitoring Officer and the Chief Financial Officer over any legality, maladministration, financial impropriety, or probity issues or where they have any doubt as to whether particular decisions are or were likely to be contrary to the Council's Policy Framework Rules, the Budget Framework Rules or the law. Inappropriate or late consultation will not satisfy the need to consult those Officers at the relevant time.

Political Impartiality

18. Members shall, at all times, respect the political impartiality of Officers and must not expect or encourage Officers to give a political view on any matter.
19. For the avoidance of doubt, it must be recognised by all that, in discharging their duties, Officers serve the Council, as a whole, and not

exclusively any Political Group, combination of groups, or any individual Members.

20. Officers may properly be called upon to support and contribute to the deliberations of Political Groups but they must, at all times, maintain political neutrality. This applies, in particular, to Politically Restricted Officers, who are governed by the Local Government and Housing Act 1989. All Officers must, in their dealings with Political Groups and individual Members, treat them in a fair and even handed manner.
21. Any request for advice given to a Political Group or Member will be treated with the strictest of confidence by the Officers concerned and will not be accessible to any other Political Group(s). Factual information upon which any advice is based will, if requested, be available to all Political Groups.
22. When attendance is requested for Political Group meetings:
 - (a) The request to attend a Political Group meeting must normally be made through the relevant Group Director;
 - (b) Such a request can only be made in relation to Council business; and
 - (c) Officers will:-
 - (i) provide relevant factual advice and assistance;
 - (ii) normally leave during the deliberations of the Political Group on the issue;
 - (iii) respect the confidentiality of any Political Group decision at which they are present; and
 - (iv) not champion, defend, action or spend any resources of the Council, or be held responsible for actioning in any way whatsoever the decisions of the Political Group(s), unless and until such decisions have become the formal decisions of the Council.

Specific Points on Overview and Scrutiny Arrangements

23. The Council's Overview and Scrutiny Committees will seek the advice of:-
 - (a) The Monitoring Officer, where they consider there is doubt about the legality of any Executive decision(s); or
 - (b) The Monitoring Officer, Chief Financial Officer and other relevant Group Directors, where they consider a decision (or decisions) of the Executive might be contrary to the Council's policy framework.

24. When asking Officers to give evidence before any Overview and Scrutiny Committee, questions should be confined, so far as is possible, to questions of fact and explanation of any professional opinion relating to policies and decisions. Officers must respond to questions from Members in an open, constructive and helpful manner. Officers must not mislead or be economical with the truth.
25. Where they consider it appropriate, the Chairman of the relevant Overview and Scrutiny Committee may ask Group Directors to explain any advice given by them to Members of the Executive and explain any decision(s) the Group Director may have taken under the Scheme of Delegations to Officers. For the avoidance of doubt, this will not apply to any private or confidential matters.

Unacceptable or Inappropriate Behaviour

26. The relevant Chairman of the Overview and Scrutiny Committee shall ensure that Members of the Executive and Officers are not questioned (whether through the nature, tone or language used), in such a manner as could be considered by a reasonable person to be hostile, offensive, derogatory, harassing, bullying, victimising, discriminatory or otherwise unacceptable or inappropriate behaviour by a Member. Equally, it has to be recognised that such Committees have no jurisdiction to deal with matters, which are of a disciplinary nature for the relevant Political Group (in respect of Members) or the relevant Group Director/Chief Executive (in respect of Officers).
27. Any allegation of unacceptable or inappropriate behaviour by a Member will be reported to the Leader of the relevant Political Group for consideration and/or the Standards Board for England, if there has been a breach of the Code of Conduct for Members. The relevant Leader may also refer the matter to the Standards Committee for consideration, guidance or sanction, if the matter is not a breach of the Code of Conduct for Members.

Use of Local Authority Resources

28. The only basis on which the Council can lawfully provide support services to Members (e.g. computers, telephone, mobile phones, blackberries, stationery, typing, printing, photo-copying, transport etc.) is to assist them in the effective and efficient discharge of their duties and role as Members of the Council. Such support services must, therefore (as set out in paragraph 6 of Havering's Code of Conduct for Members), be only used for Council business save for under the Council's IT Protocol, limited personal use of telephones only is permissible upon payment of the bill relating to personal use. In all other circumstances the same should never be used for or in connection with Political, Party Political or campaigning activities or for private purposes.

29. Accordingly, any Member, a member of the public or an Officer could report a breach of Havering's Code of Conduct for Members to the Standards Board for England.

Access to Information – 'Need To Know'

Statutory provisions

30. The Local Government (Access to Information) Act 1985 (which is Section 100F of the Local Government Act 1972) was introduced to give additional rights to Elected Members. The Act was at pains to stress that these rights were in addition to those at common law.
31. Section 100F makes it clear that any document which is in the possession or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council, or a committee or a sub-committee of the Council will be open to inspection by a Member of the Council, unless it contains confidential/exempt information as defined within the section. A non-committee members right to information is therefore enhanced by Section 100F subject to the Proper Officer withholding confidential/exempt information within those paragraphs.
32. Section 100F does not, however, go as far as the common law, vis-à-vis, the Committee Member. For non-Committee Members, their position is enhanced by section 100F. In both cases, however, if there appears to be confidential/ exempt information, by virtue of the other parts of the Act, there is still the discretion for the relevant Proper Officer to withhold the confidential/exempt information.
33. It is also a matter of fact as to whether or not the information is 'in the possession or under the control of' the Council. The key issue to be determined is whether or not the information belongs to the Council or to another person. If it belongs to another person, Officers will only release any confidential information after an appropriate consent to release such information has been obtained from the relevant person. Officers will not, therefore, "hand over" their files to a Member, without the Officer being clear about the reasonableness of the request and the Officer's ability to share confidential information with a Member. If any Officer is unsure

about a request for information, s/he must discuss the same with his/her line manager and/or the Monitoring Officer.

34. Under the Local Government Act 2000 Executive arrangements and subject to important exceptions (see paragraph 35 below), any relevant document which:
- (a) is in the possession, or under the control, of the Executive; and
 - (b) contains material relating to any business to be transacted at a public meeting of the Council, will be available for inspection by Members of the Council.
35. The exceptions, to the above general requirement of paragraph 34, are that exempt information in respect of Schedule 12A of the Local Government Act 1972 – see paragraph 36 below) would be disclosed
36. In addition to the above and subject to important exceptions (see paragraph 37 below), an Overview and Scrutiny Committee Member will be entitled to a copy of the relevant document which:
- (a) is in the possession or under the control of the Executive;
 - (b) contains material relating to:-
 - (i) any business carried out at a private or public meeting of the Council;

- (ii) any decision taken by a relevant Cabinet Member; or
 - (iii) any key decision of the Cabinet.
37. The exceptions to the above general requirements of paragraph 36 are that such a document (or part of it) contains exempt or confidential information, unless it is relevant to any action or decision being reviewed or scrutinised under the overview and scrutiny arrangements
38. For the purposes of completeness, Appendix A provides an extract of the statutory exempt information paragraphs, which permit reports to be considered in private. As a guiding principle and in keeping with good open government, Executive Members, Chairmen of relevant Committees and Officers will ensure that, so far as is possible and permitted by law, reports are considered in public. If any Member or Officer has any concerns over whether a private report ought to be (or should have been) considered in public, s/he should raise the matter, at the earliest opportunity, with the relevant Group Director, Chairman of the Committee or the Monitoring Officer for a decision.

Common law principles

39. In addition to the statutory provisions, the common law right of Members to access information is based on the principle that any Member has a *prima facie* right to inspect Council documents *so far as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council*. This principle is commonly referred to as the “need to know” principle.
40. This principle applies equally to leaders of the Political Groups and, under common law principles; the courts have not determined that any leader has an ‘automatic’ right to information. Accordingly, for the purpose of legal considerations, leaders fall to be considered as ordinary Members, if they wish to see Council documents; although they will, in most situations, be able to readily satisfy the ‘need to know’

requirements on the submission of reasonable information or by reasonable implication to substantiate the same. Leaders of Political Groups will, therefore, still have to demonstrate that their request is a proper and reasonable one and give adequate reasons for requiring the information.

41. In addition, it should be remembered that the access to information right will vary from Member to Member, will arise at different times and, as such, a Member's 'need to know' will be considered on a case by case basis and will not last indefinitely.
42. The above statements on the common law position are subject to additional safeguards to protect Council information; namely, if the motive of a Member requesting to see documents is indirect, improper or ulterior, this may be raised by the Council as a bar to the Member's entitlement to inspect documents that are addressed to the Council. The entitlement of a relevant Committee Member to inspect documents of the Committee is a strong one and certainly stronger than that of a non-Member of the Committee. However, as indicated earlier, the rights of the former are not absolute, as it would still be open to the Committee/ Council to raise a bar to the exercise of such a right on the grounds of the Member's motives being improper, indirect or ulterior.
43. Furthermore, the law does not entitle a Councillor to go on a "roving or a fishing expedition" or to receive every working document that Officers have access to or may have had access to in the past. As a Councillor, s/he will only be entitled to see those documents that are relevant background papers mentioned in any report received by the (Sub-) Committee or other reasonable requests for relevant papers in order to comply with his/her 'right to know'. Clearly, any confidentiality attached to the same remains and the same must be kept confidential and not released to any other person. This includes, of course, members of the press. A breach of confidence by a Member is actionable by way of a complaint to the Standards Board for England. If the breach is serious enough, the person whose confidence has been betrayed may also bring a civil action against the Member (and/or the Council) for damages.
44. By equal token, any unreasonable requests for information can and will be declined. A balance has therefore to be struck between a Member's right to know and an individual's/ business'/ organisation's need for confidentiality, especially where the individual/ business/ organisation has requested confidentiality of the information provided to Council Officers.
45. If any confidential information is contained in public documents then it will, of course, lose its confidentiality. Equally, draft-working documents are subject to change and it is reasonable for those documents to be withheld until the matter is formally reported to the relevant committee / decision-maker.

46. The Freedom of Information Act 2000 will bring additional rights, responsibilities and safeguards regarding confidential information. The Act will become fully operational in January 2005 although a "Publication Scheme" has been in place since February 2003. In addition the Members' Code of Conduct contains a paragraph on confidentiality.

Election Period and Special Responsibility Posts

47. During the election period, special rules apply with regard to local authority publicity and these can be found in "The Code of Recommended Practice on Local Authority Publicity",.
48. In terms of any serving Councillor who may be standing for re-election, it is imperative that s/he maintains a clear distinction between his/her private wish to stand for re-election and his/her official duties as a serving Councillor. S/he should, therefore, be particularly careful to guard against giving any impression that Council resources are being or could have been used for his/her re-election and/or private purposes. To do so, could amount, in serious cases, to a breach of the Code of Conduct for Members and a written complaint could be made to the Standards Board for England.
49. The fact that the Councillor is a serving Councillor can, of course, be stated on any elections material. However, the Council address and/or his/her Council e-mail address facilities should not be used or allowed to be used on any elections material produced by him/her or produced on his/her behalf by another person.
50. Members are provided with officer support to assist them with the discharge of their duties for the Council. Such staff should never be asked or used to carry out Party political purposes or private purposes.

Sanctions for Breach of Havering's Code of Conduct for Members and this General Guidance

51. Complaints against any breach of Havering's Code of Conduct for Members must be referred to the Standards Board for England, which could lead, ultimately, to the disqualification of a Member. Complaints against any breach of this Protocol by a Member may be referred to the Standards Committee. Complaints against any breach of this Protocol by an Officer may be referred to the relevant Group Director, the Chief Executive or the Monitoring Officer.

APPENDIX A

Meaning of exempt information

Exempt information means information falling within the following 10 categories (subject to any condition):

	Category	Notes
1	Information relating to any individual	“employee” means a person employed under a contract of service;
2	Information which is likely to reveal the identity of an individual	“financial or business affairs” includes contemplated, as well as past or current activities;
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)	“labour relations matter” means: (a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or
4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	(b) any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	“office holder”, in relation to the authority, means the holder of any paid officer appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;
6	Information which reveals that the authority proposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment	“registered” in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act). Any reference to “the authority” is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose
7	Information relating to any action	

	Category	Notes
	taken or to be taken in connection with the prevention investigation or prosecution of crime.	proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference:
8	<p>Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:</p> <ul style="list-style-type: none"> (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992 (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) The Charities Act 1993 	<ul style="list-style-type: none"> (a) in the case of a principal council, to any committee or sub-committee of the council; and (b) in the case of a committee, to: <ul style="list-style-type: none"> (i) any constituent principal council; (ii) any other principal council by which appointments are made to the committee or whose functions the committee discharges; and (iii) any other committee or sub-committee of a principal council falling within sub-paragraph (i) or (ii) above; and (c) in the case of a sub-committee, to: <ul style="list-style-type: none"> (i) the committee, or any of the committees, of which it is a sub-committee and (ii) any principal council which falls within paragraph (b) above in relation to that committee
9	Information is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.	
10	<p>Information which:</p> <ul style="list-style-type: none"> (a) falls within any of paragraphs 1 to 7; and (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above <p>is exempt information is and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>	

BUSINESS SYSTEMS POLICY

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1. Introduction:

The London Borough of Havering recognizes its dependence on information, communications and technology in delivering an effective service to the public. In order to protect these core assets this policy will lay down the rules for using all aspects of information, communications equipment and technology.

2. Objectives:

The objectives of this document are to:

- Ensure that the Council's information assets, voice and data communications equipment, and computer systems are protected.
- Ensure that users are aware of their obligations.
- Ensure that users are aware of the risks of non-compliance.
- Ensure that the Council has managed its risks where identifiable.
- Ensure that the Council complies with current legislation including:
 - Data Protection Act 1998
 - Freedom of Information Act 2000
 - Environmental Information Regulations (EIRs) 2004
 - Re-use of Public Sector Information Regulations 2005
 - Local Government Act 2000
 - Computer Misuse Act 1990
- Ensure that Members are aware of the Code and Protocol applying to the use of resources

3. Who Is Covered By This Policy?

Any reference to user(s) within this policy applies to all Council employees, contractors, sub contractors, partner organizations, third party's or elected Members who have access to, or use any Council information, communication or computer equipment

4. What Is Covered By This Policy?

All Information held by the Council in all formats whether it is hand-written or printed, held in an electronic format, such as email, Microsoft Office Products, digital audio or video, analog audio and video, microfiche and database files. Examples of this are procedures, policies, draft documents, minutes of meetings, agendas, emails, leaflets, forms, photos, videotape, etc.

Voice and data communications equipment. Examples of this are Council telephone extensions, mobile telephones, Blackberries, routers, hubs switches, PABX's, 3G, GPRS, etc.

All personal computers. Examples of these are desktops, laptops, tablets, note books, PDA's, Blackberries.

PLEASE NOTE: A number of personal computers now have the ability to be used as communications devices. It is therefore important when you read this policy to take this into consideration.

5. Exemptions to This Policy:

Business Systems support teams comprising: PC support, Network and Servers support and Information governance team only. – Insofar as the normal day-to-day operations carried out as part of their duties e.g. the loading of software.

6. Seeking an Exemption:

Any user, group, section or service may seek an exemption to part of this policy in order to carry out a specific business purpose. All requests for exemption must be registered with the Business Systems Helpdesk in writing for approval by business systems. Requests may be rejected if there is not a credible business case for the exemption with Head of Service or Group Director Support.

7. What Happens If This Policy Is Breached

7.1. What is considered a breach of this policy?

The policy will be considered breached if any one or more of the rules are not adhered to.

7.2. How will breaches be dealt with?

A full investigation will be carried out, which may result in disciplinary action being taken against staff. In cases of gross misconduct this may result in dismissal. In respect of Members a report may be made to either the Standards Board for England or the Council's own Standards Committee depending on the Code or Protocol breached.

As part of that investigation process, access to a user's login, email account and the forensic examination file contents may be required. This will only be possible with the explicit written permission of Assistant Chief Executive, the relevant Head of Service and Internal Audit, who will authorize Internal Audit and the Investigating Officer access rights.

If you are unsure, of any aspect of this policy or require clarification then you must contact your line manager or the ICT Service Desk.

7.3. How will people be advised of the policy?

All current users will be informed of the policy by use of the intranet/Internet disclaimer, Citrix login page, pop-ups, global emails and through team briefing via TALKING POINT.

New users will receive a copy of the policy in the New Starter Induction Pack, as well as the policy being placed on all new PCs deployed and sent as part of a welcome email to all new GroupWise accounts. Contractors and other party's working for the council must also receive a copy of this policy; this is

the responsibility of the line manager/Head of Service

7.4. Applicability to Council Members

Restrictions on the use of resources is imposed on Members by the Members' Code of Conduct and the Protocol on Member/Officer Relations which provide that resources may not be used for political or party political activity or for campaigning. **Members attention is drawn to paragraph 28 of the Protocol on Member/Officer Relations in respect of the use of Council resources.**

8. The Rules of This Policy:

8.1. World Wide Web

Access to the World Wide Web (The Internet) is primarily for business use. All use of the World Wide Web is monitored and logged It is important to note that the Intranet is Havering's internal news and information distribution service and not part of the World Wide Web.

8.1.1. Business use:

- Do not visit or view any Web sites containing material that is:
 - Sexual
 - Illegal
 - Homophobic
 - Racist
 - Religion intolerant
- Do be careful with business details including job title and email address when signing up for web-based business services.
- Do not subscribe to any bulletin boards, news groups or any other Internet service of any kind unless it is part of normal day to day business operation.
- Do not use corporate credit cards online except on web sites sanctioned as safe to use, contact Systems & Payments for full list.
- Do not download any software (games, applications screen savers) etc.
- Do not download video and audio files.

8.1.2. Personal use:

Remember that the business use rules also apply to personal use of the internet. Any internet use must be in your own personal time and must not exceed more than 1 hour a day.

- Do not use the Internet for personal use in hours you are being paid to

work i.e. Normal and overtime hours.

- Do be careful when using financial, banking and shopping sites. This is at your own risk.
- Do not subscribe to any non-business bulletin boards, news groups, blogs, forums or mail shots.

8.2. E-mail.

The council considers the provision of e-mail to be a critical business system. Responsible use is encouraged by all. Before you send any email consider that it is a public record and may be disclosed under the Freedom of Information Act.

A guide to email security is available on the intranet.

8.2.1. Business use

- Do not encourage or promote activities which make unproductive use of your time – for example, engaging in provocative exchanges of email messages which escalate and often become offensive.
- Do not encourage or promote activities which would, if conducted, be illegal, unlawful or that may breach current policy's including racial abuse, bullying or sexual harassment..
- Do not send email that might be defamatory or incur liability on the part of the Council or adversely impact on the public image of the Council.
- Do not use the Council's email facilities to deliberately propagate any virus, worm, Trojan horse.
- Do not copy-in excessive amounts of people to emails.
- Do reply to emails as soon as possible, if you are unable to respond fully then send a quick email to acknowledge the email.
- Do not reply to, or forward chain mail or unlisted junk mail.
- You must set a password on your email account. See 8.7 Security section for information on passwords.
- Do set your email account to allow your line manager read only proxy access to your email account.
- Do not View emails that are marked [p] or are clearly marked as personal when proxy accessing someone else's email account.
- Do keep emails precise and to the point. Be polite and respectful to the

receiver.

- Large files for extensive distribution should be marked as delayed and sent overnight

8.2.2. Personal use

Personal use of the e-mail system is privilege and not a right and should be viewed as such by all users. Remember that the business use rules also apply to personal use of the Email systems.

- Do ensure that all personal emails are clearly marked, to do this you must start the subject line with [P] or Personal, no other marking will be considered as personal.
- Do not use email to distribute any material that may be considered to be indecent, **obscene, offensive or abusive to others** in that its content **may** be considered to be a personal attack, rude or personally critical, sexist, racist, or generally distasteful.
- Do not send attachments on personal emails, i.e. photographs, images, etc
- Do not affect your or any other's abilities to carry out Council duties by using the email system for personal use.

8.3. Information Management

The introduction of recent information legislation allows anyone, anywhere in the world, access to information which the Council holds, regardless of format. This places an obligation on the Council to manage the way in which it creates, maintains, stores and disposes of all information held.

The Council has an Information Sharing Protocol and that is signed up to it at a corporate level, it must be used as the basis of all information sharing that staff under take.

8.3.1. Creation/Capture of Information

- Do ensure you create clear, specific and factual records that support the business of the council
- Do ensure the information is accurate and relevant and not excessive for its intended purpose
- Do consider Equality and Diversity when creating a document and ensure you make no defamatory remarks
- Do consider your audience and be mindful of the record being in the public domain if requested
- Do not document your own opinion, or the views and comments of others without their consent, unless it is clearly your responsibility to do so
- Do not make assumptions or use supposition or hearsay

- Do ensure information & processing systems create appropriate records to support the business functions
- Do ensure the time period that all information is to be retained, is documented.

8.3.2. Maintenance/Usage of Information

- Do ensure the information is appropriately titled
- Do consider who will need to access the information and save in a suitable format and location (whether paper or electronic.)
- Do not keep paper copies of electronic information unless there is a business need and recycle appropriately after use.
- Do not circulate information unless absolutely necessary. Whenever possible pass on its location so people can obtain it when and only if needed

8.3.3. Storage and Retention of Information

- Do ensure the information remains easily accessible giving consideration to its business purpose and any legal or regulatory requirements
- Do ensure the information is secure and protected where necessary

8.3.4. Disposal of Information

- Do have secure disposal arrangements in place
- Do ensure you are aware of any legal and statutory requirements relating to information you work with before it is deleted or destroyed
- Do dispose of information that has ceased to be of active use in an appropriate manner ensuring an audit trail or disposal record is kept

Under no circumstances should you deliberately delete or alter records to prevent personal or departmental embarrassment upon disclosure. It is a criminal offence to do so when a request for disclosure has been received by the Council.

Consider the following before deleting/disposing of information held by the Council

- The value as a source of information to the Council, its operations, relationships and environment.
- The importance as evidence of business activities and decisions
- Whether there are any legal retention requirements
- Whether there is any historical value
- Whether there is any financial value to the council
- Whether there is an adequate audit trail of records being disposed of.

8.3.5. Access to Information

There is legislation in place that allows anyone access to information about themselves or their communities, it is important to ensure that these requests are processed quickly and efficiently. Full Information on how to access

information is available on the Council's web site and intranet. If you are unsure contact your line manager or the ICT helpdesk

- If you receive a request for information to be disclosed you must pass it on to the Access to Information team or your local Information officer.
- Do not disclose any personal information, requests for personal information made under Data Protection Act 1998 must be in writing and sent to the Access to Record team.
- Any information being requested under the Freedom of Information Act 2000 or the Re-use of Public Sector Information Regulations 2005 must be put in writing and sent to the Access to Information team.
- Customer Contact - There will be no face to face contact with members of the public. All information in response to requests will be sent by post, with personal/sensitive data sent by recorded delivery.
- DPA Age of consent - The Council will accept requests from parents/guardians for their child's personal information where the child is aged 12 years and under. Requests for children aged 13 yrs+ must be made by the child unless the parent/guardian has been given consent to make the request or can provide professional/specialist opinion to prove the child is incapable of making the request in their own right.
- Information held on back ups - The Council considers the retrieval of data from electronic 'back up' files to be disproportionate effort and will not include such searches in response to requests for information under Access to Information legislation.

8.4. Telecommunications

- The Council has the right to seize any Council issued telecommunications equipment for forensic examination at any time
- Whenever possible do not call mobile phones from a desk phone if possible use a Council issue mobile phone or get the mobile phone user to ring you.
- You must pay for all personal calls identified by users from the monthly call logger statements.
- Do keep personal calls to a minimum, they should not have an adverse impact on your or others working output.
- Do not be abusive or use racist, homophobic or religious slurs.
- Do not engage in argument if the person on the other end is abusive to

you. Politely tell them you will not continue the conversation if they continue to be abusive, hang up and report the incident immediately to your line management.

- Do not use over 18's, chat lines, date lines or any premium rate or 0990 number.
- Do use the online BT Directory Enquiries Service (www.bt.com) for all directory enquiries.
- Do use the internal phone book to obtain internal phone numbers.

8.4.1. Mobile Telephone Specifics

- Do comply with current UK Law for mobile use.
- You must pay for all personal calls/Text identified by users from the monthly mobile phone bills.
- Do keep the mobile phone safe that has been issued to you. You must report loss, theft or damage immediately.
- Do not download new ring tones, colour themes, screen savers or any other software to your Council mobile phone.
- Do not physically change or modify your Council mobile phone.
- You may customize the phone by changing the colour schemes or ring tone, but you may only use the inbuilt ring tones and colour schemes.
- Do not sign up for any extra services.

8.4.2. Voicemail System

- Do be clear and concise when recording. Ensure your outgoing message does not ramble or prevaricate; state your name and the date and any other information politely and clearly.
- Do use the extended absence function with an appropriate message stating when you will be back if you are going to be away for an extended period such as annual leave.
- Do ensure that your message contains information on when you will be available, and alternative contact details for you, or someone else who can deal with urgent calls.
- Do check your voicemail boxes regularly and respond to any voicemail messages you have.

- You must delete voicemail once you have dealt with it to conserve space.

8.5. Personal Computers

- The Council has the right to seize any Council issued computer equipment for forensic examination at any time
- You may change the screen resolution, colour depth and theme, in order to allow for a more usable working environment.
- Do not change, amend or adjust any other settings and/or configuration of the Council supplied computer equipment.
- Do not install any software on Council provided computer equipment.
- Do not use council equipment for the storage and distribution of large personal information files especially video, photos, voice and music
- Do not remove software installed by Business Systems personnel on Council provided computer equipment.
- Do not attempt to shut down, circumvent or disable any software installed by Business Systems personnel on Council equipment.
- All Council working documents **MUST** be stored on the network S: Drive. The U: drive and any Local drive (C:,E: etc) should not be used for storing working documents”.
- Do not install any hardware, either external or internal, that has not been sanctioned and/or supplied by Business Systems personnel.

8.5.1. Mobile Computers Specifics

- Before transporting a laptop or any portable PC equipment, users must ensure that:
 - The equipment is properly packed into an appropriate carrying device i.e. a laptop bag
 - The equipment must be properly powered down before transport,
 - The user must ensure that the DVD/CD ROM drive is properly closed and that nothing is sticking out of the laptop prior to packing it away.
 - The equipment is password protected
- The user is responsible for the safe keeping of the equipment in transit and whilst it is not on a Council site. You must check with your

insurance provider that any equipment on loan from the council is covered.

- Do ensure that:
 - Any mobile computer equipment is stored out of view in an unattended car.
 - When not in use the equipment is stored in its proper protective carry cans and stored securely
 - The protective case is not used to store items it was not designed to store.

- It is the user's responsibility to report any fault, damage or loss of the equipment immediately.

8.5.2. Health and Safety.

- Do ensure that the equipment is installed in a safe and stable environment.
- Do not remove the case or cover or in any way disassemble or dismantle any computer equipment
- Do not move, lift or physically shift any non-mobile computer equipment.

8.6. Remote Access

The Council understands the need for a flexible approach to working, and the need for a fair work life balance and to this end the Council has made it possible for some employees to work at home or offsite at convenient locations via the use of remote access to Council ICT systems. In order to take advantage of these facilities, users must follow these rules.

8.6.1. Working at home

- All current Business Systems policies remain in place and the user agrees to abide by them.
- Do not allow other persons to gain access to Council ICT systems or equipment
- All IT equipment will be supplied and installed by Council Business Systems staff.
- A user may remotely access the Council's computer systems using their own home PC via Citrix Secure Gateway.

- If personal equipment is used for home working the owner/user is required to have an up to date Antivirus system installed and to ensure that any Havering work documents are not stored on the equipment.

8.6.2. Working offsite

- It is the user's responsibility to ensure the safe keeping of the equipment and any records or information stored on it. You must check with your insurance provider that any equipment on loan from the council is covered.
- Do not connect Council equipment to another non Havering Council network

8.6.3. Health and Safety

- Before computer equipment is installed at a user's home location, a DSE Assessment must carry out
- A Risk Assessment must be carried out prior to setting up any mobile computer Council equipment.

8.7. Security

The Council has invested a great deal of funds and resources into its computer systems and the data held on it. Therefore it is important to ensure that the equipment and the data stored upon it are kept secure and safe.

It is incumbent on the Heads of Service to ensure that all long term leave and leavers are immediately reported to the ICT Service Desk

8.7.1. Equipment

- It is the responsibility of the user to keep Council issued equipment safe and secure.
- Any theft, loss or damage to Council issued equipment must be reported to the ICT Helpdesk immediately.
- Do not allow any non-Council employee to access Council equipment and resources with Council issued equipment

8.7.2. Log in

- Do not write down your user name and password.
- Do not share your user name and password with anyone else.

- Do not allow other users to log in with your username and password.
- Your password must be at least 6 alphanumeric characters in length and contain at least 1 alpha and 1 numeric character EG passw0rd or 2514T26
- If you leave you PC unattended for any length of time you must lock the pc or log out completely.

8.7.3. Data

- All users must ensure that any Council data stored on any device is kept in a secure and safe manner.
- If a user is removing or transporting data of any type it is important to keep a log of what the data is.
- Loss of data must be reported immediately to the Helpdesk and the Information Governance section.
- A user may not discuss or disclose any data in their safe keeping, unless it is as part of their normal day to day working practices
- A user may not discuss or disclose any data to any unauthorized party.
- A user may divulge data in their safekeeping, if they are disclosing the information as part of the 'whistleblower' process.
- Wherever possible all data must be stored on the Council network and not on local drives or other storage devices
- If a user has data stored locally or on any form of storage device for transport or working off line, it is the user's responsibility to ensure that all the data is returned and stored on the network as soon as possible.
- Once information has been transferred to the council's network, the user must delete the local copy.

8.8. Tidy Desk.

The space in which you work is important, it must be kept clean, tidy, and free of clutter and distractions, to ensure that you work effectively, a clear desk also minimises the risk of information loss or accidental disclosure and a cluttered, disorganised workspace does not make for the most enjoyable working experience. A guide to keeping a tidy desk is available on the intranet.

- Do keep your desk and workspace clutter free, put things away safely when you are not using them.

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- Do not store anything under desks, as this is a health and safety violation.
- Do not have any documents or files on your desk that you are not directly working on, if you have files or documents that you need later than place them in a desk tray out of the way.
- Do file or return to file any document when you have finished with them.
- Always store disks, documents, files and folders in a secure place and do not leave them on your desktop if you are going to leave your desk unattended for any length of time such as lunchtimes or meetings.
- At the end of each day all documents or files must be returned to file or stored in a locked desk draw or filing cabinet. No documents can be left on the desktop or in desk trays.
- Do not leave floppy disks, stationery, folders or other item on your desktop overnight.
- Do not leave documents in box files on your desk put the box files in a suitable cupboard, if the files are sensitive or contain personal information then the box file in which they are stored must be kept in a lockable cupboard.
- Always return shared documents or files (such as case files, personal files etc) to the appropriate place as soon as you have finished with them so that others can use them if necessary.



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	21 NOVEMBER 2007	9

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: LOCAL IMPROVEMENT NETWORK FOR HEALTH AND SOCIAL CARE (LINK)

SUMMARY

The new Local Government & Public Involvement in Health Act requires the Council, as an authority having social services responsibilities, to procure a “host organisation” to set up and run a Local Involvement Network. Current indications are that such arrangements will need to be in place for 1 April or as soon as practicable after then.

This report invites approval of suggested delegation of authority to ensure that the Council is in a position to meet its new statutory obligations.

RECOMMENDATION

That the Committee **RECOMMEND** to the Council the following addition to the scheme of delegation in the Council’s Constitution:

In Part 3, section 3.9.2 (ACE Legal & Democratic Services)

Add new para. 32:

Democratic Services Manager

To manage day to day the contract between the Council and the Host organisation for the Local Involvement Network for Health and Social

Care (LINK), including (but not limited to) references between the LINK and the relevant Overview & Scrutiny Committee.

REPORT DETAIL

- 1.1 Among the various changes introduced by the recently enacted Local Government & Public Involvement in Health Act 2007 is a requirement for local authorities that have social services responsibilities to procure and manage an organisation (to be known as “the host”) to set up and run a Local Improvement Network (LINK). The LINK replaces the existing Patients’ Forums for NHS organisations, but has an extended role covering both NHS services and local authority Adult and Children’s Social Care facilities.
- 1.2 Essentially, the LINK is a means of involving the public in scrutinising existing health and social care facilities and of influencing the future development of such facilities. The statutory powers of the LINK will enable duly-accredited members to enter and inspect health and social care facilities, both public sector and private (other than areas that are, in effect private, residences), and to report findings and recommendations as to changes needed to the respective provider authorities and organisations (including certain private sector owners). The LINK will also have the ability to refer matters direct to the relevant Overview & Scrutiny Committees (in Havering, Adult Services, Children’s Services and Health), and the OSC(s) will be obliged to consider what the LINK has said (although there will be no obligation to adopt any such recommendations).
- 1.3 Existing Patients’ Forums are to be abolished on 31 March 2008. Although there was an expectation that the LINK would be in place to take over on 1 April, the reality is that as the Act has only recently been enacted and therefore necessary secondary legislation and guidance has yet to be made available, it is inevitable that there will be a delay before the LINK can be put in place. While that is accepted by the government, there should be no avoidable delay. To that end, the government has already made £10,000 available to the Council for the necessary procurement exercise.
- 1.4 The initial contract period for the LINK host contract is to be three years (although it is likely that extension will be possible). Even if the original deadline of 1 April is now accepted as unachievable, the formalities of procurement and contracting have meant that work has already begun on procurement, not least because a LINK host has to be in place before any serious work can begin on deciding how the LINK in Havering will be shaped.
- 1.5 The LINK will have power to inspect and report on – and thus to criticise – social care facilities provided by the Council, whether directly

as provider or in partnership with others or indirectly under contract placing individuals for whom it has a responsibility in privately-owned facilities. It will be able to exercise such power in relation to facilities providing for both adults and children. Accordingly, it is considered that both Adult Services and Children's Services have conflicts (or potential conflicts) of interest that mean that it would be inappropriate for them to manage the Council's involvement with the LINK and its host.

1.6 Rather, it is proposed that this role should be undertaken within Democratic Services. This would particularly emphasise and support the LINK's duty to work with the Overview & Scrutiny Committees.

1.7 The Committee is therefore invited to agree a delegation of authority to that end. Further reports will follow in due course as to other amendments necessary to the Council's Constitution as the operational details of the LINK become clearer.

Financial Implications and risks:

2.1 It is understood that the Government intends to make additional finance available, by formula, to local authorities to support the cost of LINKs. At present, it is not known how much will be available to Havering (and therefore whether any additional demand will be made on local funds to supplement an inadequate government allocation). There is therefore a risk that the resources required to support this will not be matched by government funding; future reports will clarify this. An initial £10,000 has been paid, to support the procurement process.

Legal Implications and risks:

3.1 The Act imposes inescapable obligations with which the Council must comply.

Human Resources Implications and risks:

4.1 None arising directly from this report. It is expected that the additional workload arising from the introduction of the LINK will be absorbed within existing resources in Democratic Services.

Equalities implications and risks:

5.1 Among the aims of the LINK process is representation of people, who by reason of illness or disability, are vulnerable and who are unable to represent themselves in dealings with health and social care commissioners and providers.

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CHERYL COPPELL
Chief Executive

Background Papers List

None.



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	21 NOVEMBER 2007	10

This report is submitted with the agreement of the Chairman as an urgent matter, pursuant to Section 100B(4) of the Local Government Act 1972

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: OUTSIDE AND OTHER BODIES – representation by Members
– proposed guidance

SUMMARY

The Governance Committee appoints representatives and nominees to over seventy organisations. Including sub-committee appointments, Havering Members sit on 85 bodies. This report suggest that the Committee adopt guidance which sets out what Members can and cannot do and what they should and should not do.

RECOMMENDATION

That the proposed guidance be adopted.

REPORT DETAIL

1. Soon after the Annual Council meeting each year this Committee appoints representatives or makes nominations to over 70

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organisations. Added with sub-committee appointments etc. Havering Members sit on 85 bodies as a direct appointment by the Council.

2. Several Councils issue guidance to Councillors who serve on outside bodies as their representative(s). Havering has not done this before but it is suggested that such a practise should be adopted.
3. Attached as an appendix is a document "Guidance for Councillors involved in outside and other organisations as the Council's representative or nominee".
4. The guidance stresses what Members should do before they put themselves forward for appointment and sets out their duties and responsibilities once they do represent the Council. The guidance also sets out in summary some of the legal framework associated with statutory corporations, companies, un-incorporated associations and charities. It also refers to declarations of interest but is not intended to replace in any way the provisions found in the Members' Code of Conduct (Part 5 Section 1 of the Constitution).
5. Should the Committee adopt this guidance it would be made available to all Members and it might well be the case that Group Leaders would like to make it available to particular individuals by way of a reminder before their names are put forward to serve on any outside or other organisations.
6. It should be noted (paragraph 10b of the appendix) that Members are required to notify the Monitoring Officer of Members of any outside body for inclusion in the public register of interests.
7. There are no financial implications or risks, legal implications or risks, human resource implications or risks or equalities or social inclusion implications or risks directly associated with this report.

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CHERYL COPPELL
Chief Executive

Background papers – there are none

APPENDIX**Guidance for Councillors involved in Outside and Other Organisations as the Council's representative or nominee**

- 1 This guidance note is for Councillors appointed or nominated by the Council to represent it on outside and other bodies who should bear it in mind when carrying out their duties.
2. Any member of such a body has a responsibility to take the task seriously, attend meetings and carry out work for the body. Some organisations have rules about attendance (e.g. missing a number of consecutive meetings may lead to loss of the place on the committee). In view of the demands on councillors' time and energy, it is prudent to check out what is expected before accepting a place and to be clear what commitment can be made right from the start.
3. If you are asked to allow the Council to put your name forward, you should find out what will be expected of you. Any organisation which asks the Council for a nomination should be able to provide this information. If it is unable to provide such information, you should ask yourself whether you wish to be a member of such an organisation.
4. As a member of an outside body, you will be expected to participate fully in that organisation. If your other commitments mean that you will regularly have to miss meetings of the organisation, or that you have to withdraw from meetings because of conflicts of interest, you will be doing that organisation no favours, and this may reflect badly on the Council. Therefore do not allow your name to be put forward unless you are satisfied that you can participate fully in that organisation.
5. What does representation entail?
 - acting according to the rules, constitution and framework set by the outside or other body.
 - making independent and personal judgments in line with the duty of care to the body.
 - behaving ethically and following as far as applicable the Council's local Code of Conduct for Members.
 - taking an active and informed role in the body's affairs.

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- Helping to promote the cause or raise the profile of the organisations concerned particularly when the body has charitable status

It does not mean

- following instructions from a political party or group to which the Councillor may owe their political loyalty.
 - looking at things simply from the Council's perspective.
 - Making financial or other commitments on behalf of the Council.
 - being there in name only and merely turning up to meetings.
6. The role of councillors on outside and other bodies may give rise to occasional conflicts of interest. The Council's Code of Conduct for Members addresses some of the issues in this respect. In essence, if any matter relating to the outside or other body comes up in the course of the councillor's work as a councillor, it is likely that the councillor will have an interest which they will have to disclose. Where the conflict is such that it might be considered likely to affect the way that the councillor would vote or act as a councillor, he/she may have not only to disclose the outside interest but to take no part in the consideration of the matter.
 7. If there is a major dispute between the Council and the outside or other body, the councillor could be placed in an untenable situation. It is possible that the councillor may find he/she is unable adequately to carry out their responsibilities properly, both as a councillor and as a member or director of the body. Such circumstances would be rare and should not deflect councillors generally from being prepared to participate in the management and running of outside organisations.
 8. In almost all circumstances you will owe a duty to act in the best interests of that body. You will have to exercise your own best judgement and you cannot just take instructions from the Council. It is permissible to take account of the Council's wishes, but in any conflict, you must act in the best interests of the outside body. The Council recognises this in appointing or nominating you.
 9. Your responsibilities as a member of an outside body depend on the legal form of that body. The principal forms are:
 - (a) Statutory corporations

These are bodies which are set up under by statute. There is a wide range of such statutory corporations, including school governing bodies, universities, combined Police and Fire Authorities, and many "quangos". The members of the statutory corporation, such as the governors of a school, and how they are appointed is set out in the statute, as are the powers of the

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statutory corporation. That statute will also set out the responsibilities and liabilities of members of the corporation.

(b) Companies

Companies are separate legal entities which are set up by their members, who may be either shareholders or guarantors. In a company limited by shares, each member's personal liability is limited to the face value of their shares. In a company limited by guarantee, their personal liability is limited to the value of their guarantee, which may be as little as £1. The structure of the company, and its powers, in terms of the activities which it may undertake and its powers to buy and sell land, employ staff or enter contracts are defined in its Memorandum and Articles. Directors of companies can incur personal liability for their actions or failings, particularly if the company becomes insolvent. The extent of the responsibilities and liabilities of company directors has recently been extended by legislation. Industrial and Provident Societies (IPSs), are similar to companies, but the member's liability is limited to their annual subscription to the association. This legal structure is popular for housing associations.

(c) Unincorporated Associations

Unincorporated associations are more or less informal organisations, in which the members regulate their relationship by a contract, such as a membership agreement or the rules of the club or association. Because the association has no legal existence separate from its members, there can be no limited liability. Each member incurs full personal liability for his/her own actions, and relies on the membership contract to be able to recover his/her costs from the other members.

(d) Charities

Some companies and unincorporated associations are also charities. To be a charity, the body or organisation must satisfy the Charity Commissioners that it is directed to charitable objectives. As a charity, it gains relief from corporation tax, VAT and business rates, but is subject to stricter regulation by the Charity Commissioners, to ensure that it is properly managed and that it is spending its money properly on the charitable objects.

For further information see the attachment.

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- 10 Each member of the Council, elected or co-opted, is required to sign an undertaking to observe the provisions of the Code of Conduct for Members. The requirements of the Code can be summarised as:
- a. a requirement to comply with specific rules in respect of the member's conduct;
 - b. a requirement to notify the Council's Monitoring Officer of membership of or employment by any outside body, which information will then be included in a public register of interests;
 - c. when any matter affecting such an outside body comes before the Council and the member would in any manner be involved in consideration of that matter, to disclose the member's interest in that outside body and, in cases where a significant conflict of interest arises, to withdraw from taking any part in that consideration.
11. Where a member fails to register all such interests, fails to disclose such an interest or fails to withdraw when required to do so, any person may make a complaint to the Standards Board for England. If the member is adjudged by a Case Tribunal to have failed to comply with the Code of Conduct, a Case Tribunal can suspend the member in whole or in part for up to one year, or in extreme cases can disqualify the member from being a member of any local authority for up to five years.

ATTACHMENT**1. COMPANIES**

- 1 On incorporation a company becomes a separate legal entity which can hold property in its own right, enter into contracts, employ staff and sue and be sued in its own name. The company is distinct from its members, who may be either shareholders or guarantors.
- 2 Companies limited by shares are those which have a share capital (e.g. 1000 shares of £1 each). Each Member holds shares and receives a share in the profits made by the company according to the value of the shares held. Shares can be sold, although there may be restrictions requiring the shares to be offered to existing shareholders. In the case of a limited liability company, the liability of members of the company is limited to the amount they paid or agreed to pay when they joined the company, or the amount of their guarantee. This can be as little as £1.
- 3 Companies limited by guarantee are those where there is no shareholding. Instead each Member agrees that in the event of the company being wound up they will agree to pay a certain amount. This may also be as little as £1.
- 4 Where a company is a trust, it is not permitted to distribute any profit to its shareholders, but must ensure that any such profit is ploughed back into the business. Trust companies are normally limited by guarantee, and this form of company is the most usual form in the public and voluntary sector, particularly where charitable status is sought.
- 5 The management of a company is generally the responsibility of a board of directors, elected by the members of the company. The powers of the directors are usually set out in the company's Articles of Association (the rules each company has to govern its internal management). Sometimes even though a company has been incorporated the directors may be referred to as members of the committee of management, governors or even trustees. However this does not change their status as directors. Conversely, sometimes officials are called directors but they are not members of the board. Again their status will not be affected. Directors are those who are appointed by the company to act in that capacity.

6 Directors' Duties

A director is an agent of the company. His/her prime duties are as follows:-

- (1) A fiduciary duty to the company (not to individual shareholders) to act honestly and in good faith and in the best interests of the

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company as a whole. Directors are therefore in the position of "quasi trustees" who must take proper care of the assets of the company. The fiduciary duty of the director towards the company is very similar to the fiduciary duty of councillors to the Council Tax payers.

- (2) A general duty of care and skill to the company. So long as the Company remains solvent, a director requires no greater skill than might reasonably be expected of someone of that individual's particular knowledge and experience. A director is not deemed to be an expert, but is expected to use due diligence and to obtain expert advice if necessary. However if the Company becomes insolvent, the Court may expect that the director brings an appropriate level of skill, competence and experience to the job.
- (3) Like a councillor in respect of Council decisions, the director is under a duty to exercise independent judgement, though it is permissible for him/her to take account of the interests of a third party which he/she represents. In such a case the director must disclose that position and treads a fine line between the interests of the company and the party represented (in this case the authority). The director cannot vote simply in accordance with the authority's instructions. To do so would be a breach of duty.
- (4) There may be actual or potential conflicts between the interests of the company and those of the Council. The councillor or officer cannot waive their statutory responsibilities as a director. So they may have to cease to act as a councillor or officer in relation to the particular matter.
- (5) Directors are not allowed to make a private profit from their position. They must therefore disclose any interests they or their family may have in relation to the company's contracts. Whether they are then allowed to vote will depend on the Articles of Association. Equally, officers are not allowed under cover of their office to take any more than their proper remuneration. They must obtain the consent of their employing authority if they are to receive any remuneration from a company to which they have been appointed by their employing authority.
- (6) Directors must ensure compliance with the Companies Acts in relation to the keeping of accounts, and that the relevant returns are made to the Registrar of Companies. Directors of charities have similar responsibilities to ensure compliance with charities law. Failure to do so may incur fines and persistent default can lead to disqualification as a director.

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7 Directors' Liabilities

- (1) The company's identity must clearly be shown on its stationery. The company number, place of registration, registered office address and if any of the directors' names are shown then they must all appear. Non-compliance is an offence and the directors and company officers can be fined.
- (2) A company can only act within the scope set out in its Memorandum of Association (the document which sets out the objects of the company). A director who knowingly causes the company to act beyond the activities set out in the Memorandum can be liable personally. In very limited circumstances it is possible for the actions of the directors to be ratified by the Members of the company after the event.
- (3) A director may also be liable for breach of trust, if he/she misapplies the money or property of the company. Directors may also be liable if they fail to take action to prevent the breach of a co-director of which they are aware.
- (4) In the event of failure to act in accordance with the best interests of the company, or if a director uses his/her powers improperly or makes personal profit from his/her position as director, then the director may be personally liable for loss to the company and may be required to give the company the personal profit made.
- (5) If the level of skill and care shown by a director falls below that which could be reasonably expected and the company suffers loss, the director will be liable for the loss incurred. However if it believes the director acted honestly and reasonably, a Court may excuse the director liability.
- (6) If a company continues to trade despite the fact that the directors know or ought to know that there is no reasonable prospect of the company meeting its liabilities, this is "wrongful trading". Where a director participates in wrongful trading, a Court may require that director to meet any creditor's additional losses resulting from the failure of the company to cease trading as soon as it knew that it could not remain solvent. No such order will be made if the Court is satisfied that the director took all reasonable steps to minimise the loss to the creditors. If a director has concerns about the company's financial position he/she could be well advised to inform the other directors and seek advice from the company auditors.
- (7) A director will also be liable if to his/her knowledge the company carries on business with intent to defraud creditors or any other person, or for any other fraudulent purpose. Fraudulent trading can also lead to disqualification from acting as a director.

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- (8) All cheques and similar documents which purport to be signed on behalf of the company must bear the company name. Where they do not, the director signing on behalf of the company may be liable to a fine and may also be liable to the payee if the company fails to honour the cheque. It is therefore wise for directors to make sure that all documents they sign on behalf of the company state very clearly that they act as agent for the company, (e.g. Director, for and on behalf of.....)
- (9) A third party who enters into a contract on the assumption that a director has power to bind the company, may be liable to claim damages against the director if it subsequently transpires that the director had no such power. Directors would be well advised to ensure that contracts are approved by the board and that the authority to enter into any contract has been properly delegated before signing it.
- (10) Though company liability ceases on dissolution the liability of the directors (if any) may still be enforced after dissolution.

8 Indemnities

Councillors who are directors cannot be indemnified by the company against liability arising out of negligence, default, or breach of duty or trust. However the company's Articles of Association may allow for directors to be indemnified by the company in respect of the cost of defending such proceedings if the director is granted relief by the Court or acquitted. It is lawful for companies to purchase insurance to protect its directors against claims of negligence, breach of duty, trust, default etc. Directors would be well advised to ensure that such a policy of insurance is maintained at all times.

9 Local Authorities (Companies) Order 1995

- (1) This Order, made under the Secretary of State's powers contained in Part Five of the Local Government and Housing Act 1989, sets out rules concerning local authorities' involvement in "regulated companies" which are subject to extensive controls, and their involvement in other companies where a number of rules apply.
- (2) "Regulated companies" are so defined if they are controlled or influenced by the local authority. "Influenced companies", under the effective control of the local authority, will be subject to the capital finance regime and special property controls. In broad terms, the test as to whether companies are local authority influenced is whether the local authority has the right to or in fact does exercise a dominant influence over the company in question.
- (3) The original concept of controlled influenced and minority interests in companies were introduced by the 1989 Act. "Influenced" means at least 20% local authority interest plus a business relationship

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with the company accounting for over 50% of the company's turnover and/or the company was located on local authority land leased or sold for less than best consideration. "Controlled" means over 50% local authority interests, and "minority" less than 20% interest. The concept in the 1989 Act stands, but the Order introduces the term "regulated".

- (4) A local authority influenced or controlled company must state this on all business documents.
- (5) Councillors or officers who are directors of outside companies to which they have been nominated by the Council are under the following obligations:-
 - (a) (Councillors only) that the remuneration they receive from the company should not exceed that received from a local authority and should be declared.
 - (b) to give information to councillors about their activities required by the local authority (save for confidential information) and
 - (c) to cease to be a director immediately upon disqualification (councillor) or termination of their employment by the Council.

You will be notified by officers if you are appointed to a regulated local authority company.

2. CHARITIES

2.1 To be a charity an organisation must operate for a charitable purpose. There are four such charitable purposes:

- the relief of poverty and human suffering
- the advancement of education
- the advancement of religion
- another purpose for the benefit of the community.

It must operate for the public benefit and have exclusively charitable purposes. An organisation which operates for political purposes will not qualify for charitable status.

2.2 To register as a charity the organisation must submit its completed constitution (usually Certificate of Incorporation and the Memorandum and Articles of Association of a company limited by guarantee) to the Charity Commissioners for approval. If they are satisfied that the organisation is charitable it will be registered as such.

2.3 Those who are responsible for the control and administration of a charity are referred to as its trustees, even where the organisation is a company limited by guarantee even though they are not strictly trustees. Trustees of a charity retain personal liability, and can only delegate to the extent that the constitution authorises them so to do

Governance Committee, 21 November 2007**2.4 Trustees' Duties**

- (1) Trustees must take care to act in accordance with the constitution and to protect the charity's assets. They are also responsible for compliance with the Charities Acts, and should note the particular requirements of the Acts in respect of land transactions.
- (2) Trustees must not make a private profit from their position. They cannot receive remuneration without the sanction of the Charity Commission. They must also perform their duty with the standard of care which an ordinary, prudent business person would show. Higher standards are required of professionals, and in relation to investment matters.
- (3) Charitable trustees must ensure that the information relating to the charity and trustees is registered with the Charity Commissioners and that annual accounts, reports and returns are completed and sent.
- (4) If charitable income exceed £10,000, the letters, adverts, cheques etc must bear a statement that the organisation is a registered charity.
- (5) Trustees are under a duty to ensure compliance with all relevant legislation (e.g. in relation to tax and land matters).

2.5 Trustees' Personal Liability

- (1) Generally a trustee incurs personal liability if he/she:-
 - acts outside the scope of the trust deed
 - falls below the required standard of care
 - acts otherwise than in the best interests of the charity, in a way which causes loss to the charity fund
 - makes a personal profit from the trust assets

In such circumstances the trustee will incur personal liability for losses incurred.

- (2) If in doubt, always consult the Charity Commissioners. A trustee who does so can avoid personal liability for breach of trust if he/she acts in accordance with the advice given.
- (3) Trustees of a trust can be liable personally to third parties unless the trust is also a company, and therefore has a separate legal identify from the trustees. The constitution will normally provide for trustees to be given an indemnity from the trust assets, provided they act properly in incurring the liability. Trustees remain personally liable for their own acts and defaults once they have retired. If they have entered into any ongoing contracts on behalf of the trust they should seek an indemnity from their successors. If

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the charity is a company, the trustees will be protected from liabilities incurred in the day-to-day running of the charity in the normal course, but will be personally liable if they commit a breach of trust (see (1) above).

- (4) Trustees may be liable to fines if they do not comply with the duty make returns etc.

2.6 Indemnities

An indemnity can be given from the trust fund provided the trustees has acted properly and within his/her powers. Trustees may take out insurance to protect themselves against personal liability but not for criminal acts, fraud etc. There will be no problem if the trustees themselves pay the premiums but if they are paid out of the charitable funds the trustees will need the consent of the Charity Commissioners first, unless the trust deed allows it.

3. MANAGEMENT COMMITTEES

3.1 Unincorporated Associations

Groups which are not charitable trusts or companies are "unincorporated associations" and have no separate legal identity from their members. The rules governing the members' duties and liability will be set out in a constitution which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for a management committee to be responsible for the everyday running of the organisation. An unincorporated organisation may be charitable and may register as a charity.

- 3.2 Property will have to be held by individuals as the association has no legal existence of its own.

3.3 Duties

Broadly, Management Committee members must act within the constitution, and must take reasonable care in exercising their powers.

3.4 Liabilities

- (1) Generally, the Management Committee members are liable for the acts of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the Committee members are personally liable for the shortfall.
- (2) If one person is appointed by the constitution to act as the agent of the organisation for certain purposes, then that person acts as the agent for all the members, who have joint liability for the agent's actions.

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- (3) Members of the Committee of Management will have personal liability if they act outside the authority given to them or if they do not comply with statute e.g. the payment of employees' tax etc.

3.5 Indemnities

Members will be entitled to an indemnity if they act in accordance with the constitution and are not at fault. It is possible to obtain insurance but if the organisation is to pay the premium it must be permitted by the constitution.