

**Tonbridge and Malling Borough Council**  
**Members' Code Of Conduct**

*Adopted by Council on : \_\_\_\_\_ 2007*

**Part 1: General provisions**

*Introduction and interpretation*

- 1.1 This Code applies to you as a member of an authority.
- 1.2 You should read this Code together with the general principles prescribed by the Secretary of State, which are set out in an annex to this Code.
- 1.3 It is your responsibility to comply with the provisions of this Code.
- 1.4 In this code—  
"council" means Tonbridge and Malling Borough Council;  
"meeting" means any meeting of—  
(a) the council;  
(b) the executive of the council;  
(c) any of the council's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;  
"member" includes a co-opted member and an appointed member.

*Scope*

- 2.1 Subject to sub-paragraphs 2.2 to 2.5, you must comply with the Code whenever you —  
(a) conduct the business of the council (which, in this Code, includes the business of the office to which you are elected or appointed); or  
(b) act, claim to act or give the impression you are acting as a representative of the council,  
and references to your official capacity are construed accordingly.
- 2.2 Subject to sub-paragraphs 2.3 and 2.4, this Code does not have effect in relation your conduct other than where it is in your official capacity.
- 2.3 In addition to having effect in relation to conduct in your official capacity, paragraphs 3.2(c), 5.0 and 6.0(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- 2.4 Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph 2.3) includes a criminal offence for which you have been convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

- 2.5 Where you act as a representative of the council—
- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with the council's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### *General obligations*

3.1 You must treat others with respect.

3.2 You must not—

- (a) do anything which may cause the council to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
- (b) bully any person;
- (c) intimidate or attempt to intimidate any person who is or is likely to be—
  - (i) a complainant,
  - (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct;
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the council.

4.0 You must not—

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is—
    - (aa) reasonable and in the public interest;
    - (bb) made in good faith and complies with any reasonable requirements of the council; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

5.0 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the council into disrepute.

6.0 You —

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of the council—
  - (i) act in accordance with the council's reasonable requirements;

- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.

- 7.1 When reaching decisions on any matter you must have regard to any relevant advice provided to you by —
- (i) the Director of Finance; or
  - (ii) the Monitoring Officer,
- where that officer is acting pursuant to his or her statutory duties.
- 7.2 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the council.

## **Part 2: Interests**

### *Personal interests*

- 8.1 You have a personal interest in any business of the council where either—
- (a) it relates or is likely to affect —
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the council;
    - (ii) any body –
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),
 of which you are a member or in a position of general control or management;
    - (iii) any employment or business carried on by you;
    - (iv) any person or body who employs or has appointed you;
    - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
    - (vi) any person or body which has a place of business or land in the council's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
    - (vii) any contract for goods, services or works made between the council and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
    - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
    - (ix) any land in the council's area in which you have a beneficial interest;

- (x) any land where the landlord is the council and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is the tenant;
- (xi) any land in the council's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of —
  - (i) other council tax payers, ratepayers or inhabitants of the ward affected by the decision; or
  - (ii) other council tax payers, ratepayers or inhabitants of the council's area.

8.2 In sub-paragraph 8.1(b), a relevant person is —

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph 8.1(a)(i) or (ii).

#### *Disclosure of personal interests*

- 9.1 Subject to sub-paragraphs 9.2 to 9.7, where you have a personal interest in any business of the council and you attend a meeting of the council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 9.2 Where you have a personal interest in any business of the council which relates to or is likely to affect a person described in paragraph 8.1(a)(i) or 8.1(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 9.3 Where you have a personal interest in any business of the council of the type mentioned in paragraph 8.1(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 9.4 Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 9.5 Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in the council's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

- 9.6 Subject to paragraph 12.1(b), where you have a personal interest in any business of the council and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- 9.7 In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

*Prejudicial interests generally*

- 10.1 Subject to sub-paragraph 10.2, where you have a personal interest in any business of the council you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- 10.2 You do not have a prejudicial interest in any business of the council where that business —
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
  - (c) relates to the functions of the council in respect of —
    - (i) housing, where you are a tenant of the council provided that those functions do not relate particularly to your tenancy or lease;
    - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
    - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
    - (iv) an allowance, payment or indemnity given to members;
    - (v) any ceremonial honour given to members; or
    - (vi) setting council tax under the Local Government Finance Act 1992.

*Prejudicial interests arising in relation to overview and scrutiny committees*

- 11.0 You also have a prejudicial interest in any business before an overview and scrutiny committee of the council (or of a sub-committee of such a committee) where —
- (a) that business relates to a decision made (whether implemented or not) or action taken by the council's executive or another of the council's committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph 11.0(a) and you were present when that decision was made or action was taken.

#### *Effect of prejudicial interests on participation*

- 12.1 Subject to sub-paragraph 12.2, where you have a prejudicial interest in any business of the council –
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held –
    - (i) in a case where sub-paragraph 12.2 applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;unless you have obtained a dispensation from the council's standards committee;
  - (b) you must not exercise executive functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- 12.2 Where you have a prejudicial interest in any business of the council, you may attend a meeting (including a meeting of an overview and scrutiny committee of the council or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

### **Part 3: Registration of Members' Interests**

#### *Registration of Members' Interests*

- 13.1 Subject to paragraph 14, you must, within 28 days of—
- (a) this Code being adopted by or applied to the council; or
  - (b) your election or appointment to office (where that is later),
- register in the council's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8.1(a), by providing written notification to the monitoring officer.
- 13.2 Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under in sub-paragraph 13.1 register details of that new personal interest or change by providing written notification to the monitoring officer.

#### *Sensitive information*

- 14.1 Where you consider that the information relating to any of your personal interests is sensitive information, and the monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

- 14.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 14.1 is no longer sensitive information, notify the monitoring officer asking that the information be included in the council's register of members' interests.
- 14.3 In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

## **Annex: The General Principles of Conduct in Public Life**

The Relevant Authorities (General Principles) Order 2001 specifies the principles which are to govern the conduct of members of relevant authorities in England and police authorities in Wales. The definition of a relevant authority includes a district council. The general principles are as follows:

### *Selflessness*

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

### *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.

### *Objectivity*

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

### *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.

### *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.

### *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.

### *Respect for Others*

Members should promote equality by not discriminating unlawfully 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.



### *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.

### *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.

### *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.

## **Protocols to the Code of Conduct**

The following protocols have been adopted by the Council as supplementary to the members' code of conduct. The standards committee has responsibility for overseeing compliance with these protocols and any allegations of failure to meet the requirements of these protocols must be made in writing to the Monitoring Officer. The protocols are:

- Protocol A Further provisions relating to the making of declarations under paragraph 13 of the Code
- Protocol B Member attendance at training
- Protocol C Gifts and Hospitality
- Protocol D Use of Council Resources by Members
- Protocol E Requirements of the Council relating to the disclosure of confidential material
- Protocol F Members` Planning Code of Good Practice
- Protocol G Members` Licensing Code of Good Practice
- Protocol H Political restrictions applying to independent members of the Council's Standards Committee

**Protocol A: Further provisions relating to the making of declarations under paragraph 13 of the Code**

- A1.1 You must make the written notifications specified in paragraphs 13.1 and 13.2 of the Code on the form prescribed by the monitoring officer for the purpose. If you do not have any interests to declare in any particular section of the form, you must state this on the form.
- A1.2 You must give written notification of any sensitive information to which you consider paragraph 14.1 of the Code applies on the form prescribed by the monitoring officer for the purpose.
- A1.3 Where you are unable by reason of disability to make the written notifications specified in sub-paragraphs 13.1 or 13.2 of the Code, you may make an oral declaration in the presence of the monitoring officer, who shall record the declaration in writing and endorse the form to the effect that you have made an oral declaration in his or her presence.
- A1.4 You must, within 28 days of any change in your name, provide written notification of that change to the monitoring officer.

## **Protocol B: Member attendance at training**

- B2.1 Where the council provides training for members –
- (a) in relation to ethical standards in general or to the council's code of conduct in particular;
  - (b) in relation to the determination of planning applications;
  - (c) in relation to the work of the licensing authority for the purposes of the Licensing Act 2003 or the Gambling Act 2005;
  - (d) in any other matters where the council designates the training as mandatory for the member to attend; or
  - (e) to enable you to comply with an instruction requiring you to undergo training issued by the standards committee, an Ethical Standards Officer or the Adjudication Panel for England,
- you must not fail to attend the training without reasonable excuse.
- B2.2 Where you do not attend the training specified in sub-paragraphs B2.1(b) or (c) of this protocol you may not participate in the determination of planning applications or the business of the licensing authority (as the case may be) until such time as you have attended alternative training approved by the standards committee.
- B2.3 Unless the standards committee grants a dispensation, where you do not attend the training specified in sub-paragraph B2.1(e) of this protocol you may not participate in any business of the council until such time as you have attended an alternative training approved by the standards committee. A dispensation under this paragraph may relate to all of the council's business or to such part of it as may be specified. In considering an application for a dispensation, the standards committee shall have regard to the reasons why the requirement was initially imposed.

## **Protocol C: Gifts and Hospitality**

### **C1. Meaning of "gifts" and "hospitality"**

- C1.1 The words "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 free of charge 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.
- C1.2 Common gifts include pens, diaries, calendars and other business stationery, key rings, articles of clothing, books, flowers, bouquets and promotional items.
- C1.3 Common hospitality include lunches, dinners or refreshments.

### **C2. General caution**

- C2.1 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. You should 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.
- C2.2 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, you should be sensitive to the timing of the offer in relation to any business of the council which may affect those making the offer.
- C2.3 You should avoid hospitality in situations where you, or you accompanied by members of your family, would be the only guests.
- C2.4 You may have to estimate the value of the gift or hospitality. Where possible, you should use as a guide the charge which other members of the public would pay to purchase the gift or receive the hospitality.
- C2.5 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. To refuse may cause misunderstanding or offence; however, to accept may give rise to impropriety or conflict of interest. In any case of doubt, you should discuss the circumstances with the monitoring officer.

- C2.6 Where the decision whether to accept hospitality is left to your judgement, you need to ask yourself some commonsense questions: for example:
- § is there a benefit to the council in your accepting the invitation;
  - § is the entertainment lavish, on a scale which you could not personally afford;
  - § whether you are accepting too much hospitality from the same source;
  - § if your position is prominent, whether just your attendance at an event might be open to interpretation as a signal of support.

### **C3. Code of Conduct requirements**

- C3.1 The members' code of conduct requires you to register in the Register of 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 (for example as mayor or deputy mayor) or when you are acting as representative of the Council. You must also register the source of the gift or hospitality.
- C3.2 You must register the gift or hospitality within 28 days of its receipt/acceptance, using the form provided by the monitoring officer for the purpose.
- C3.3 The members' code of conduct provides that you automatically have a personal interest in any Council business 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 the Register of 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 set out in the members' code of conduct..
- C3.4 You must continue to disclose the existence and nature of the gift or hospitality etc at relevant Council meetings, for three years from the date you first registered the gift or hospitality. This disclosure requirement ceases for gifts and hospitality interests registered more than three years ago.
- C3.5 Where any gift or hospitality (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.

### **C4. Series of gifts or hospitality adding up to £25 or more in value**

- C4.1 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 Interests as an accumulation. You may have to estimate the value of the gifts or hospitality.

## **C5. Gifts and hospitality below the £25 threshold**

C5.1 You are encouraged to register with the monitoring officer, any gift or hospitality you receive which you estimate to be below the £25 threshold, but there is no obligation to make a disclosure at a Council meeting of the source of the gift or hospitality. Remember – it is in your interests always to register a gift or hospitality if it could be perceived as something given to you because of your position.

## **C6. What to avoid**

C6.1 In deciding whether it is appropriate to accept any gift or hospitality, you must apply the following principles:

- 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.
- do not accept a gift or hospitality of significant value or whose value is disproportionate in the circumstances.
- do not accept a gift or hospitality if you believe it will put you under any future obligation to the provider as a consequence.
- do not solicit any gift or hospitality and avoid giving any perception of doing so.
- 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.

C6.2 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.

C6.3 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 or 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 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.

## **C7. Gifts and hospitality which need not be registered**

C7.1 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, for example 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.
- (viii) tickets for sporting, cultural and entertainment events which are sponsored or promoted by the council or bodies to which you have been appointed by the council, and the tickets are offered in relation to that sponsorship or promotion.
- (ix) Small, low-value gifts, such as pens, calendars, diaries, flowers and other mementos and tokens.
- (x) gifts and hospitality arranged and paid for wholly by your own political party.
- (xi) 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.



- (xii) gifts and hospitality you may receive from family and friends e.g. birthday presents that are not related to your position as a member.
- (xiii) 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, for example a picture for display in the Mayor's Parlour.
- (xiv) gifts given as prizes at exhibitions, conferences, seminars etc. as part of a free raffle or draw.
- (xv) gifts and hospitality which you do not accept (refer to the guidance in para. 8 of this Protocol).
- (xvi) gifts which you donate to the Mayor's charity, subject to you indicating this intention to the donor of the gift.
- (xvii) gifts known to be available to all members of the council e.g. badges and ties bearing the Council's coat of arms.
- (xviii) souvenirs and gifts from other public bodies intended as personal gifts, for example arising from town-twinning and other civic events.
- (xix) hospitality known to be available to all members of the council, for example refreshments at the council's Annual Meeting
- (xx) hospitality ancillary to the council business being conducted, such as an overnight stay for an 'away – day with a partner organisation of the council'.
- (xxi) hospitality ancillary to attendance at conferences, seminars and courses where the hospitality is corporate, rather than personal.
- (xxii) hospitality ancillary to attendance at functions where you represent the council (opening ceremonies, public speaking events, conferences).
- (xxiii) hospitality ancillary to attendance as Mayor or Deputy Mayor, at charity events, garden parties, fetes, schools, concerts etc.
- (xxiv) trips in the United Kingdom 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 e.g. twinning visits.

## **C8. Gifts and hospitality declined**

- C8.1 There is no requirement to register gifts and hospitality offered but declined. However, as a matter of good practice, it would be advisable to inform the monitoring officer. When gifts or hospitality are declined, the offeror should be courteously but firmly informed of the procedures and standards operating within the council.

## **C9. Reporting of inappropriate gifts and hospitality offered**

- C9.1 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.

## Protocol D: Use of Council Resources by Members

### *Introduction*

D1.1 The purpose of this protocol is to provide a guide to the use of Council resources by members.

### *Resources provided to members*

D1.2 The Council provides a range of facilities to support members, such as stationery, photocopying, printing, telephone, and e-mail address and IT equipment (which includes any access to the Council's systems via any on-site or remote access link), to enable members to carry out their duties as a councillor. You must make sure that you use the Council's resources for proper purposes only. In addition, when using the Council's resources you must have regard to the Local Authority Code of Publicity and the members' code of conduct.

D1.3 The Council is prohibited from publishing any material of a party political nature and you should ensure that when using or authorising the use by others of the Council's resources such resources are not used for purely political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which you have been elected or appointed. You may, therefore, use Council resources and facilities for political purposes in connection with the following business:

- (a) holding ward surgeries;
- (b) dealing with correspondence from members of the public;
- (c) communicating group activities;
- (d) meetings between group members.

D1.4 Your use of Council resources must not extend to political parties more generally.

D1.5 The Council has agreed to *de minimis* usage that would otherwise be contrary to this protocol, but which is so small in extent that a reasonable person knowing all the facts would take the view that it should not be thought of as included in what is being controlled, prohibited or otherwise included in this protocol.

D1.6 Your use of any Council resources for purely political purposes, including designing and distributing party political material produced for publicity purposes and support of any political party or group activity, elections and campaigning, is likely to amount to a breach of the members' code of conduct.

D1.7 During the election period (which runs from the date of publication of the notice of election to the close of the polls) you must not use your Council e-mail address in any ward newsletters which contain election or campaigning material.

D1.8 Provided that the use Council resources is not purely in connection with political purposes and there is no cost to the Council or any liability for the Council arising from its use for secondary purposes, it is a matter for each individual member whether or not they use it for private and family purposes. You will, however, need to take into account any additional costs that may arise from extending software

licences and the replacement of equipment (excluding marginal shortening of the life of items of equipment, for example from modest use of a printer) and any impact your use may have on, for example, service warranties and agreements. You must also take into account security issues related to confidential information and the processing and disclosure of information under the Data Protection Act 1998.

- D1.9 You are under an obligation to ensure that any secondary use of IT equipment supplied by the Council is acceptable and appropriate and that such use does not contravene the members' code of conduct and protocols, the Computer Misuse Act 1990, the Data Protection Act 1998 or any other relevant UK and EU legislation.
- D1.10 If you are supplied with a Council computer and internet connection facilities, you must sign the Council's Internet and e-mail Policy and Code.

## **Protocol E: Requirements of the Council relating to the disclosure of confidential material**

- E1.1 Paragraph 4.0(a) of the Members' Code of Conduct provides that you must not disclose confidential information, except in the circumstances specified in the code. Paragraph 4.0(a)(iv) refers to circumstances where the disclosure is:
- (a) reasonable and in the public interest; and
  - (b) made in good faith and complies with any reasonable requirements of the council.
- The purpose of this protocol is to specify the council's requirements with which you are required by the code to comply.
- E1.2 Confidential information is defined in the code as "information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature".
- E1.3 The Members' Code of Conduct does not define 'good faith', but a disclosure made in good faith shall, for the purposes of this protocol, be deemed to mean a disclosure made in the reasonable belief that the information disclosed is substantially true and disclosed without malice or a view to gain.
- E1.4 The Members' Code of Conduct does not define what is in the "public interest" but, for the purposes of this protocol, a disclosure is deemed to be in the public interest if a member of the public with knowledge of the relevant facts would reasonably regard it as appropriate for you to disclose the information, having regard to:
- § the seriousness of the matter disclosed; and
  - § the likelihood of any malpractice or impropriety continuing or being likely to occur in the future.
- E1.5 As a first step, you should ask the chief officer concerned to confirm whether the information which you have is "substantially true" and, if so, why the information is treated as confidential. There may be legal reasons for this, such as a duty to keep the information confidential imposed by law. Or it may be that disclosure might compromise the financial or business affairs of the Council or a contractor or supplier. Your enquiry will be judged against the restrictions imposed upon the release of information under the Freedom of Information Act 2000 and you will be sent a full written explanation as to whether the information can be disclosed and, if not, the reasons why it should not be disclosed.
- E1.6 If, having completed this process, you are not satisfied with the reasons why information should not be disclosed and are still of the view that it is in the public interest for the information to be disclosed, you should raise the matter with the leadership of your political group and with the Chief Executive.
- E1.7 Only once you have completed this process and you have not been given proper reasons why the information should not be disclosed should you then consider making such a disclosure.

## **Protocol F: Members` Planning Code of Good Practice**

### **F1. Introduction**

F1.1 This code of good practice gives you advice when you are:

- acting as a member of an area planning committee;
- taking part in a debate on a planning application or other development control matter in another area planning committee;
- acting as a member of the full Council when it is determining a planning application or other development control matter;
- involved outside the committee on a planning application or other development control matter, including informal occasions such as meetings with officers or public and consultative meetings,

and use of the expression "planning committee" should be taken to refer to the forum for any of these activities.

This code also applies to members when dealing with site-specific issues in connection with the Local Development Framework.

F1.2 The aim of this code is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or is not well founded in any way. You must make planning decisions openly and impartially with sound judgement and for clear and justifiable reasons.

F1.3 This is particularly important, as planning matters will be subject to close scrutiny both because large sums of money will be at stake for applicants for planning permission and because the quality of the built and natural environment in which local residents and the wider community live and work may be irrevocably affected.

F1.4 The introduction of the Human Rights Act 1998 has had implications for the planning system and has created enhanced requirements for procedural fairness, transparency and accountability in determining planning applications.

F1.5 This code is intended to minimise the prospect of legal or other challenges to planning decisions. However, non-compliance without good reason can be taken into account in investigations into possible maladministration or may have implications for the standing of councillors and the council as a whole. It could also lead to a complaint to the council's standards committee against an individual member.

## **F2. Relationship with the members` code of conduct**

- F2.1 The members` code of conduct must always be complied with and the rules in that code must be applied before considering this code.
- F2.2 This code is not intended to form a part of the adopted members` code of conduct, but is a separate document, which is both supportive of the members` code and a source of expanded guidance in the particular area of development control.

## **F3. Declaration of interests**

- F3.1 The members` code places requirements on councillors as to the registration and declaration of their interests and participation in the business of the council in light of those interests. These requirements must be followed scrupulously and councillors should review their situation regularly. Whilst the Standards Board for England produces general guidance, and advice can always be sought from the monitoring officer or one of the Council's solicitors, ultimate responsibility for compliance rests with individual councillors. Part 2 of the members' code of conduct specifies the matters which constitute interests, both personal and prejudicial, which need to be declared and Part 3 specifies matters which you are required to include in your written declaration of interests. This should be studied carefully and followed scrupulously.
- F3.2 You can have a personal and prejudicial interest in a planning application, which affects you, a member of your family or any person with whom you have a close association, as well as any body or business with which you are associated. Examples include, but are not limited to
- applications for minor developments relating to a property in close proximity to one owned/occupied by you, a friend, relative or employer;
  - applications for major developments a more substantial distance from properties owned or occupied by one of those persons;
  - applications made by you, a friend, relative or employer.
- F3.3 If you have a personal and prejudicial interest in an application then you:
- must declare the existence and nature of the interest as soon as you become aware of this: wherever possible this should be done at the start of the meeting;
  - may attend a planning committee meeting, but only for the purpose of making representations, answering questions or giving evidence relating to the application in circumstances where members of the public generally are also allowed to attend the meeting for the same purpose (unless you have obtained a dispensation from the council's standards committee). You must leave the room once you have done so (it is not permissible to sit in the public gallery) and must not participate in, or give the appearance of trying to participate in, the making of a decision;

- must not represent ward or local views – you will need to get another member to do so instead;
- must not get involved in processing the planning application;
- must not seek any preferential treatment: this includes not using your position as a councillor to discuss a proposal with officers when other members of the public would not have the same opportunity to do so or persuading other members to support your position. You may, however, make written representations to officers in your private capacity. The existence and nature of your interest should be disclosed in such representations;
- you must not improperly influence a decisions: this means that you should not use, or attempt to use, your position improperly to further your own interests in a way that is not open to ordinary members of the public.

F3.4 You should also make known any personal and prejudicial interest at informal meetings or discussions including those held with officers or other councillors.

F3.5 The members` code provides that you will always have a personal and prejudicial interest in any application for permission or consent made by 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 and a member of the public with knowledge of the relevant facts would reasonably regard your interest as so significant that it is likely to prejudice your judgement of the public interest.

#### **F4. "Pre-determination" (fettering discretion) and "apparent bias"**

F4.1 If you have taken a firm view on a planning matter, or if it appears that you have made up your mind before the formal consideration of a planning application, it may appear to a member of the public that you may have formed what is called "pre-determined view" on the matter – this used to be described as having "fettered one's discretion". If you make a statement in favour of or against a planning proposal in advance of the planning committee you may have fettered your discretion and should not to participate in the decision making process.

F4.2 In some circumstances you might reasonably appear to a member of the public to have a pre-determined view on an application, by reason of comments made or close contact with an applicant or representor, even though this is not the case. This is described as "apparent bias" and may put you in the same position as one who has fettered their discretion. It is important to remember that it is the public's perception which is important here.

F4.3 If you have fettered your discretion and then take part in the decision, that will put the council at risk of a finding of maladministration. It could also lead to legal proceedings to challenge the decision on grounds of there being a danger of bias or pre-determination or a failure to take into account all factors enabling the proposal to be considered on its specific merits. It may also give rise to a complaint to the council's standards committee.

F4.4 As long as you do not have a personal and prejudicial interest, and have not fettered your discretion, you can still act as a ward councillor and address the committee in the usual way: if you have a personal and prejudicial interest the rules at paragraph E3.3 above will apply.

F4.5 Areas in which you need to give particular consideration are set out below.

#### ***Membership Of A Parish Council***

F4.6 If you are also a member of a parish council which has been consulted on a planning application you are not automatically debarred from participating at the planning committee, even when you have sat on the parish council's planning committee. However the following key principles must be observed if you are to participate in the Borough Council's planning committee:

- the planning application must not substantially affect the well being or financial standing of the parish council.
- careful consideration must be given to what you say at the parish council's meeting so that a reasonable and informed member of the public would feel that you were coming to the decision at the borough council without a fixed view. Strong opposition to, or support for, an application at the parish council's meeting will debar participation at the Borough Council's planning committee.
- if speaking at the parish council's meeting you must make it clear that what is said is based on the limited information available to you at that time and that you will have to reconsider your position in the light of all information available at the planning committee.
- you should avoid voting at any parish council meeting and ask for your abstention to be recorded in the minutes.

F4.7 Membership of a parish council constitutes a personal interest where the planning committee considers an application and this must be declared in the usual way.

#### ***Lobbying By Other Councillors***

F4.8 If you lead, represent or are a member of a group whose primary purpose is to lobby in support or against a planning application, you will have fettered your discretion. Depending on your involvement, you may also have a personal and prejudicial interest. This may be so, even if you were appointed to the body by the Borough Council.



F4.9 The position in paragraph F4.8 is distinct from membership of general interest groups which reflect your area of interest, for example the RSPB, the Ramblers' Association or a local historical society (unless you have a position of control or management in the organisation. However, you should still disclose a personal interest where that body has made representations on an application. If, at the time of declaring that interest you are able to say that you were not involved in preparing that representation and have reserved your judgement, then you will not have fettered your discretion. However, if you cannot say so, you will have fettered your discretion. You may also have a personal and prejudicial interest.

F4.10 You should not lobby other councillors regarding their views on planning applications. Nor should you, outside of the planning committee meeting, try to persuade other councillors how to vote.

F4.11 You should not decide, or discuss, how to vote on planning applications at political group meetings or other meetings or lobby other members to do so. Political group meetings should never dictate how members should vote on planning applications.

### ***Lobbying of Councillors by other persons***

F4.12 Lobbying is a normal and perfectly proper part of the political process. Those who may be promoting or affected by a planning decision will often be seeking to influence it through an approach to their elected ward councillor, another councillor or a member of a planning committee. However lobbying can, where you are a member of a planning committee which will determine the application, lead to a challenge to your integrity and impartiality. This can, in turn, affect the validity of a planning decision.

F4.13 If you decide that you wish to participate in the determination of a planning application you should explain to persons lobbying or attempting to lobby you that, whilst you can listen to what is said, it would prejudice your impartiality and your ability to participate in the decision if you give a firm statement of how you intend to vote or if you express strong sympathies with a particular point of view in advance of the meeting. For the avoidance of doubt you will not have fettered your discretion:

- by just listening to viewpoints from residents or interested parties;
- by making comments which fall short of prejudging the issue;
- by seeking information through appropriate channels;
- by acting as a vehicle for the expression of views as a ward councillor (provided you do not also have a personal and prejudicial interest),

providing that you have not committed yourself to vote in accordance with those views and that you are not acting as an advocate for a particular viewpoint.

F4.14 When you participate in a planning decision, your overriding duty is to the community as a whole and not just to people in your ward. As decisions need to be taken impartially you must not improperly favour, or appear to improperly favour, any person, company, group or locality.

F4.15 You should not accept gifts or hospitality from any person involved in or affected by a planning application. It is advisable to let the monitoring officer know if you feel that you have been exposed to excessive lobbying or offers of gifts or hospitality linked to a planning application. It may be wise, and in your own best interests, to make a written notification to the monitoring officer that a gift or hospitality has been offered and refused.

F4.16 It is good practice to:

- forward copies of lobbying correspondence to the Director of Planning, Transport and Leisure;
- advise the Director of Planning, Transport and Leisure of any offers of planning gain or constraint on development made to them;
- comply with guidance on lobbying or attending presentations or discussions set out in this protocol.

## **F5. Contact with applicants, developers and objectors**

F5.1 You should refer those who approach you for assistance on planning, procedural or technical matters to the relevant officers.

F5.2 The following rules should be applied in respect of presentations about planning proposals:

- you should not attend private planning presentations unless you have taken advice from one of the Council's solicitors as to the appropriateness of attending.
- Questions should be limited to those necessary to clarify your understanding of proposals.
- It must be remembered that the presentation is not a part of the formal planning process. The presentation is a form of lobbying and councillors who will be determining the application should not express views on how they will vote.

## **F6. Site inspections**

F6.1 Site inspections can be a valuable part of the planning process. However they should normally only be requested where there are definite benefits, for example:

- particular site factors are significant in terms of the weight attached to them relative to other factors or to the difficulty of their assessment in the absence of a site inspection.

- there are significant policy or precedent implications and specific site factors need to be carefully addressed.

F6.2 No hospitality should be accepted at site inspections.

F6.3 Councillors should endeavour to keep together as a group and not engage individually in discussions with any applicants, objectors or third parties who may be present.

F6.4 Councillors who wish to take part in the planning decision should not express views to anyone present.

F6.5 It is acceptable to ask officers at the site visit questions or to seek clarification on matters relevant to the site inspection.

F6.6 The site visit should be properly recorded and reported back to the committee.

F6.7 In order to avoid any perception of an improper relationship with the applicant, Councillors should exercise extreme caution when entering a site subject to a planning proposal, other than as part of an official site inspection or when accompanied by an officer. However, Councillors are encouraged to familiarise themselves with the location and vicinity of the site of a planning proposal prior to its consideration at the planning committee.

## **F7. Contact with officers**

F7.1 General guidance is given in the protocol on member/officer relations in Part 5 of the Constitution and that is not repeated here.

F7.2 You should not put pressure on officers to put forward a particular recommendation. However this does not prevent you from asking questions or submitting views to a relevant officer.

F7.3 Officers must act in accordance with the officers' code of conduct in Part 5 of the Constitution and any relevant professional codes of conduct, for example the Royal Town Planning Institute's code of professional conduct. As a result, the planning officers' views will be presented on the basis of their overriding professional obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the committee or its members.

## **F8. Planning applications made by councillors and officers and council development**

F8.1 Proposals to the council by serving and former councillors and officers and their close friends and relatives can easily give rise to suspicions of impropriety. So, indeed, can proposals for a council's own development. Proposals can take the form of either planning applications or development plan proposals.

F8.2 Councillors and officers who submit proposals should notify the monitoring officer of the proposal, play no part in their processing or determination and avoid contact,

whether direct or indirect, with members of the planning committee concerning the application.

- F8.3 It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism. You should carefully consider using an agent to submit and take forward your own applications. These applications should not be processed in any way differently from those of other applicants, as that would be discriminatory.
- F8.4 All such proposals shall be decided by the relevant planning committee and not dealt with by officers under delegated powers. Members considering their decision in relation to an application must, of course, consider whether the nature of any relationship with the member submitting the planning application requires the declaration of a personal or a prejudicial interest.
- F8.5 When an application made by a councillor comes before a planning committee, members must make certain decisions under the members' code of conduct. The requirement to declare a Personal Interest arises from paragraph 8.1(b) of the Code. Having regard to decided complaints on the subject, all members of the same political group as the applicant should declare a personal interest in the application.
- F8.6 In addition, as a member of the planning committee you must also consider individually whether you regard the applicant as a "person with whom you have a close association" within the meaning of the Code. A person with whom you have a close association is someone with whom you are in regular or irregular contact over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts.
- F8.6 The next test is whether, having declared a personal interest, you should also consider that interest to be prejudicial, requiring that you leave the room and take no part in the determination. Paragraph 10.1 of the Code provides if you have a personal interest in any business of the council you also have a prejudicial interest in that business where the interest is "one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest". This is qualified by paragraph 10.2. You do not have a prejudicial interest in any item of business of the council where that business:
- (a) does not affect your financial position, or the financial position of a person or body listed in paragraph 8 of the members' code of conduct (ie a person or body from whom you derive a personal interest); or
  - (b) does not relate to determining an approval, consent, licence, permission or registration in relation to yourself or any person or body listed in paragraph 8 of the Code; or
  - (c) relates to a function of the council listed in sub-paragraph 10(2)(c) of the Code (although not all of these are relevant to planning).

- F8.7 This test has to be applied to each personal interest that has been declared. If you decide to declare a personal interest on the basis that the applicant is a “person with whom you have a close association” it is likely that “a member of the public with knowledge of the relevant facts” would consider that the relationship would be likely to be so significant as to affect your “judgement of the public interest”. However, a personal interest arising merely from membership of the same Association should be considered separately and each member will have to judge their own activities within that association and how they relate to the applicant before deciding whether or not their interest is prejudicial.
- F8.8 Serving councillors and officers should avoid acting as agents for people pursuing a planning matter and where they do must play no part in the decision making process for that proposal. Particular arrangements may need to be made in respect of councillors whose business is, or includes, the making of planning applications on behalf of others.

## **F9. Decision-Making**

- F9.1 Under the Council's Constitution, most decisions on planning matters are delegated to the Director of Planning, Transport and Leisure except in certain circumstances set out in the table of delegations. One of those circumstances is where a member for the relevant ward in which the application site falls, or the relevant planning committee chairman or vice-chairman has, with reasoned justification, required that the application be determined by the relevant planning committee. In those cases, it is imperative that members state clearly their justification (in planning terms) for requiring an application to be reported to the planning committee. In every case, members are advised to frame their comments in such a way as not to give any appearance of pre-disposition in respect of the matter. Any comments you have made will be included in the public register and may have to be disclosed to the public under the Freedom of Information Act.
- F9.2 When you have to make a planning decision you must:
- come to meetings with an open mind and demonstrate you are open minded;
  - comply with section 54A of the Town and Country Planning Act 1990 and make decisions only in accordance with the development plan unless material considerations indicate otherwise;
  - not vote or take part in the meeting's discussions on a proposal unless present to hear the entire debate including any officer introduction/presentation;
  - come to a decision only after due consideration of all information reasonably required upon which to base such a decision;
  - request further information if you consider that there is insufficient information before the committee upon which to reach a decision;
  - where proposing, seconding or supporting a decision contrary to officer recommendations or the development plan, identify the planning reasons behind

the decision before the vote is taken which may have to be justified in the event of any appeal or other challenge.

**F10. Training**

F10.1 You should not participate in decision-making meetings dealing with planning matters unless you have attended any prescribed training.

## **Protocol G: Members` Licensing Code of Good Practice**

### **G1. Introduction**

- G1.1 This protocol is intended to apply the principles contained in the Members' members' code of conduct, together with the statutory provisions relating to members' conduct contained in the Human Rights Act 1998, the Licensing Act 2003 and the Gambling Act 2005, to members' licensing responsibilities and to support and maintain the observance of high standards of ethical conduct. This protocol applies to the actions of the licensing authority and, for the purposes of this protocol, the term "licensing authority" means the Licensing and Appeals Committee or a panel of the committee, as appropriate.
- G1.2 The aim of this protocol is to ensure that in the licensing process there are no grounds for suggesting that a decision has been biased, partial or is not well founded in any way. Members must make decisions openly and impartially, with sound judgement and clear and justifiable reasons, and in compliance with any legal provisions.
- G1.3 The key purpose of licensing is to regulate certain activities in the public interest and to promote the licensing objectives defined in the legislation. In addition, the licensing authority must have regard to any statutory guidance issued by the Secretaries of State for Transport and for Culture, Media and Sport and the Gambling Commission.
- G1.4 Provisions of this protocol which apply only to members of the licensing authority are marked by a thick black line in the right-hand margin.
- G1.5 This protocol also applies to other members at times when involving themselves in the licensing process, both in formal meetings of the licensing authority and in less formal occasions, such as meetings with officers or the public and consultative meetings.

### **G2. Relationship with the members` code of conduct**

- G2.1 The members` code of conduct must always be complied with and the rules in that code must be applied before considering this protocol.
- G2.2 This protocol is not intended to form a part of the adopted members` code of conduct, but is a separate document, which is both supportive of the members` code and a source of expanded guidance in the particular area of licensing.

### **G3. Licensing proposals and interests under the members' code of conduct**

- G3.1 As a member, your interest in a licensing matter may take a variety of forms:
- § as a member of the executive having responsibility for licensed premises in the council's ownership or for licensable activities promoted by the council;
  - § as a member of another organisation or body that is applying to the licensing authority for a licence or is conducting a licensable activity;
  - § as an employee of a responsible authority, as defined in the legislation;
  - § as a person who lives, or who has business premises, in the vicinity of licensed premises or an application site;

- § as a member of a lobby group or campaigner;
- § as the applicant for, or holder of, a licence or the provider of a licensable activity;
- § as a member or officer of a registered club;
- § as a supplier of goods or services to an applicant, a licence holder or a club.

G3.2 If you have a personal and prejudicial interest in an application then you:

- must declare the existence and nature of the interest as soon as you become aware of this: wherever possible this should be done at the start of the meeting;
- must not get involved in processing the application;
- must not seek any preferential treatment: this includes not using your position as a councillor to discuss a proposal with officers when other members of the public would not have the same opportunity to do so or persuading other members to support your position;
- may attend a hearing, but only for the purpose of making representations, answering questions or giving evidence relating to the application in circumstances where members of the public generally are also allowed to attend the meeting for the same purpose (unless you have obtained a dispensation from the council's standards committee). You must leave the room once you have done so (it is not permissible to sit in the public gallery) and must not participate in, or give the appearance of trying to participate in, the making of a decision.

G3.3 You should also make known any personal and prejudicial interest at informal meetings or discussions including those held with officers and other councillors.

G3.4 If the application relates to premises in your ward you are precluded from sitting on any hearing panel dealing with the application. This is a legal requirement and cannot be waived.

#### **G4. "Pre-determination" (fettering discretion) and "apparent bias"**

G4.1 You should not fetter your discretion, and therefore your ability to participate in licensing decision making, by making up your mind (or clearly appearing to have made up your mind) as to how you will vote on any application prior to its formal consideration at a hearing and before hearing the evidence and representations on all sides. You should particularly think how what you do or say might be viewed by an external interest or lobby group.

G4.2 Fettering your discretion in this way, and then taking part in the decision, will put the licensing authority at risk of a finding of maladministration and of legal challenge on the basis of a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

G4.3 A member of the public is almost certain to regard you as having fettered your discretion where the council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a principal advocate for a proposal.



G4.4 The members' code provides that you will always have a personal and prejudicial interest in any application made by 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 and a member of the public with knowledge of the relevant facts would reasonably regard your interest as so significant that it is likely to prejudice your judgement of the public interest.

## **G5. Contact with applicants, developers and interested parties**

G5.1 You should refer those who approach you for assistance on licensing, procedural or technical matters to the relevant officers.

G5.2 You should not be involved in formal meetings with applicants, developers or groups of objectors or become involved in any organisation one of whose primary purposes is to promote or oppose licensing proposals.

G5.3 If you are, or are likely to be, a member of a hearing panel, you should explain to those who may be attempting to lobby you that you cannot listen to what they want to say as this will prejudice your impartiality and, therefore, your ability to participate in the decision-making process. It is good practice to advise them to contact a ward councillor, who is disqualified from sitting on the hearing panel.

G5.4 It is good practice to:

- forward copies of lobbying correspondence to the Chief Solicitor, although correspondence received outside the relevant time period cannot be taken into account;
- comply with guidance on lobbying or attending presentations or discussions set out in this protocol.

G5.5 If you are not a member of a hearing panel, you should not feel constrained in receiving an approach from an applicant or objector and, having considered the information that they have supplied, to agree to speak or make representations on their behalf at a hearing.

## **G6. Lobbying by other Councillors**

G6.1 You must not lobby other councillors regarding their views on licensing applications. Nor should you, outside of the context of the hearing, try to persuade other councillors how to vote.

G6.2 You should not decide, or discuss, how to vote on licensing applications at political group meetings or other meetings, or lobby other members to do so. Political group meetings should never dictate how members should vote on licensing business.

**G7. Site visits**

- G7.1 A hearing panel should not seek to hold a site visit, unless in accordance with an invitation supported by all parties. If you are unable to attend an organised site visit you will not be able to take part in the final decision making: this may mean that the hearing panel is not quorate and the matter will have to be re-heard by a differently constituted panel for which the council may have to pay compensation.

**G8. Training**

- G8.1 You should not participate in decision-making meetings dealing with licensing applications or reviews unless you have attended any prescribed training: this is a legal requirement and cannot be waived.

## **Protocol H: Political restrictions applying to independent members of the Council's Standards Committee**

- H1.1 This Protocol applies to you as an independent member of the standards committee or of the Town and Parish Councils Standards Sub-Committee.
- H1.2 You are expected to demonstrate a high degree of personal integrity and to have an appreciation of the ethical standards required of people holding public office. You should not engage in any behaviour which a member of the public with knowledge of the relevant facts would reasonably regard as compromising your position.
- H1.3 In particular, whilst membership of a political party (including a branch of such a party) is not prohibited, you may not:
- (a) be an officer of the party or participate in the general management thereof;
  - (b) be a member of any committee or sub-committee of the party;
  - (c) stand for election to public office, either on behalf of a political party or as an independent;
  - (d) nominate, second or assent to the nomination of any candidate for election to public office;
  - (e) canvass on behalf of a political party or on behalf of a person who is, or who proposes to be, a candidate for election to public office; or
  - (f) be a member or an officer of the Council or of any other relevant authority (see paragraph H1.4 below).
- H1.4 A "relevant authority" is defined in section 49(6) of the Local Government Act 2000. It includes a county council, a county borough council, a district council, a London borough council, a town or parish council, a community council, the Greater London Authority, the Metropolitan Police Authority, the London Fire and Emergency Planning Authority, the Common Council of the City of London, the Council of the Isles of Scilly, a fire authority, a police authority, a joint authority established by Part IV of the Local Government Act 1985, the Broads Authority or a National Park authority.