

SECTION 11 – CODE OF CONDUCT FOR MEMBERS

LOCAL GOVERNMENT ASSOCIATION MODEL COUNCILLOR CODE OF CONDUCT 2020

1. JOINT STATEMENT

- 1.1 The role of Councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as Councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual Councillor affects the reputation of all Councillors. We want the role of Councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.
- 1.2 As Councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.
- 1.3 Importantly, we should be able to undertake our role as a Councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.
- 1.4 This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.
- 1.5 As Councillors, we will also, in so far as is practicable, act in accordance with the values and behaviours of the Council. These are also attached to this Code.

2. INTRODUCTION

- 2.1 The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.
- 2.2 All councils are required to have a local Councillor Code of Conduct.
- 2.3 The LGA will undertake an annual review of this Code to ensure it continues to be fit for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and Councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

3. DEFINITIONS

3.1 For the purposes of this Code of Conduct, a “Councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

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

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

3.2 For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

4. PURPOSE OF THE CODE OF CONDUCT

4.1 The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and local government.

5. General principles of Councillor Conduct

5.1 Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, Councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

5.2 Building on these principles, the following general principles have been developed specifically for the role of Councillor.

5.3 In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of Councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

6. APPLICATION OF THE CODE OF CONDUCT

6.1 This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.

6.2 This Code of Conduct applies to you when:

- you are acting in your capacity as a Councillor and/or as a representative of the Council
- you are claiming to act as a Councillor and/or as a representative of the council
- you are giving the impression that you are acting as a Councillor and/or as a representative of the Council
- you refer publicly to your role as a Councillor or use knowledge you could only obtain in your role as a Councillor.

6.3 The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

6.4 You are also expected to uphold high standards of conduct and show leadership at all times.

6.5 Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish Councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

7. STANDARDS OF COUNCILLOR CONDUCT

- 7.1 This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.
- 7.2 Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. *Respect*

As a Councillor:

- 1.1 I treat other Councillors and members of the public with respect.**
- 1.2 I treat the Councils employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidating or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Councillor-officer protocol.

2. *Bullying, harassment and discrimination*

As a Councillor:

- 2.1 I do not bully any person.**
- 2.2 I do not harass any person.**
- 2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be

obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. *Impartiality of officers of the Council*

As a Councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the Council.

Officers work for the Council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. *Confidentiality and access to information*

As a Councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**

- iii. **the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. **the disclosure is:**
 - 1. **reasonable and in the public interest; and**
 - 2. **made in good faith and in compliance with the reasonable requirements of the Council; and**
 - 3. **I have consulted the Monitoring Officer prior to its release.**
- 4.2 **I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**
- 4.3 **I do not prevent anyone from getting information that they are entitled to by law.**

The Council must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. *Disrepute*

As a Councillor:

5.1 I do not bring my role or the Council into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow Councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. *Use of position*

As a Councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. *Use of local authority resources and facilities*

As a Councillor:

7.1 I do not misuse Council resources.

7.2 I will, when using the resources of the Council or authorising their use by others:

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a Councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. *Complying with the Code of Conduct*

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. *Interests*

As a Councillor:

9.1 I register and declare my interests.

You need to register your interests so that the public, local authority employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be declared by you or other Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or declare a disclosable pecuniary (i.e. financial) interest is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and declaring interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. *Gifts and hospitality*

As a Councillor:

10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the Council, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor. If you are unsure, do contact your Monitoring Officer for guidance.

11. SOCIAL MEDIA PROTOCOLS

- 11.1 You must have due regard to any council social media protocols that apply and are relevant to you.

Appendix B Registering interests

1. Within 28 days of this Code of Conduct being adopted by the local authority or your election or appointment to office (where that is later) you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) and Table 2 (Other Registerable Interests). Disclosable Pecuniary Interests means issues relating to money and finances.
2. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
3. A 'sensitive interest' is as an interest which, if disclosed, could lead to the Councillor or co-opted member, or a person connected with the Councillor or co-opted member, being subject to violence or intimidation.
4. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Declaring interests

5. Where a matter arises at a meeting which directly relates one of your Disclosable Pecuniary Interests, you must declare the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest, just that you have an interest.
6. Where a matter arises at a meeting which directly relates to one of your Other Registerable Interests, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', again you do not have to declare the nature of the interest.
7. Where a matter arises at a meeting which *directly relates* to your financial interest or well-being (and is not a Disclosable Pecuniary Interest) or a financial interest or well-being of a relative or close associate, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.
8. Where a matter arises at a meeting which *affects* –

- a. your own financial interest or well-being;
- b. a financial interest or well-being of a friend, relative, close associate; or
- c. a body included in those you need to declare under Disclosable Pecuniary Interests, you must disclose the interest.

9. Where the matter affects the financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the Councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a Councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of**) and the council under which goods or services are to be provided or works are to be executed; and which has not been fully discharged.

Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licences	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
Corporate tenancies	<p>Any tenancy where (to the Councillor's knowledge)—</p> <p>(a) the landlord is the council; and (b) the tenant is a body that the Councillor, or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the Councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Councillor, or his/ her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

* 'director' includes a member of the committee of management of an industrial and provident society.

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

Table 2: Other Registerable Interests

<p>Any Body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the council;</p>
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Any Body -	(a) exercising functions of a public nature;
	(b) directed to charitable purposes; or
	(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
of which you are a member or in a position of general control or management.	

COUNCILLOR SOCIAL MEDIA PROTOCOL

1. INTRODUCTION

- 1.1 The Council wishes to encourage members' use of technology and also provide appropriate guidance for members wishing to use social media in their capacity as elected members. 'Social media' means the online tools, messaging services, websites and interactive media that enable users to interact with each other by sharing information, opinions, knowledge and interests.
- 1.2 The purpose of this protocol is to support members' use of social media through the provision of guidance and clarity as to what constitutes acceptable usage to ensure compliance with the Council's legal obligations and the general standards of conduct expected of members. This protocol should therefore be read in conjunction with the Code of Conduct for Members. This is found at <https://www.welhat.gov.uk/councillors/code-of-conduct/general-conduct>
- 1.3 The use of social media poses some risks to the Council's reputation which need to be managed and this protocol aims to ensure that councillors, and through them the Council, are not exposed to legal risks as a result of social media use and that the reputation of councillors, and through them the Council, is not harmed.

2. APPLICATION OF THE CODE OF CONDUCT FOR MEMBERS

- 2.1 This protocol will apply to councillors using social media who are acting in their capacity as a councillor, and in circumstances where a councillor is purporting or perceived to be acting as such. Councillors are bound by the Code of Conduct set out in Section 5a of the Constitution. Of particular emphasis, this includes (but is not limited to) the following:
 - a) Treating others with respect. It is implicit from this that members should not seek to bully, harass or defame anyone via social media
 - b) Complying with equality laws
 - c) Promoting and supporting high standards of conduct
 - d) Not bringing the council into disrepute
 - e) Not disclosing confidential information
- 2.2 The judgment of whether a member is perceived to be acting as a councillor will be made by the Monitoring Officer where required. Councillors should assume that any online activity may be linked to their official role.
- 2.3 For the avoidance of doubt, members should consider keeping their personal and political accounts separate or where this is inconvenient use clear expressions of intent (in the content or profile of the account) such as '*speaking entirely personally*' or '*the views expressed here are my personal opinion*'

3. OPERATION OF THIS PROTOCOL BY MEMBERS

3.1 Examples of good practice. Members should:

- a) Undertake any relevant training provided to be competent in the use of social media and specific platforms used (e.g. Facebook, Twitter, LinkedIn, Instagram, YouTube)
- b) Use secure passwords.
- c) Make use of robust privacy settings particularly if the content of the site is not meant to be accessed by the press or wider public.
- d) Never divulge password information to prevent 'hacking' and
- e) Consider using 'multi-factor authentication which relies on the use of more than one secure device to access an account
- f) Read the terms of service of any social media site accessed to understand confidentiality/privacy settings.
- g) Pay attention to privacy settings which can (if not activated) divulge the physical location of a member.
- h) Be transparent as to their identity when using social media.
- i) Use social media sparingly and discreetly at meetings, considering the impression this presents to others.
- j) Treat others with respect and not use social media to attack, insult, abuse, defame or otherwise make, offensive or discriminatory comments about residents, council staff and services, other councillors and/or organisations.
- k) Set the tone for their online conversations by being polite, accurate and transparent.
- l) Consider carefully any posts or images that they wish to place on line giving themselves the opportunity to cross check and alter the content before the 'send' button is pressed. Hasty and rash posts can be ill advised and may have potentially damaging consequences.
- m) Not leave on their web or social media pages comments made by others which may be equally damaging/defamatory.
- n) Acknowledge and correct any mistakes and not simply delete them. They should not alter previous posts without indicating that there has been a change.
- o) Safeguard and promote the welfare of vulnerable adults, children and young people in their online interactions.
- p) Be aware that social media content *may* be subject to Freedom of Information requests made to public bodies.

- q) Promote equality, not discriminate unlawfully against any person, and treat people with respect, regardless of their sex, race, age, religion, gender, sexual orientation or disability.
- r) Be mindful of people who are attempting to goad members into making a comment. An even-handed, reasonable and proportionate response is always preferable to conflict.
- s) Be cautious in requesting or accepting a Council employee or contractor providing services to the Council as a “friend” on a social networking site where this suggests close personal association.
- t) Take care when ‘liking’ or ‘sharing’ the views or comments of others as this could be perceived as an endorsement of the content regardless of the member’s intention.

3.2 Examples of poor practice. Members must not:

- a) Share their password with anyone. If members are using shared IT equipment, they should not store their password on the device.
- b) Bully or harass anyone and not say anything, particularly if it is part of a series of similar comments about a person or on a theme that might be construed as bullying or intimidation.
- c) Pursue a campaign repeatedly against a person that is likely to cause alarm, harassment or distress.
- d) Do anything to jeopardise the council’s obligations under the Freedom of Information and Data Protection Acts, and should not publish the personal data of individuals unless they have been given their express permission.
- e) Publish an untrue statement about a person which is damaging to their reputation as they may pursue a libel action against the member. A successful libel claim could result in the award of damages against members. No indemnity from the Council will be available.
- f) Use images or text from a copyrighted source (for example extracts from publications or photos), without obtaining permission, as this has the potential to breach copyright laws.
- g) Post malicious or obscene communications.
- h) Bring the council into disrepute by publishing anything that could reasonably be perceived as reflecting badly upon or lowering the reputation of themselves or the Council.
- i) Disclose information given to them in confidence by anyone, or information acquired by a member who s/he believes, or ought reasonably to be aware, is of a confidential nature. Members should-not write or report on conversations, meetings or matters that are meant to be confidential or internal to the council such as those held in exempt session or prior to the publication of reports.

- j) Engage the council's social media accounts in political conversations, as these accounts are managed by council officers for the benefit of residents and to inform them of services and news. Officers are not able to answer politically motivated questions.

4. PLANNING, LICENSING OR OTHER QUASI-JUDICIAL DECISION MAKING

4.1 Members should not say anything on social media – including via emails and texts – which suggests that they have made their mind up on an issue that is due to be formally decided. While a member’s view on a particular issue may be well known, they need to be able to demonstrate that they:

- a) have attended appropriate meetings
- b) were prepared to weigh all the evidence
- c) were genuinely persuadable to a different view

Members should be mindful of these points in their social media exchanges to guard against the possibility that their decision (and that of the relevant committee) may be later challenged as invalid on grounds of predetermination or bias. If a person has suffered detriment as a result of such an invalid decision, this may subsequently result in a claim against the Council for damages. Such a claim may refer to postings made by members on social media.

5. THE ELECTION PERIOD

5.1 Members who use social media for campaign purposes in the run up local elections (the ‘regulated period’) need to acquaint themselves with the rules relating to the declaration and reporting of expenditure relating to social media use (e.g. advertising via websites, YouTube videos). The Electoral Commission provides guidance for candidates and agents on such matters.

5.2 Members should also comply with any guidance issued by the Council to all candidates, agents and campaigners regarding the use of social media at elections (e.g. Polling stations, postal vote opening sessions) and other advice regarding how social media should be used to comply with relevant statutory provisions (e.g. Representation of the People Act 1983)

6. NON-COMPLIANCE WITH THIS PROTOCOL

6.1 Complaints received by the Monitoring Officer about Members’ non compliance with this protocol shall be considered in accordance with the Code of Conduct for Members. Non-compliance with this Code may result in a breach of the Code.

6.2 Anyone receiving threats, abuse or harassment via their use of social media should report it to the police Other inappropriate content can be reported to the social media site where members should ask for it to be removed.

7. ‘ONE TEAM’ BEHAVIOURS

7.1 Welwyn Hatfield Council is committed to a culture of 'One Team' i.e.

'Working together to keep Welwyn Hatfield a great place to live, work and study in a vibrant and growing economy' (Business Plan).

7.2 Officers (with their technical expertise) and members (with their unique and dynamic links to the community) are critical to the success of 'One Team' aims and objectives.

7.3 When using social media, members should wherever possible reflect on – and be guided by the **key behaviours** associated with the achievement of 'One Team' success. These 'behaviours' are published in the Council's business plan and many of these behaviours are also found in the 'Nolan Principles' (listed in the members Conduct of Conduct). When applied to members' use of social media these include:

- a) **Honesty** e.g. being truthful in social media postings and exchanges. This includes the avoidance of initiating or promoting disinformation ('fake news') or concealing one's identity whilst using social media. Members are reminded that they should *'not place themselves in situations where their honesty may be questioned, not behave improperly and....avoid the appearance of such behaviour'* (Nolan Principles).
- b) **Openness** e.g. being open about actions and decisions (and that of the Council) and being prepared to give reasons where required – albeit in a concise format (e.g. micro blog/ twitter).
- c) **Transparent** e.g. about decisions and decision-making when commenting on such matters within the bounds of expected (and legally required) levels of confidentiality.
- d) **Respect** for the skills, knowledge and abilities of officers – even where members disagree with a specific officer recommendation – particularly when commenting on controversial issues. Whilst members may well be **candid and direct** with their opinions and views, they should avoid the use of inappropriate language and attributing **blame** to individual officers who are not in a position to respond.
- e) **Preparedness** e.g. taking time to ensure that opinions expressed and information provided on social media is accurate - and demonstrate **humility** when evidence contradicts previously held views (personally or in the community).
- f) Focus on the **positive opportunities** afforded by using social media to provide a dynamic link to the views and concerns of the local community and in so doing:
- g) **'Walk towards problems'** and challenges to
- h) **Focus on solutions, and work together to gain consensus.**
- i) Communicate via appropriate (e.g. local Facebook) user groups to

demonstrate an inclusive approach and work on a '**no surprises**' basis with officers, the community and other partners to assess community challenges, present options and advise of decisions.

LOCAL CODE OF GUIDANCE FOR MEMBERS AND OFFICERS INVOLVED IN PLANNING MATTERS

CONDUCT OF MEMBERS DEALING WITH PLANNING MATTERS

1. STANDARDS

- 1.1 Members must have regard to and act in accordance with the standards set out in the Members' Code of Conduct which has been adopted by this Council under the Localism Act 2011.
- 1.2 Of critical relevance to the planning process is:
- The requirement that a Member must not in his/her official capacity or any other circumstances, use his/her position as a Member improperly to confer on or secure for him/herself or any other person, an advantage or disadvantage
 - The requirement for Members when reaching decisions to have regard to any relevant advice provided by an Officer of the Council with statutory responsibilities
 - The declaration of relevant interests
- 1.3 To ensure compliance with the required standards of conduct Members involved in planning matters should follow the procedures outlined below.

2. CABINET MEMBERS SERVING ON THE DEVELOPMENT MANAGEMENT COMMITTEE

- 2.1 In order to ensure a full exchange of information between the Cabinet and the Development Management Committee, one Cabinet Member may also be a Member of the Committee (but not as the Chairman or Vice-Chairman).
- 2.2 Any other Cabinet Member may act as a substitute on the Development Management Committee providing all necessary training requirements for planning have been met by that Member. If that Cabinet Member has participated at the Cabinet in relation to a landowning matter or any other matter likely to present a conflict of interest coming before the Development Management Committee, they must declare an interest and not participate nor vote in that matter coming before the Development Management Committee. Alternatively, the Cabinet Member may choose not to participate nor vote in a matter coming before the Cabinet and in so doing, may participate and vote when that matter comes before the Development Management Committee, providing the matter is not likely to present a conflict of interest.

DO'S AND DON'TS

- (a) Listen and take account of views, but in so doing should not favour or appear to favour any particular view.
- (b) Not accept gifts and hospitality from people with an interest in a planning proposal.
- (c) Follow the requirements and guidance contained in the Members Code

of Conduct (and in any subsequent statutory code) on the declaration of Members' disclosable pecuniary and other interests, if in doubt seeking the advice of the Monitoring Officer BEFORE any meeting of the Development Management Committee. The decision whether to make any such declaration rests ultimately with the Member.

MEMBERS MUST NOTE THAT THERE WILL BE OCCASIONS WHERE THEY LOSE THE RIGHT TO ACT AS A PRIVATE INDIVIDUAL AND SHOULD ASK ANOTHER MEMBER TO REPRESENT THEIR LEGITIMATE PERSONAL AND PRIVATE INTERESTS AS A "CONSTITUENT".

As a general guidance Members should **NOT** participate in the discussion or determination of matters:-

- in which they have a disclosable pecuniary or other interest in the matter and 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;
 - in which they could be seen to be using their position as a Member to secure preferential treatment or advantage or disadvantage for themselves or those with whom they are connected.
- (d) Members must notify the Governance Services Manager of certain financial and other interests for incorporation into the Council's statutory Register of Members' Interests.
- (e) Members must not serve on the Development Management Committee where substantial property interests, or other interests would prevent a Member from voting on a regular basis.
- (f) Members must play no part in the decision making process in respect of their own planning proposals to the Council or those of persons to whom the Member is acting as agent. This restriction does not prevent Members in seeking to explain and justify their proposal to an Officer in advance of consideration by the Development Management Committee in the same way as a Member of the public might.
- (g) When being lobbied, Members sitting on the Development Management Committee or Development Consultation Forum's in particular must take great care in not expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. To avoid doing so Members should:
- ⓐ Restrict themselves to giving procedural advice, including suggesting to those who are lobbying, that they should speak or write to the relevant officer, in order that their opinions can be included in the officers report to the Committee or Panel.

- (i) If Members do express an opinion, make it clear that any opinion expressed by them is their personal opinion, is not their final decision on the matter and that they will only be in a position to take such a decision after having heard all the relevant evidence and arguments at the Committee or Panel.
- (h) Members should never openly declare which way they intend to vote in advance of the Development Management Committee meeting and of hearing evidence and arguments on both sides. If they do so (i) below will apply.
- (i) If Members of the Development Management Committee decide as a response to lobbying to go public in support of a particular outcome, the sensible course of action for such a Member would be to make a declaration to that effect and not to vote on the issue. The Member may still address the Development Management Committee on the same basis as a Member who is not a Member of the Committee.
- (j) Members should in general avoid organising support for or opposition to an application and avoid lobbying other Members. Any political group meeting prior to a Development Management Committee should not be used to decide how Members should vote. (The use of political whips to seek to influence the outcome of a planning application may amount to misadministration).
- (k) Members should not put pressure on Officers for a particular recommendation and, as required by the Members Code of Conduct, should not do anything which compromises or is likely to compromise, their impartiality.
- (l) Members should only involve themselves in discussions on amendments to applications which might be required to overcome neighbour objections and/or Officer comments if they are accompanied by an Officer.

- (m) In dealing with enquiries relating to a planning or estate management scheme matter Members should comply with the following guidance.
 - (i) If the enquiry relates to a proposal for which a planning or estate management scheme application has been submitted, contact the Planning Officer or Estate Management Scheme Manager to ascertain the current position and the likely issues involved.
 - (ii) If the enquiry relates to a planning or estate management scheme decision, ascertain from the Planning Officer or Estate Management Scheme Manager what the decision was and the reason it was made and any other relevant background information. Also Members should ascertain what rights of appeal are available and whether there is an outstanding appeal.
 - (iii) If the enquiry refers to a proposal for which no planning or estate management application has yet been submitted, Members should refer the person concerned to the planning office or Estate Management Scheme Management.
- (n) Members of the Development Management Committee are allowed to take part in pre-application, in-application and post-application discussions with developers and other interested parties regarding development proposals. This engagement should accord with guidance in *Probity in Planning* by the Local Government Association and Planning Advisory Service. Where possible an officer should attend formal and informal meetings to ensure that debate takes place in a structured manner. It should always be made clear at the outset that discussions will not bind the Council to making a particular decision.

2. CONDUCT OF OFFICERS DEALING WITH PLANNING MATTERS

GENERALLY

- 2.1 Officers should at all times adhere to the standards set out in the Royal Town Planning Institute's (RTPI) Code of Professional Conduct.

During Pre-Application, Pre-Decision Discussions

- 2.2 Officers should comply with the following practices:

- (i) SUBJECT to (ii) below always make clear at the outset that the discussions will NOT bind the Council to making a particular decision and that any views expressed on the way a decision is likely to go in the light of the provisions of the development plan are given on a strictly without prejudice basis.
- (ii) Make clear if they have authority to bind the Council because they can determine an application under delegated powers. Any decisions taken under delegated powers must be well documented and recorded.

- (ii) Give consistent advice based upon the development plan and material considerations.
- (iii) Keep a written note of discussions.
- (iv) Ensure two officers attend potentially contentious meetings whenever possible.
- (v) Send follow up letters where it is important to add to or clarify points arising from discussions.
- (vi) Keep a written note of telephone discussions on file in respect of significant matters.
- (viii) Avoid hospitality from people with an interest in a planning proposal at all times. If receipt of hospitality is unavoidable officers should ensure it is of a minimum level and declare its receipt as soon as possible in accordance with the Council's Code of Practice concerning the same.

Officer Reports to the Development Management Committee

2.3 These must be:

- (i) Accurate - reports should cover the substance of objections and the view of people who have been consulted.
- (ii) Relevant - reports should include a clear exposition of the development plan, site or related history, and any other material considerations including reference to any technical appraisal which may have been carried out.
- (iii) Recommend Actions - reports should have a written recommendation of action, which should also weigh-up the human rights of persons affected by the recommendation where relevant. Recommended action must always be proportionate, that is the ends justify the means. Oral reporting (except to update a written report) should be extremely rare and carefully minuted when it does occur.
- (iv) Explain departures from provisions of the Development Plan policies - the material considerations which justify this must be stated.
- (v) Officer reports to Development Consultation Forums should be accurate and relevant, but do not need to recommend actions or explain departures from plans/policies.

Planning Applications Submitted by the Council

2.4 Planning applications submitted by the Council for its own development should be treated in the same way as those for private developers, both in terms of procedures and the assessment of material planning considerations, prior to their determination under delegated powers or presentation to the Development Management Committee.

3. PROCEDURES FOR DEVELOPMENT CONSULTATION FORUM

- 3.1 Members sitting on the Development Consultation Forum are presumed to have familiarised themselves with the site before the meeting at which the item will be presented:
- (i) In familiarising themselves with a site Members should avoid being persuaded to carry out site visits at the instigation of, or in the company of a developer/potential applicant.
 - (ii) If Members visit sites with local residents they should be careful, particularly if a Member of the Development Management Committee, not to offer a firm opinion on the matter and should follow the advice outlined in this Code.
 - (iii) Members should remember they cannot enter onto private land without first obtaining the permission of the owner and should endeavour whenever possible to familiarise themselves with a site from a public viewpoint.
- 3.2 Members at the Development Consultation Forum are able to question the developer and seek clarity about the proposals, but should not offer an opinion on the proposal. Any views will be "without prejudice" to the formal decision making process.
- 3.3 Members can express views and offer suggestions but are not able to require the developer to amend the scheme as a result of the Forum.
- 3.4 Time will be made available for interested parties and members of the public to speak and raise any issues, observations and comments and the developer/potential applicant will have the opportunity to respond.

4 SITE VISITS BY MEMBERS

- 4.1 Members sitting on the Development Management Committee are presumed to have familiarised themselves with a site before the meeting at which they will be asked to determine the planning application in respect of it:
- (i) Members should avoid being persuaded to carry out site visits at the instigation of, or in the company of a party to the planning application i.e. the applicant and/or their agent.
 - (ii) If Members visit sites with other residents/objectors they should be careful, particularly if a Member of the Development Management Committee, not to offer a firm opinion on the matter and should follow the advice outlined in this Code.
 - (iii) Members should remember they cannot enter onto private land without first obtaining the permission of the owner and should endeavour whenever possible to familiarise themselves with a site from a public viewpoint. Whilst a Member might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the Councillor is no longer impartial.

5. SITE VISITS BY DEVELOPMENT MANAGEMENT COMMITTEE

- 5.1 Site visits arranged by the Development Management Committee can cause delay and additional costs and should only be used if either of the following circumstances apply:
- (i) The impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by Officers.
 - (ii) There is a good reason why the comments of the applicant and objectors

cannot be expressed adequately in writing, or the proposal is particularly contentious.

5.2 If it is appropriate to defer consideration of a planning application pending a site visit, the site visit should be carefully organised to ensure that its purpose, format and conduct are clearly established at the beginning and subsequently adhered to. The following guidance should be noted and adhered to at all times:-

- (i) The purpose of a site visit is to observe the location of the site and its relationship to adjoining properties and the area generally, where this is relevant. The purpose of the visit is not to discuss the issues with either the applicant or any other third party.
- (ii) It is for Members to decide whether they wish to view the site from other property or undertake a wider visit to the immediate locality. The need will vary from case to case.
- (iii) If the applicant and/or the agent are in attendance at the site visit their only role is to bring to the attention of Members any aspect of the site or the surrounding area that they wish Members to familiarise themselves with. They should not be allowed to debate the merits of the proposal with Members.
- (iv) In instances where Members visit a neighbouring property the point made in paragraph (iii) above also applies to other third parties.
- (v) During the course of the site visit Members should not give any indication to the applicant or third parties of their opinion on the planning application.
- (vi) In order that the site visit runs as smoothly as possible the applicants and any other parties likely to be involved in the site visit will be advised of the above procedure prior to the visit whenever possible. If this is not possible the Officer will explain the procedures on the day.

5.3 The reasons for agreeing to a site visit should be fully minuted.

6. TRAINING

6.1 All members are required to attend all relevant training before sitting on the Development Management Committee.

6.2 Only members who have attended planning training can be appointed as substitutes for members of the Development Management Committee.