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AGENDA

Committee	STANDARDS & ETHICS COMMITTEE
Date and Time of Meeting	WEDNESDAY, 18 MAY 2016, 4.30 PM
Venue	COMMITTEE ROOM 3, COUNTY HALL, ATLANTIC WHARF, CARDIFF
Membership	Independent Members: Richard Tebboth (Chair), James Downe, Hollie Edwards-Davies, Lizz Roe and Hugh Thomas Councillors Cowan, Margaret Jones and Phillips Community Councillor John Hughes

*Time
approx.*

- | | | |
|----------|--|---------|
| 1 | Apologies for Absence | 4.30 pm |
| | To receive apologies for absence. | |
| 2 | Declarations of Interest | |
| | To be made at the start of the agenda item in question, in accordance with the Members' Code of Conduct. | |
| 3 | Minutes (Pages 1 - 8) | 4.35 pm |
| | To approve as a correct record the minutes of the meeting held on 22 March 2016. | |
| 4 | Standards and Ethics Committee Annual Report 2015/16 | 4.40 pm |
| | Discussion on draft format and content. | |
| 5 | Planning Committee Protocol (Pages 9 - 58) | 5.00 pm |
| | Report of the Interim Monitoring Officer | |
| 6 | Social Media Guidance - Review (Pages 59 - 76) | 5.20 pm |
| | Report of the Interim Monitoring Officer | |

- 7 **Observation of Council Meetings** 5.35 pm
Report of the Interim Monitoring Officer
- 8 **Monitoring Officer's Verbal Update** 5.45 pm
 • Community Council's Charter
- 9 **Forward Plan 2016/17 (Pages 77 - 84)** 5.55 pm
Report of the Interim Monitoring Officer attached.
- 10 **Date of next meeting - Wednesday 20 July 2016 @ 4.30pm in
Committee Room 4**

David Marr
Interim Monitoring Officer

Date: Thursday, 12 May 2016
Contact: Gill Nurton
Tel 029 2087 2432 Email: G.Nurton@cardiff.gov.uk

Mae'r hon ar gael yn Gymraeg/This document is available in Welsh

STANDARDS & ETHICS COMMITTEE

22 MARCH 2016

Present: County Councillor Richard Tebboth(Chairperson)
County Councillors Cowan and Margaret Jones

22 : APOLOGIES FOR ABSENCE

There were no apologies received.

23 : DECLARATIONS OF INTEREST

Noted

24 : MINUTES

The minutes of the meeting held on 15 December 2015 were approved and signed by the Chairperson subject to the following amendments: -

- Members Protocol on Safeguarding Vulnerable Children & Adults
(The Committee acknowledged the work that had gone into this process)
- Draft Local Government (Wales) Bill – Welsh Government Consultation.
(Noted the Committee was not in favour of the proposed changes, particularly with regard to the Committee's role)

25 : ACTIONS ARISING FROM THIS MEETING

- | <u>Action</u> | <u>By</u> |
|--|---------------|
| (1) To arrange a joint meeting between the Standards and Ethics Committee and Democratic Services Committee to follow up Wales Audit Office Follow on Report responses; | Int MO |
| (2) Chairperson of the Standards and Ethics Committee to write to the Chairperson of the Democratic Services Committee inviting both Committees to work together on training for Members; | Chair |
| (3) Members were keen to formalise and co-ordinate their attendance at Committee meetings and provide regular updates on progress to the Standards and Ethics Committee. A programme outlining attendance to be drafted. | Clerk |

The Committee was of the view the following Action points should come from P5:

- | | |
|---|---------------|
| (4) Training – working alongside the Democratic Services Committee to enhance and support Member Development. | Int MO |
| (5) Standards and Ethics Committee Members to attend Committee meetings to become more acquainted with the work of Committee's. | All |

26 : WALES AUDIT OFFICE CORPORATE ASSESSMENT FOLLOW ON REPORT.

The Committee considered the Wales Audit Office Corporate Assessment Follow on report of the City of Cardiff Council and considered the proposals made within it.

The Committee was advised that Paragraph's 23, 49 and 50 of the report specifically related to the work of the Standards and Ethics Committee and were outlined as follows:

- The Council's Standards and Ethics Committee had a clear remit to monitor the conduct of members. The Committee, in liaison with the Council's Monitoring Officer, had also organised various training events for Members, including sessions on the appropriate use of Social Media and Data Protection. The Committee's members had started to attend various Council committee meetings to observe.
- The Council's Standards and Ethics Committee was not sufficiently proactive in taking action relating to concerns the Wales Audit Office identified regarding the conduct of a small number of Members. The Council had in place the 'Cardiff Undertaking' for Members setting out expectations in relation to their conduct. The Standards Committee had also set out in its Annual Report the 10 general principles of public life and its commitment to play a positive and proactive role. However, the Committee could do more to visibly enforce the principles and the Cardiff Undertaking, as it appears that Member engagement was not consistently positive, professional and constructive. Some Members have openly disengaged in Council business and feel the need to engage with the media and social media to get their points across.
- The Standards and Ethics Committee in liaison with the Monitoring Officer, organises various training for Members. However, it should give further consideration to how it can increase the number of members attending the training sessions and what training should be considered essential for Members to discharge their role effectively for example the use of social media and data protection.

The Corporate Assessment Follow on report contained one statutory recommendation and 14 proposals for improvement. One of the proposals – Number P5 – specifically referred to the Standards and Ethics Committee as follows:

P5: Enhance Member accountability by:

- Ensuring that the Standards and Ethics Committee plays a more proactive role in promoting and enforcing the Cardiff Undertaking for Councillors and supporting policies in relation to Member conduct and behaviour; and
- Strengthening member development and learning programmes based on competency assessments to improve skills and understanding to enable them to undertake their roles more effectively;
- Determining what training should be considered essential for Members to discharge their role effectively.

The Committee discussed P5: Proposal for Improvement and was concerned that the first proposal stated that the Chair of Standards and Ethics Committee was committed to taking steps to raising proactively the profile of the Cardiff Undertaking for Councillors and to highlighting the importance of appropriate Members conduct and behaviour'

The Committee drew attention to the Statement of Action for P5a approved by Cabinet the previous day noting the following:

- Standards & Ethics Committee to publish biannual Member Briefings on the work of the Committee, underlining the importance of the Cardiff Undertaking and Member conduct and behaviour. The timescale for this Action was August 2016.

Members felt that more work was required to deal with Members conduct. The Committee should be more visible in its field and remind Members of their duties under the Cardiff Undertaking.

The Committee suggested that training sessions be established alongside the Democratic Services Committee to address Members Code of Conduct. More work was needed to address the issues experienced by Members, with the Standards and Ethics Committee having a more robust role in the procedure. A Working-Party was suggested to support training and development of these roles.

The Interim Monitoring Officer advised that another of the actions approved by Cabinet was the development of a programme of training for Members. The Committee was of the view that the context of the Wales Audit Office Follow on report did not truly reflect the views of this Committee and Members were frustrated with the recommendations put forward were in relation to standards and not those of member's conduct.

The Committee drew attention to clauses in the Cardiff Undertaking and asked who had the authority to discipline a Councillor.

The Interim Monitoring Officer explained that feedback on these issues could be outlined in the Annual Report. Nevertheless, very little could be done as an individual Councillor and the matter of concern should be brought to the attention of the Interim Monitoring Officer or the Chairperson of the Standards and Ethics Committee.

The Chairperson explained that it was essential for members of the Standards and Ethics Committee to strengthen their roles. Make observations of the webcast at Council meetings to pick on unnecessary behaviour and actions.

The Committee was concerned with the outcomes in the Follow on report making reference to the weakness in governance arrangements, in relation to the Standards and Ethics Committee not sufficiently being proactive in taking action relating to concerns identified regarding the conduct of a small number of Members.

Members of the Committee drew attention to training sessions being held for Councillors. It was quite common for Councillors not to attend these sessions, especially sessions on Code of Conduct training.

The Chairperson explained that all new Councillors would have had to have attended the mandatory training events.

The Committee was keen to publicise Councillors attendance at training events and were of the view that further engagement was required in this area.

The Committee discussed possible mechanisms to support and encourage training events to ensure there was buy in from Members and including Members using the online training programmes available.

The Committee had concerns with the wording of P5. In response the Chairperson explained that maybe a less formal approach was required to monitor behaviour. This was an opportunity to extend links into the Council process including strengthening networking opportunities to develop and understand areas of concern.

The Committee drew attention to the current number of vacancies on Scrutiny Committees. It was noted there were currently 15 vacancies across all Committees. The Committee discussed the implication of the vacancies on Council Committees and how this could affect standards in the decision making process.

The Committee was of the view the following Action points should come from P5:

- Training – working alongside the Democratic Services Committee to enhance and support training.
- Standards and Ethics Committee Members to attend Committee meetings to become more acquainted with the work of committees.

Members were keen to formalise and co-ordinate their attendance at Committee meetings and provide regular updates on progress to the Standards and Ethics Committee. A programme outlining attendance to be drafted.

RESOLVED - That the Committee

- (1) receive and note the Wales Audit Office Corporate Assessment Follow on report;
- (2) approve the Statement of Action approved by Cabinet;
- (3) work alongside the Democratic Services Committee to enhance and support training;
- (4) attend and observe, as individual Members of the Standards and Ethics Committee, other Committee meetings of the Council and provide feedback to Members of those Committees on any issues relating to standards and ethics that arose.

On 2 May 2013, the Committee appointed a Sub-Committee, known as the Hearings Panel to hear and determine any complaints of misconduct by Members or a report of the Monitoring Officer.

The purpose of this report was to allow the Committee to consider proposed amendments to the Hearings Panel Procedure.

The Committee discussed the proposed revised Hearings Panel Procedure set out at Appendix B of the report and suggested further amendments to it.

RESOLVED – That the revised Hearings Panel Procedure set out at Appendix B of the Report be adopted with the following amendments:

- In Paragraph 2.1 the insertion of the words “in writing” after the words “should send their complaint”
- In Paragraph 2.2 the insertion of the words “the Complainant” after the words “The Monitoring Officer will advise”
- In Paragraph 2.3 the insertion of the words “will advise the Respondent of the complaint and” after the words “If the Monitoring Officer determines that the complaint falls within the Protocol he/she”
- In Paragraph 3 the insertion of the preliminary words “The steps required in paragraphs 3.1 and 3.2 are compulsory”
- In Paragraph 4.2 the deletion of the word “will” after the words “he/she” and its replacement with the word “may”
- In Paragraph 6.1 the insertion of the word “Alternatively” in front of the words “The Standards and Ethics Committee may also resolve”.

28 : MONITORING OFFICER CODE OF CONDUCT COMPLAINTS UPDATE

The Committee received a report which provided a brief update on complaints made during 2015/16 against Members alleging breaches of the Code of Conduct with a focus on the last 3 months.

The Committee noted that several of the complaints related to planning applications and conduct at Planning Committee or site visits. These had been reviewed with the Committee Chairperson and officers to ensure that clear guidance is provided to planning applicants and objectors about the process to be followed. Others related to timeliness in dealing with Members’ correspondence. Additional resources to support Members with their casework had been agreed as part of the coming year’s budget.

The Committee noted that several complaints related to an ongoing dispute at a particular Community Council, which was under consideration by the Ombudsman. The Interim Monitoring Officer advised that the Local Resolution Protocol could be extended to Community Councils if they requested it.

It was noted that comparative data on the number of complaints received in other local authorities was still awaited.

Members of the Committee suggested that they attend a future Planning Committee meeting to observe proceedings.

RESOLVED – That the Committee note the contents of the report.

29 : WHISTLEBLOWING

The Committee was provided with information to enable it to oversee and monitor the Council's Whistleblowing Procedures and to consider any ethical issues.

The Committee was advised the Whistleblowing Policy was revised and approved by Cabinet in October 2014 on the recommendations of this Committee, to reflect legislative changes, clarify certain provisions and adopt best practice. The revised Policy had been publicised through posters in all core Council buildings, and articles in the Core Brief, Your Inbox and Our News disseminated to all staff.

Under the Policy, the Monitoring Officer was required to keep a record of all reports made and their outcomes and to report periodically to the Standards Committee. At its meeting in January 2014, the Committee considered information on reports made during 2012 and 2013 and the number of reports made since 2007.

The report provided information on reports made under the Whistleblowing Policy during 2014 and 2015.

EXCLUSION OF THE PUBLIC:

Exempt from publication – Further information was provided to the Committee on each of the cases reported during 2014 and 2015. The information was not for publication as it contained exempt information of the description in paragraph 13 (information likely to reveal the identity of an individual) and paragraph 14 (information relating to financial or business affairs) of Part 4 of Schedule 12A of the Local Government Act 1972. It was considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, having regard to the duty of confidence owed by the Council to its employees and the protection of personal data under the Data Protection Act 1998, and the potential prejudice to the Council of disclosing financial control information which may be fraudulently exploited.

RESOLVED – That the Committee noted the information provided.

30 : AMENDMENT TO MEMBERS CODE & ETHICAL FRAMEWORK

The Committee was informed of minor amendments to the Model Code of Conduct and various other aspects of the statutory ethical framework, which had been introduced by new subordinate legislation made by the Welsh Government.

RESOLVED – That the Committee:

- (1) noted the amendments made to the Model Code of Conduct and certain aspects of the statutory ethical framework as set out in the report;
- (2) recommend to Council the adoption of a revised Code of Conduct for Members, reflecting the amendments to the Model Code;

- (3) delegate authority to the Interim Monitoring Officer in consultation with the Chairperson make the necessary amendments to:
- a) Article 9 of the Constitution (Standards and Ethics Committee) subject to the approval of Council, and
 - b) the Committee's Policy on Dispensations.

31 : MONITORING OFFICER VERBAL UPDATE

Community Council's Charter

The Committee was advised that, following consultation, a revised Charter had been circulated to Community Councils for approval. Not all of the amendments requested by the Community Councils had been agreed, but where this was the case, the reasons for this had been given.

The Community Council Member explained that the Community Councils were not happy with the planning provisions, in particular the absence of a commitment to involve Community Councils in negotiations on s.106 / community infrastructure levy funds. The Committee was informed that the Council's response on this issue was based on the professional advice of the Head of Planning. It was agreed that the Council would need to wait for formal responses from the Community Councils, and could then consider further discussions with planning officers if appropriate. It was also suggested that Community Council's should be offered the Members' training on S106 contributions and CIL, which was currently being developed

Local Government Wales Bill – Consultation response

The Committee was advised that as yet there was no further information to discuss. The Council had sent a formal response to Welsh Government. The outcome depended on the Welsh Assembly Elections.

32 : FORWARD PLAN 2016/17

The Committee discussed the Forward Plan and noted that the Annual Report would be brought to the next meeting.

The Forward Plan would be updated to reflect the programme of Committee Member visits to Committees.

The Forward Plan would be updated to reflect the Actions agreed in response to the Wales Audit Office Follow on report.

- Standards & Ethics Committee to publish biannual Member Briefings on the work of the Committee, underlining the importance of the Cardiff Undertaking and member conduct and behaviour (P5a).
- Training – to work alongside the Democratic Services Committee to enhance and support training, in line with a new programme to commence in May 2017 (P5b and P5c).

Standards and Ethics Committee Members to attend Committee meetings to become more acquainted with the work of different committees.

33 : DATE OF NEXT MEETING.

Wednesday 18 May 2016 at 4.30pm

(Meeting closed at 18.45pm)

**CITY & COUNTY OF CARDIFF
DINAS A SIR CAERDYDD**



STANDARDS AND ETHICS COMMITTEE: 18 MAY 2016

REPORT OF THE INTERIM MONITORING OFFICER

PLANNING COMMITTEE PROTOCOL

Reason for this Report

1. To inform the Committee of the development of a draft Planning Committee Protocol by the Welsh Local Government Association; and to provide an opportunity for the Committee to respond to the consultation thereon.

Background

2. Under its approved terms of reference (paragraphs (a), (c) and (h)), the Committee is authorised to make recommendations and issue guidance in respect of ethical standards, issues of probity and the effective implementation of the Codes of Conduct.
3. The Committee has identified the Council's planning processes and procedures as a key item of business in its Forward Plan, specifically, to consider improving public perceptions relating to openness and transparency.
4. At its meeting in December 2015, the Committee considered the Members' Planning Code of Good Practice ('the Planning Code') adopted by the Council and set out in Part 5 of the Constitution. It was commented that the Code did not make reference to Community Council involvement and that the language used in the Code could be perceived as intimidating. It was agreed that further consideration should be given to the Code, with input from Members of the Planning Committee.

Issues

5. In response to calls for a more consistent approach to planning across Wales, the Welsh Local Government Association (WLGA) has worked with representatives from a number of authorities to draft a voluntary planning committee protocol; and circulated the draft Protocol for consultation. The WLGA consultation document, which includes the draft Protocol, is appended as **Appendix A** to this report. The deadline for consultation responses is 20th May 2016.

6. The Committee will note that the aim of the Protocol is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way; and that it is intended to complement any national and local codes on Councillor Conduct and the general arrangements regarding the running of meetings.
7. The draft Protocol covers issues currently addressed in the Members' Planning Code of Good Practice ('the Planning Code'), and as such, if adopted by this Council, would replace the Planning Code. A copy of the Planning Code is appended as **Appendix B**.
8. The draft Protocol also includes some issues, such as public speaking at planning committee meetings, which are addressed in the Council's Planning Committee Procedure Rules (set out in Part 4 of the Constitution). If the draft Protocol were to be adopted in its current form, consideration would need to be given to consequential amendments to the Planning Committee Procedure Rules. A copy of the Planning Committee Procedure Rules is appended as **Appendix C**.
9. Planning officers have considered the draft Protocol in light of current arrangements in Cardiff, and in consultation with Planning Committee Members, have prepared a draft response to the consultation, appended as **Appendix D**.
10. Members are invited to consider the consultation on the draft Protocol and the draft response prepared by Cardiff's planning team, and make any appropriate observations in respect of matters relating to ethical standards, issues of probity or ethical conduct.
11. The Committee may also wish to note that the Council's Head of Planning has advised that a wide range of performance improvement measures are currently being rolled out as part of the Planning Service Business Plan 2016-17. These include reviewing and consolidating the plethora of existing protocols and guidelines relating to the operation of the Planning Committee. This is intended to provide a more up-to-date, concise and user-friendly basis to oversee the operation of the Planning Committee and fully accords with applying the principles of open and transparent governance. Work is programmed to be completed in the near future and the Committee is invited to receive a further report on this work in due course.

Legal Implications

12. There are no direct legal implications arising from the recommendations of this report.

Financial Implications

13. There are no financial implications arising from this report.

RECOMMENDATION

The Committee is recommended to:

- 1) Consider the WLGA draft Planning Committee Protocol and consultation document (**Appendix A**), and Cardiff's draft consultation response (**Appendix D**);
- 2) Provide any comments on the draft Protocol in respect of matters relating to ethical standards, issues of probity or ethical conduct;
- 3) Instruct the Interim Monitoring Officer to liaise with the Head of Planning to incorporate the Committee's comments into Cardiff's consultation response; and
- 4) Receive a further report in due course from the Head of Planning on improvements being made to governance arrangements for planning matters (as set out in paragraph 11 of the report).

David Marr
Solicitor and Interim Monitoring Officer
12th May 2016

APPENDICES

Appendix A	WLGA Consultation on Draft Planning Committee Protocol
Appendix B	Members' Planning Code of Good Practice
Appendix C	Planning Committee Procedure Rules
Appendix D	Draft Consultation Response

Background Papers

Standards and Ethics Committee report, 15 December 2015, Members' Planning Code of Good Practice; and minutes thereof

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Draft Planning Committee Protocol

1. Introduction

- 1.1 The Planning (Wales) Act which received Royal Assent in 2015 will result in many changes to the planning system in Wales. In addition to legislative change the Minister is strongly advocating culture change; part of which is a more consistent approach to planning across Wales including greater consistency in the operation of planning committees.
- 1.2 A recent study by the Royal Town Planning Institute into the “Study into the Operation of Planning Committees in Wales” concluded that there is a wide variety of practice in the operation of planning committees across Wales and recommended that a national planning committee protocol be prepared.
- 1.3 As a result of this study, Welsh Government invited local authorities to draft a voluntary planning committee protocol. Through the WLGA a drafting group was established with representatives from the Planning Officers Society Wales and Lawyers in Local Government. The members of this group are:
 - Sioned Wyn Davies, Legal, Democratic and Registration Services Manager, Wrexham CBC
 - Simon Gale, Service Director Planning, RCT CBC
 - Simon Humphreys, Head of Legal Planning & Environment, RCT CBC
 - Roderic Jones, Senior Lawyer, Bridgend CBC
 - Jane Lee, Policy Officer, WLGA
 - Paul Lucas, Director Legal and Democratic Services, RCT CBC
- 1.4 Following a series of meetings, the drafting group has prepared a draft protocol for consultation. The draft protocol is based on the published LLG Planning Code or Protocol 2014.

2.0 The Protocol

- 2.1 The primary aim of the protocol is to improve consistency across the 25 LPAs while ensuring a level of local flexibility through discretion of the Chair and locally determined procedures such as the committee meeting running order. Planning Committees have different names in different local planning authorities therefore where the term “planning committee” appears in the text this has been inserted in brackets.
- 2.2 It is intended that the protocol will complement any national and local codes on Councillor Conduct and the general arrangements regarding the running of meetings. This protocol is specific to Planning and covers the following areas:
 - Relationship to the Members’ Code of Conduct
 - Development Proposals and Personal and Prejudicial Interests

- Fettering Discretion in the Planning Process
- Member Involvement at the pre-application stage
- Contact with Applicants, Developers and Objectors
- Lobbying of Councillors
- Lobbying by Councillors
- Site Visits/Inspections
- Public Speaking at Meetings
- Public Speaking Procedures
- Role of Officers
- Decision Making
- Cooling Off Period
- Duties of the Chair
- Role of Members at a Planning Appeal
- Training
- Customer Care
- Advice for the public on attending and speaking at the Planning Committee

3.0 How to respond

- 3.1 The WLGA welcomes comments on the protocol and has inserted questions in the consultation draft of the protocol to prompt responses. The closing date for comments is Friday 20th May 2016. Please send comments to Jane Lee by email jane.lee@wlga.gov.uk or by post to WLGA, Local Government House, Drake Walk, Cardiff, CF10 4LG.
- 3.2 The drafting group will review these comments and make changes to the protocol where appropriate. It is anticipated that the final protocol will be available in June for consideration by each local authority at the appropriate Council meeting.

Draft Planning Committee Protocol

1.0 Introduction

- 1.1 **The aim of this Protocol** is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 1.2 One of the key purposes of the planning system is to regulate the development and use of land in the public interest. Your role as a Member of the Planning Authority is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 1.3 You are also a democratically accountable decision-taker who has been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies provided that you have considered all material considerations and have given fair consideration to relevant points raised.
- 1.4 **When the Protocol applies:** this protocol applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.
- 1.5 If you have any doubts about the application of this protocol to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.

Q1. Do you agree with having a national planning protocol?

2. Relationship to the Code of Conduct

Do apply the rules in the Code of Conduct first, which must always be complied with.

Do then apply the rules in this Members' Planning Committee Protocol, which seek to explain and supplement the Code of Conduct and the law on decision making for the purposes of planning control. If you do not abide by this protocol, you may put:

- the Council at risk of proceedings on the legality of the related decision or maladministration; and

- yourself at risk of being named in a report made to the Council or, if the failure is also likely to be a breach of the Code of Conduct, in a complaint being made to the Ombudsman.

3. Development Proposals and Personal and Prejudicial Interests

Conduct of All Members

Do disclose the existence and nature of your interest as required by the Code of Conduct.

Do then act in accordance with the Code of Conduct. Where your interest is a personal and also a prejudicial interest:

- Don't participate, or give the appearance of trying to participate, in the making of any decision on the matter by the [planning committee]
- Don't seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.

Do note that you will be able to speak at a [planning committee] where you have a prejudicial interest if and only to the same extent that a member of the public would have a right to speak on that item but remember that you must withdraw from the meeting as soon as you have finished speaking.

Do notify the Monitoring Officer in writing of your own planning applications and note that:

- you should send the notification no later than submission of that application;
- the proposal will always be reported to the [planning committee] as a main item and not dealt with by officers under delegated powers;
- you must not get involved in the processing of the application; and
- it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.

Q2. Do these proposals differ from the protocol you have in place? Do you see any difficulties with adopting these proposals?

4. Fettering Discretion in the Planning Process (natural justice, predisposition and predetermination)

4.1 Members of the Planning Committee

Don't fetter your discretion by approaching the decision with a closed mind.

Do be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011.

Do keep at the front of your mind that, when you come to make the decision, you

- are entitled to have and to have expressed your own views on the matter, provided you are prepared to reconsider your position in the light of all the evidence and arguments;
- must keep an open mind and hear all of the evidence before you, including the written report, the officers' presentation of the facts and their advice, any oral or written representations received and the arguments from all sides;
- are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a Member, in giving fair consideration to points raised;
- are only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
- are to come to a decision after giving what you feel is the right weight to those material considerations.

Do be aware that you can be found to be biased where the Council is the landowner, developer or applicant if you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)

Do consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the community council, for example, or both a unitary authority councillor), provided:

- the proposal does not substantially effect the wellbeing or financial standing of the consultee body;
- you make it clear to the consultee body that:
- your views are expressed on the limited information before you only;
- you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or

community, as and when it comes before the Committee and you hear all of the relevant information; and

- you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.

Do explain that you do not intend to speak and vote as a member of the Committee because you will be perceived as having judged (or you reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes. (Use the disclosure form provided for disclosing interests.)

Do remember that as a Member of the [planning committee] subject to the provisions of the Code of Conduct and provided that you have not pre-determined the application you can speak and vote on any application which comes before the Committee.

Where an application comes before the [planning committee] which falls within the electoral area of a Member that Member can: -

- act as a Member for their electoral ward in dealing with the application; or
- act as a Member of the [planning committee] in relation to the application.

Where a Member acts as a Member for their electoral ward:

- they will be able to speak on an application but not vote on that application
- they must notify the Chair when that item has been called as the next business to be considered by the [planning committee] that they intend to act as a Member for their electoral ward
- the Chair shall invite the Member to speak following any public speakers but before any debate starts. If the Member decides not to speak on the Application they shall not be given a further opportunity to speak.
- once the Member has exercised their right to speak or indicated that they do not wish to speak they shall leave the [planning committee] area until the item is dealt with.

Where a Member acts as a Member of the [planning committee] for an application in their electoral ward:

- they must notify the Chair when that item has been called as the next business to be considered by the [planning committee] that they intend to act as a Member of the [planning committee]
- the Chair shall explain to all present that the Member will not be acting as a local member for that application and may speak in the debate and vote.

Do seek advice from the [Monitoring Officer] before the meeting of the [planning committee] where you have an interest under the Code of Conduct in an item in your electoral ward {NB the Code of Conduct is due to be amended and para 10(2)(b) is likely to disappear}

Q3. Does the proposal regarding voting differ from the arrangements you have in place? Do you see any difficulties with adopting these proposals?

4.2. Member involvement at the pre-application stage

Do be aware that in your role as an elected member, you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011.

Do be aware that you can through personal significant involvement in preparing or advocating a proposal be, or be perceived by the public as being, no longer able to act impartially.

Do consider yourself able to take part in a consultation on a proposal and, if you are a member of the [planning committee], the subsequent determination of the application provided that: -

- You do not in any way commit yourself as to how you may vote when the proposal comes before the [planning committee] for determination;
- You focus only on site factors and site issues;
- You do not excessively lobby fellow councillors regarding your concerns or views not attempt to persuade them how to vote in advance of the meeting at which the planning decision is take;
- You are not involved in negotiations regarding the application. These should be conducted by officers separately from any pre-application discussions members have been involved in.

At a pre-application consultation: -

- **Do** ask relevant questions for the purpose of clarifying your understanding of the proposal;
- **Do** remember that the presentation is not part of the formal process of debate and determination of any application.

Q4. Are members currently involved in pre-application discussions? Do you see any difficulties with adopting these proposals?

5. Contact with Applicants, Developers and Objectors

Do refer those who approach you for planning, procedural or technical advice to officers.

Don't agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should seek to arrange that meeting yourself through a request to the [Development Control Manager] to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

Do otherwise:

- follow the Authority's rules on lobbying;
- consider whether or not it would be prudent in the circumstances to make notes when contacted; and
- report to the [Development Control Manager] any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition in respect of presentations by applicants/developers:

Don't attend a planning presentation without requesting an officer to be present.

Do ask relevant questions for the purposes of clarifying your understanding of the proposals.

Do remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.

Do be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a committee.

Q5. Do these proposals differ from the arrangements you have in place? Do you see any difficulties with adopting these proposals?

6. Lobbying of Councillors

Do explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to make any sort of promise to vote one way or another or offer a firm point of view that it amounts to the same thing.

Do remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

Don't accept gifts or hospitality from any person involved in or affected by a planning proposal.

Do copy or pass on any lobbying correspondence you receive to the [Development Control Manager] at the earliest opportunity.

Do promptly refer to the [Development Control Manager] any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.

Do inform the [Monitoring Officer] where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.

Do note that, unless you have a personal interest which is also a prejudicial interest, you will not have fettered your discretion or breached this Planning Protocol through:

- Listening to or receiving viewpoints from residents or other interested parties;
- making comments to residents, interested parties, other Members or appropriate officers (making clear that you must keep an open mind when it comes to making the decision);
- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion of others in your role as a [Ward][Division] Member.

<p>Q6. Do these proposals differ from the arrangements you have in place? Do you see any difficulties with adopting these proposals?</p>

7. Lobbying by Councillors

Don't become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is your intention to openly campaign on the matter and will therefore step away from the Committee when it comes to make its decision.

Do join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals (such as the Victorian Society, CPRW, Ramblers Association or a local civic society), but you should disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal.

Don't excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

Don't decide or discuss how to vote on any application at any political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

Q7. Do these proposals differ from the arrangements you have in place? Do you see any difficulties with adopting these proposals?

8. Site Visits/Inspections

8.1 Site visits are fact-finding exercises, the sole purpose of which is to allow the [planning committee] to look at the site and its surroundings and shall only be held when the [planning committee] are unable to reach an informed decision without seeing the site for themselves and an inspections would have substantial benefit.

Examples where a site visit would NOT be appropriate include: -

- Where purely policy matters or issues of principle are at issue;
- A Member wishes to consider boundary or neighbour disputes;
- To consider issues of competition;
- To consider loss of property values;
- Simply at the invitation or request of the local Member;
- Where you disagree with the conclusion reached in the Officer's report;
- To consider issues which are not material planning considerations;
- Where Members have already visited the site in the last 12 months, other than in exceptional circumstances, details of which shall be minuted.

8.2 In all cases where a decision is made to conduct a site visit the full planning reasons and details of the issues to be inspected during the site visit shall be minuted.

If a site visited is conducted as a member of the [planning committee]:

- **Do** try to attend site visits organised by the Council where possible.
- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the [planning committee]
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the [Ward] [local] Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
 - you feel it is essential for you to visit the site other than through attending the official site visit,
 - you have first spoken to the [Development Control Manager] about your intention to do so and why (which will be recorded on the file) and
 - you can ensure you will comply with these good practice rules on site visits.

Q8. Do you see any difficulties with adopting these proposals?

9. Public Speaking at Meetings

Don't allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.

Do ensure that you comply with the Council's procedures in respect of public speaking.

Q9. Does your authority allow public speaking? If not are there any reasons why public speaking cannot be allowed?

10. Public Speaking Procedures

10.1 Public speaking shall be permitted at a [planning committee] in accordance with the following procedures: -

- A member of the public who wishes to speak at the [planning committee] must notify the [Development Control Manager] in writing at least 2 working days prior to the date of the [planning committee] where the planning application will be considered. In exceptional circumstances, the Chair may agree to hear late requests.
- Where an application is deferred (following an application where Members have indicated that they are minded to either grant or refuse contrary to officer recommendation) then public speakers will not be heard on the second occasion that the application is before Members subject to the Chairman's discretion, in exceptional circumstances, to allow such speakers.
- Each side will have no more than 5 minutes to address the meeting although, in exceptional circumstances, the Chairman may extend this time. Where there is more than one speaker objecting to the application then the five minutes is a total for all objectors.
- Visual aids and other supporting evidence will not be permitted.
- A member of the public addressing the [planning committee] is not permitted to put questions to Members or Officers but this will not prevent Members asking the public speaker questions through the Chairman.
- The order for public speaking shall be:

- The applicant/professional adviser of the objector
 - Supporters of the applicant
 - Objector/ professional advisers of the objectors
 - Response by the applicant
 - Community Councillor
 - Local Member or adjoining Ward Member
- Consideration of an application will not be delayed simply because an objector, the applicant, Community Councillor or Ward Member is not present providing that they have been appropriately informed of the date of the meeting and of their right to speak at the meeting.

Q10. Do these proposals differ from the arrangements you have in place? Do you see any difficulties with adopting these proposals?

11. Role of Officers

Don't put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the [Development Control Manager], which may be incorporated into any committee report).

Do recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

12. Decision Making

Do ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the Committee.

Do come to meetings with an open mind and demonstrate that you are open-minded.

Do comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

Do come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.

Don't vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.

Do have recorded the reasons for Committee's decision to defer any proposal [and that this is in accordance with the Council's protocol on deferrals].

Do make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

Q11. Do these proposals differ from the arrangements you have in place? Do you see any difficulties with adopting these proposals?

13. Cooling Off Period

13.1 Where Members of the [planning committee] are minded to take a decision against Officers recommendation, Members should defer consideration of that matter to the next meeting of the Committee in order to receive a further report from [Development Control Manager], if necessary, in consultation with the [Legal and Democratic Services Officer], upon the strengths and weaknesses of any proposed or possible planning reasons for such a decision.

Q12. What are your views on having a cooling off period?

14. Duties of the Chair

14.1 The Chair shall make clear to everyone present the capacity in which a Member is speaking on a specific application unless that Member is a Member of the [planning committee] and taking part in the debate.

14.2 The Chair shall make clear to everyone present when the [planning committee] is moving to the debate stage on any application.

14.3 The Chair shall make clear to everyone present at the [planning committee] that a debate or speech must relate to planning issues relevant to the application.

14.4 The Chair shall ensure that all Members of the [planning committee] who are entitled to vote on any particular application understand what they are voting for and whether the vote is on an amendment of on a recommendation.

14.5 The Chair will be responsible for making clear to everyone present at a meeting what the decision is on an application

Q13. Are these duties different from current duties? Do you consider that training for Chair of Planning Committee would be required?

15. Role of Members at a Planning Appeal

- 15.1 Where a [planning committee] refuse an application contrary to officers' recommendation the planning officers' professional code will prevent them from supporting the committee decision at appeal.
- 15.2 It is acceptable for a member of the [planning committee] to advocate the decision made by the [planning committee] but it is recommended that an officer provides technical support to the Member at the appeal and deals with any technical or process issues raised by the Inspector or other participants.
- 15.3 A Ward Member or Non-Committee Member is entitled to make representations at the appeal but they should offer local views and not the views of the [planning committee]
- 15.4 A Member who disagrees with the [planning committee] should not make opposing representations at an appeal and should accept the decision of the [planning committee] as being fair, open and democratic. Where a Member wishes to make representations at an appeal that are contrary to the decision of the [planning committee] they should first inform the [Development Control Manager] of their decision so that the Planning Inspectorate can be informed. Members in these circumstances must understand that the views that they put forward do not represent the views of the Council or the [planning committee].

Q14. Do these proposals differ from the arrangements you have in place? Do you see any difficulties with adopting these proposals?

16. Training

- 16.1 All Members of the [planning committee] must undertake training in accordance with the relevant training scheme (local or national) before participating in any decision making at meetings.
- 16.2 **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

Q15. Do you currently require planning committee members to undertake training before participating in any decision making? Would you support a national approach to provision of training resources?

17. Customer Care

- 17.1 The Planning Authority will adopt a procedure which sets out the way in which each application will be dealt with. This procedure should cover cut off time for representations and how late representations to the report are managed, how members' questions will be dealt with, moving and seconding of recommendations from officers and how amendments will be dealt with.
- 17.2 Local Planning Authorities are not obliged to notify objectors that the application is going to committee. It is however advised that interested parties are made aware that information regarding committee agendas is available on the Council website and therefore they are advised to regularly check the Council website.
- 17.3 As part of the proper administration of the meeting any members of the public who attend shall be shown to the public gallery and provided with sufficient copies of the Agenda for the meeting. In addition copies of the procedure adopted by the Council for the conduct of the meeting should be made available.
- 17.4 Members of the public who have requested an opportunity to speak on an application shall be shown the location where they will be able to address the [planning committee] and when their opportunity to address the [planning committee] will arise.
- 17.5 The Chairman shall make clear to everyone present which Agenda item the [planning committee] is considering at any specific time and shall identify the application number and page number on the Agenda and the site address.
- 17.6 The Chairman will confirm the order of speaking on an application. The Chairman shall identify to the [planning committee] the public speaker and the capacity in which they address the [planning committee]. The Chairman will confirm to the public speakers the time permitted to address the [planning committee]. If Member who is speaking has a right to speak but not to vote the Chairman shall make clear the capacity of that Member at the meeting.
- 17.7 When a decision is taken on any application, the Chairman shall make clear to all present at the meeting the decision taken by the [planning committee] on that item.

Q16. Do these proposals differ from the current customer care arrangements you have in place? Do you see any difficulties with preparing a local procedure as set out in paragraph 15.1?

18. Advice on attending and speaking at the [Planning Committee]

- 18.1 The Council shall publish on its web site advice to the public on attending and speaking at the [planning committee].

Suggested provisions: -

1. How do the Council decide planning applications?

Over three-quarters of the planning applications submitted to the Council are decided by officers under delegated powers. The rest are decided by Elected Councillors at the [Planning Committee]. The full list of matters that should be considered by the Committee can be found in the scheme of delegation on the Council's website – www.xxxxx.gov.uk/planning

The following procedures and guidance are designed to ensure fair play and the smooth conduct of the [Planning Committee] meeting.

2. Can I speak at Committee?

Yes - but there are some procedures that need to be followed and these are outlined below.

3. How do I get to speak at Committee?

If you wish to speak at the Committee, you must notify the [Development Control Manager] in writing, at least 2 working days before the date of the Committee meeting at which the planning application will be considered. This will allow reasonable notice for the applicant to be contacted and make arrangements for them, or their agent, to speak and respond to you, should they so wish.

Notification of a written request to speak at the Committee which is received less than 2 days before the date of the meeting will not be accepted, unless there are exceptional circumstances. These will be determined by the Council Legal Officer, in consultation with the Chairman of the Committee.

4. What if a lot of people want to speak?

If a number of people wish to speak either for, or against, a particular planning application on similar grounds, you should try to combine your representations with them and nominate one spokesperson to speak on your behalf. This will avoid unnecessary repetition at the Committee meeting.

5. What can I expect at Committee?

As long as you have registered to speak there is nothing you need to do when you arrive at the Committee as the Chairman will let you know when it is your turn to speak.

First, the Chairman will open the meeting and ask the Members of the Committee to declare whether they have any personal and/or prejudicial interests in any of the applications that are to be discussed. If any Member does have a prejudicial interest you will see they leave the room when that application is being discussed. Further information on personal and prejudicial interests can be found on the Council's website – www.xxxx.gov.uk

The Chairman will then introduce the application to be considered. Public speaking will normally come next. Consideration of an item will not be delayed if a person who has registered to speak is not present.

Example The order for public speaking is likely to be as follows:

1. The applicant
2. The applicant's professional advisers
3. Supporters of the applicant
4. Professional advisers of the objectors
5. Objectors
6. Response by the applicant

It is important to be aware that public speakers will be expected to sit at a microphone at the front of the meeting. If you think that this situation could make you nervous you may want to think about preparing some notes of what you want to say to help you on the night, or perhaps ask someone to speak on your behalf.

Each side will have no more than 5 minutes to address the meeting although, in exceptional circumstances, the Chairman may extend this time. All speakers must comply with the directions of the Chairman, should he/she interrupt them during their speech.

6. What are Site Visit Committees?

Sometimes, even before the public speaking has started, a Member of the Committee may request that consideration of the application is deferred for a site visit. If the Committee agrees with this request then there will be no further discussion on the application at the meeting, and you will not be invited to speak.

Members of the Committee (not necessarily the whole Committee) will make a formal visit to the application site within a couple of weeks in order to assess the situation on site. You will not be able to make representations to the Members of the site visit Committee.

The application will then be reported back to the next available meeting of the Committee, along with an update from the site visit meeting. It is expected that you would still wish to address the Committee but if this is not the case then you should notify us of this change.

7. What happens after the public speaking?

Once all of the people who have registered to speak on the application have spoken, the matter will then be considered and debated by Members. In some cases the Chairman may invite the Planning Officer to make a short presentation on the application to the Committee or update Members on any late representations that have been received.

Members will then 'vote' on the application through a show of hands, which will normally lead to one of three outcomes:

- they may vote to defer determination of the application to a later meeting if it is felt that further information or amendments are needed before a decision can be made;
- they may vote to agree with the Planning Officer's recommendation to approve or refuse the application; or
- they may vote to disagree with the Planning Officer's recommendation.

If the resolution is to go against the Planning Officer's recommendation then the application will not usually be determined at that meeting. The application will be considered again at a further meeting of the Committee with an additional report looking at the implications of going against the Planning Officer's recommendation. You will not normally be able to speak when the application is reported back. Members are not bound by their original resolution and can, following consideration resolve to agree with the Planning Officer's recommendation.

General advice

The law of defamation applies to any statement made in public. It is important, therefore, that you exercise extreme caution if you make personal comments about either applicants or objectors.

You should not enter into any dialogue with the Members of the Committee at the meeting.

Meetings of the Development Control Committee are normally held at am/pm in the Committee Chamber, Council Offices. General enquiries in respect of meetings should be made to the Council's Member Services Support Team, tel, email: If you want to know when, or if, a particular planning application is due to be considered by the Committee, please contact.

Q17. Do you have any additional comments not covered in the questions above?

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PART 5 – CODES AND PROTOCOLS

MEMBERS PLANNING CODE OF GOOD PRACTICE

1 Purpose of the Code

This Code has been being prepared for the guidance of Officers and Members in their dealings with planning matters. This includes decision-making meetings of Council, which exercise the planning function of the planning authority or less formal occasions such as meetings with officers or the public or consultative meetings. Whilst much of this Code of Good Practice relates to the submission and determination of planning applications it also applies to discussions / submission relating to the preparation of the Local Development Plan and to Planning Appeals and enforcement. The Code has been prepared in accordance with: -

- Code of Conduct for Members and Co opted Members of the County Council of the City and Council of Cardiff
- The Royal Town Planning Institute Code of Conduct for Chartered Planners

The Code has the following objectives:-

- To guide and protect Officers and Members in dealing with planning related matters from criticism and challenge
- To inform potential developers and members of the general public of the standards adopted by Cardiff County Council and the performance of its planning function
- To ensure that, in the planning process, there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

2 Key Principles

Planning decisions made by Councils can have a considerable effect on the value of land, the nature of its development and on the lives and amenities of people living in the vicinity. The process of arriving at decisions on a planning matter must be open and transparent. The involvement of both Officers and Members must be clearly understood. The main principles which Members should have clear regard for are:-

- The key purpose of planning is to control development in the public interest
- Your overriding duty as a Councillor is to the whole local community
- You have a special duty to your constituents including those who do not vote for you
- Your role as a member of the planning authority is to make planning decisions openly, impartially, with sound judgement, and for justifiable reasons

- Whilst you may be strongly influenced by the views of others and of your party in particular it is your responsibility alone to decide what view to take on any question which Councillors have to decide
- You should never do anything as a Councillor, which you could not justify, to the public. Your conduct and what the public believes about your conduct will effect the reputation of the Council
- It is not enough to avoid actual impropriety. You should at all times avoid any occasion for suspicion and any appearance of improper conduct
- You should treat with extreme caution any offer of gift or favour or hospitality that is made to you personally. You are personally responsible for all decisions connected to the acceptance of such gifts or hospitality and for avoiding the risk of damage to public confidence in local government
- Section 54a of the Town and Country Planning Act requires you to take planning decisions in accordance with the provisions of the development plan unless material considerations indicate otherwise. You should ensure that all decisions that you make have regard to proper planning considerations and are made impartially and in a way, which does not give rise to public suspicion or mistrust
- The Code applies to all decisions of the Council on planning related matters. This includes Members involvement in any planning application, whether or not it is reported to a committee, all applications determined by any committee or by Full Council acting as a local planning authority

3 Relationship to the Code of Conduct for Members and Co Opted Members of the County Council of the City and County of Cardiff

The Code of Conduct adopted by Cardiff County Council on 13th December 2001 sets out requirements and guidance for Members on the disclosure and registration of interests. Not only should impropriety be avoided but also any appearance or ground for suspicion of improper conduct. When considering any planning matter you should have primary regard for the Code of Conduct, and particularly the requirement to properly declare all interests:-

- **Do** apply the rules in the Code of Conduct for Members first which must always be complied with
- **Do** then apply the rules in this planning Code of Best Practice

4 Development Proposals and the Declaration of Members' Interests

When considering planning matters Members may find that they need to:

- Declare a personal and / or prejudicial interest or
- Indicate that they have come to a view prior to the meeting (i.e. fettered their discretion)

The existence and nature of any interest should be disclosed at all relevant meetings including informal meetings or discussions with officers and other Members. A member may at any time declare a personal interest under the Members Code of Conduct however it is preferably disclose your interest at the beginning of the meeting and not just at the commencement of the discussion on that particular matter.

Where your interest is personal and /or prejudicial:

- **Do Not** participate or give the appearance of trying to participate in the making of any decision on the matter by the planning authority
- **Do Not** try to represent Ward/local views. Get another Member who is not a member of DC to do so instead
- **Do Not** get involved in the processing of the application and direct any queries or technical matters to the relevant officer
- **Do Not** seek or accept any preferential treatment or place yourself in a position that could lead the public to see that you are receiving preferential treatment because of your position as a Councillor. This would include using your position to discuss any proposal with Officers or Members when other members of the public would not have the same opportunity to do so. You may need to identify another local member who is prepared to represent local interests
- **Do** be aware that whilst you are not prevented from seeking to explain and justify a proposal in which you have a personal interest to an appropriate Officer in person or in writing, the Member's Code of Conduct places greater limitations on you in representing that proposal than would apply to a normal member of the public (for example where you have a personal and prejudicial interest in a proposal to be put before a meeting you will have to withdraw from the room or Chamber whilst the meeting considers it, whereas an ordinary member of the public would be able to observe the meeting's consideration of it from the public gallery)
- **Do** notify the Monitoring Officer in writing of your own interest and ensure that a proper record of the interest is noted at any meeting (use the form at Appendix 1)

Where you have fettered your discretion

The allowance made for Councillors to be predisposed to a particular view is a practical recognition of:

- the role played by party politics in Local Government
- the need for Councillors to inform constituents of at least an initial view on a matter as part of their public role

- the structure of local government which ultimately requires the same Councillors to make decisions

It is therefore particularly important for elected Councillors to have a clear understanding about the implications of expressing an opinion or view on planning matters. If you make up your mind or clearly appear to have made up your mind (particularly in relation to an external interest or lobby group) on how you will vote on any planning matter prior to formal consideration of that matter (i.e. at the meeting of the planning authority, prior to the hearing of the Officers presentation and evidence and arguments on both sides) you may be seen to have fettered your discretion. For example:-

- Where the Council is the landowner, developer or applicant and you have acted as or could be perceived as being a chief advocate for the proposal. Through your significant personal involvement in preparing or advocating the proposal you may be perceived by the public as being no longer able to act impartially or to determine the proposal purely on its planning merits
- Where you are a member of an organisation or lobbying group, which has publicly expressed a view on the planning matter. (A lobbying group is a body whose principle purposes include the influence of public opinion or policy). You may also have a personal interest in a matter before committee. The test of establishing a prejudicial interest under the Code is analogous to the common law test for bias -"that a member of the public with knowledge of all of the relevant facts would regard your interest as so significant that it is likely to prejudice your judgment of the public interest"

However where you act as part of the consultee body (e.g. where you are also a member of a community council) you may take part in its debate provided that:-

- the proposal does not substantially effect the well-being or financial standing of the consultee body, and
- you make it clear that your views are expressed on limited information before you only, and
- that you reserve judgment and the independence to make up your own mind on each separate proposal based on your overriding duty to the whole community and not just to the people in that area, ward or parish, and
- you clearly state you will not in anyway commit yourself as to how you or others may vote when the proposal comes before the Planning Committee and
- you disclose your personal interest regarding your membership or role when the Planning Committee comes to consider the proposal

In all other circumstances

- **Do not** speak and vote on a proposal as a Member of the Development Control Committee where you have fettered your discretion. You do not also have to withdraw but you may prefer to do so for the sake of appearances
- **Do** explain that you do not intend to speak and vote because you have or could reasonably be perceived as having judged the matter elsewhere so that this may properly be recorded in the minutes
- **Do** take the opportunity to exercise your separate speaking rights as a ward member where you have represented your views or those of local electors and have fettered your discretion but do not have a personal/prejudicial interest. In these circumstances advise the Chair that you wish to speak in this capacity before the commencement of the item, remove yourself from the Members seating area for the duration of that item and ensure that your actions are recorded.

The flow chart at Appendix 2 provides guidance for you in deciding whether you have a declarable interest

Given the issues set out above Members of Planning Committee may wish to consider whether they should take an active role on consultee bodies such as Community Councils.

5 Contact with Applicants, Developers and Objectors

Local Authorities are encouraged by Government policy to enter into pre-application discussions with potential applicants. There will also be discussions and meetings on strategic plans for the Council (e.g. matters arising from the local development plan or major development sites). Such strategic discussions lie within the remit of the Cabinet Member with responsibility for Environment and Transportation and may be distinguished from discussions on specific planning applications, and therefore not subject to the caveat set out below. In addition negotiations and discussions are likely to be ongoing after an individual application has been submitted. Such discussions can often be interpreted by the public (and especially objectors) as prejudicing the planning decision-making process. In order to allay such perceptions all discussions should take place within clear guidelines.

One particular aspect of application discussions relates to lobbying. Lobbying is a normal part of the political process. However, it can lead to impartiality being brought into question and accordingly there is a need to declare publicly that an approach of this nature has taken place. Lobbying can take place by professional agents as well as un-represented applicants/landowners and community action groups.

- **Do not** agree to any formal meeting with applicants, developers or groups of Objectors if you are a member of Development Control Committee and therefore likely to be part of the decision-making process. There may be exceptional circumstances where meetings do take place. Such meetings must always have been formally convened by the Development Control Manager. The officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the

meeting is properly recorded on the application file, and that a record of the meeting will be made available for public inspection and will form a background paper to any Committee report

- **Do** refer those who approach you for planning procedural or technical advice to officers
- **Do** report to the Development Control Manager any significant contact with the applicant and other party, explaining the nature and purpose of the contacts and your involvement in them and ensure that this is recorded on the planning file
- **Do not** attend any private planning presentation unless an Officer is present and/or that it has been organised by Officers. These may be differentiated from major public presentations when members may seek information but should not enter into discussions or express a view
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application and that this will be carried out by the appropriate Committee of the planning authority
- **Do** be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other Members might vote
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals
- **Do** explain to those lobbying or attempting to lobby you that whilst you can listen to what is said it prejudices your impartiality and therefore your ability to participate in the Committee's decision-making to express an intention to vote one way or another, or such a firm point of view which amounts to the same thing
- **Do** remember that your overriding duty is to the whole community not just the people in your local area, and taking account of the need to make decisions impartially, you should not improperly favour or appear to improperly favour any person, company, group or locality
- **Do not** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable ensure that it is of the minimum and its acceptance is declared as soon as possible (remembering to register any gift with a value of over £25).
- **Do** copy or pass on any lobbying correspondence you receive to the Development Control Manager at the earliest opportunity as this will enable proper officer advice to be given in the report and avoid the situation where officers are asked to respond to new information at the meeting itself, leading to deferral or decisions made on partial advice

- **Do** promptly refer to the Development Control Manager any offers made to you of planning gain or constraint of development
- **Do** inform the Monitoring Officer where you feel that you have been exposed to undue or excessive lobbying or approaches
- **Do** note that unless you have a personal and prejudicial interest you will not have fettered your discretion or breached this Planning Code of Good Practice through listening or receiving view points from residents or other interested parties making comments to residents, interested parties, other members or appropriate officers providing they do not consist of or amount to prejudging the issue. Provided that you make clear that you are keeping an open mind, seeking information through appropriate channels or being a vehicle for the expression of opinion or speaking at the meeting as a ward member provided you explain your actions at the start of the meeting or item and make it clear that having expressed the opinion or ward view you have not committed yourself to vote in accordance with those views and you will make up your own mind having heard all of the facts and listened to the debate

6 Ward Interests

A Development Control Committee Member who represents a ward affected by a particular application is in a difficult position particularly if it is a controversial application around which a lot of lobbying takes place. There is a balance to be struck between the duty to be an active ward representative and the overriding duty as a Councillor to the whole local community. In these circumstances

- **Do not** lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- **Do not** decide or discuss how to vote on any application at any sort of political group meeting or lobby any other member to do so. Political group meetings should never dictate how Members should vote on a planning issue
- **Do not** become a Member or lead or represent an organisation whose primary purpose is to lobby, to promote or oppose specific planning proposals. If you do you will have fettered your discretion and are likely to have a personal and prejudicial interest and will have to withdraw from any meeting
- **Do** of course join general interest groups which reflect your areas of interest or which concentrate on issues beyond particular planning proposals (such as your local civic society) but make sure that you disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the committee that you have reserved judgement and the independence to make up your own mind on each separate proposal

7 Development Proposals Submitted by Officers or Councillors of the Council (the advice in this section applies to both planning applications and Development Plan Policy matters)

Officers should never act as agents for people pursuing a planning matter with their Authority. Members may in law advocate on behalf of a proposal or act as an agent on behalf of a specific proposal. However, it is likely that you will then have a personal and a prejudicial interest which must be declared in accordance with the Members Code of Conduct and which will debar you from taking part in the decision. Where Members are likely to do this on a regular basis they should not accept membership of the Development Control Committee.

Should any Member or Officer connected with the planning service submit their own proposals to the Authority they should declare the interest to the Monitoring Officer and to the Chief Strategic Planning and Environment Officer at the earliest opportunity and take no part in the processing. Any such proposal/application will be reported to the Development Control Committee **and not** dealt with under delegated powers.

8 The Decision Making Process

A decision on a planning application cannot be made before the committee meeting when all of the relevant information is to hand, any political group meeting prior to a Committee meeting should not be used to decide how Councillors should vote. Accordingly Agenda Briefing meetings and any pre-Committee meetings will solely be for the purpose of enabling an exchange of briefing material between Officers and Members on planning issues of concern in relation to particular applications, and will be open to Members of all political groups. All applications considered by Development Control Committee or by a report on the circulated schedule shall be the subject of written reports and clear recommendations. If the recommendations are contrary to the provisions of the Development Plan the material considerations, which justify this, shall be clearly stated. If in the view of the officer the matter is finely balanced the report will say so. The recommendations put forward by officers and the decisions by members are separate parts of the same process, which should be justified by the report and debate respectively.

The Conduct of the meeting will be in accordance with the Committee Procedure Rules found within the Council's Constitution

- **Do not** put pressure on officers to put forward a particular recommendation (this does not prevent you from asking questions or submitting views to the Development Control Manager which may be incorporated in to any Committee report)
- **Do** recognise that officers are part of a management structure. Only discuss the proposal outside of any arranged meeting with a Chief Officer, or those officers who are authorised by the Chief Officer to deal with the proposal at Member level
- **Do** recognise and respect that Officers involved in the processing and determination of planning matters must act in accordance with the Councils Code of Conduct for Officers and their Professional Code of Conduct. As a result planning officers views, opinions and recommendations will be presented on the

basis of their overriding obligation of professional independence which may on occasions be at odds with the views, opinions or decisions of the Committee or its Members

- **Do** have regard to the Councils Member/Officer Protocol, which governs the working relationships that you have with officers. This is a relationship based on mutual trust and courtesy, and all meetings should be guided by this principle.
- **Do** come to meetings with an open mind and demonstrate that you are open minded
- **Do** ensure that if you have requested a proposal to go before the Committee rather than be determined through officer delegation that your planning reasons are recorded and repeated in the report to the Committee
- **Do** comply with the Section 54a of the Town and Country Planning Act 1990 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise
- **Do** come to your decision only after due consideration of all the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary defer or refuse
- **Do not** vote or take part in the meeting's discussions on a proposal unless you have been present to hear the debate including the officers introduction to the matter
- **Do** have recorded the reasons for the Committees decision to defer any proposals
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge
- **Do not** allow members of the public to communicate with you during the committee's proceedings (or in writing) other than through the scheme for public speaking as this may give the appearance of bias
- **Do** ensure that you comply with the Councils procedures in respect of public speaking

9 Training

Training on planning matters will be made available at convenient times for all Members of the Council, and in particular those serving on the Planning Committee.

Subject to resource availability places will be made available for new Members of the Planning Committee to attend the Annual Planning Summer School (run by the Royal Town Planning Institute “RTPI”)

Refresher training for all Members of Planning Committee will be held throughout the year in the form of Briefing Sessions at Planning Policy Committee Meetings.

- **Do** ask the Chair of or the Committee Clerk for the Planning Committee if you have not attended Planning Summer School and you would like to
- **Do** endeavour to attend any training sessions provided since these will be designed to extend your knowledge and thus assist you in carrying out your role properly and effectively

10 Site Visits

Site visits by Committee can be helpful in reaching a decision on issues where site circumstances are clearly fundamental to that decision.

The purpose of a site visit is to enable Committee Members:-

- to view the site of a planning application together with surrounding land;
- to place the application in its physical context;
- to assist the appraisal of constraints and opportunities afforded by the proposed development, and its potential impact on surrounding land;
- to have officers point out material considerations

A consistency of approach is required for site visits to ensure that any site visit undertaken adds to the Planning Process, and also that the interests of the applicant, any objectors and the local community are dealt with equitably

Members are asked to alert officers to impending requests for site visits at the earliest opportunity. This will them to inform the Chairman and consider jointly whether site visits could be arranged in a way which minimises any delay to the processing of the application

When a member makes a request site visit the reason for the request must be stated and will be minuted. The decision on whether to agree a site visit lies with the Committee.

Site visits should only be made where necessary. Consideration should be given to what will the Planning Committee gain from a site visit that is no already evident from the Officer’s Report and other supporting information.

Committee members should consider requests critically because they generally cause delay to the process, and are time consuming and costly. Alternative methods of obtaining the information should be considered i.e. digital photography.

When considering a request for a site visit which could lead to the deferment of the determination of the application, the Chairman will require the proposer and seconder of the motion to state the reason for the proposed visit and what the Committee will gain and this shall be recorded in the Minutes.

Whenever a site visit has been agreed by the Committee, it should specify whether the site should be viewed:

- from the public highway or public land only
- from the application site
- from other private land outside the application site

This should be recorded in the Minutes. This will enable officers to make appropriate requests to enter onto private land.

The Head of Development Control (or their representative) will make arrangements for site visits. This will include:

- obtaining the relevant permission to enter private land
- informing Local Members, Petitioners, and anyone who has made observations / representations / comments on the application
- sending a copy of the Site Inspection Protocol to the applicant or owner who has given consent for the site to be entered, the owner of any other land who has agreed that their land may be entered
- arranging for an attendance list to be taken of the visit

On attending a site visit Members should follow the Site Inspections Protocol (attached at Appendix 3)

- **Do** try to attend site visits and ensure that you treat them only as an opportunity to seek information and to observe the site
- **Do** ask the Officers at the site visit questions or seek clarification for them on matters which are relevant to the site inspection
- **Do not** express opinions or views to anyone
- **Do not** hear representations from any parties other than as set out in the Site Inspections Protocol. Make it clear that any representations must focus only on site factors and site issues. Where you are individually approached by an applicant or a third party advise them that they should make their representations in writing to the authority and direct them to or inform the officer present

- **Do not** enter a site which is subject to a proposal other than is part of an official site visit even in response to an invitation as this may give the impression of bias unless:
 - (a) you feel that it is essential for you to visit the site other than through attending the official site visit
 - (b) you have first spoken to the Development Control Manager about your intention to do so and why (which will be recorded on the file) and you can ensure that you will comply with these good practice rules on site visits

11 Sanctions

The purpose of this Code is to provide guidance to Members in relation to the performance of the Councils planning function. The application of and adherence to the Code is intended to build public confidence in the Councils planning system and to produce a strong platform for planning decision-making. The Code does not remove the responsibility of Members to exercise their statutory discretion to determine the merits of individual applications or proposals.

A failure to adhere to the Code gives rise to potential consequences to the Council and individual Members, especially if this results in a pattern of inconsistency. The normal sanction of the democratic process is through the ballot box. Councillors may make a reputation in their community not only for their beliefs but also for their general conduct.

Consistency and fairness are important qualities in the public eye and they are vital to the conduct of the Planning Committee.

Beyond the normal democratic process a number of specific consequences can be identified

- **The Local Government Ombudsman**

Although the Local Government Ombudsman will not investigate the balance of argument in any planning decisions she/he may agree to investigate a planning complaint if it concerns the manner in which a decision was taken. If it is found injustice has been caused by maladministration in the light of statutory or established Council procedures she/he will recommend redress which may take the form of compensation.

Councillors who breach the national Code of Conduct may open themselves up to complaints of misconduct which will be dealt with by the Local Government Ombudsman. The Local Government Ombudsman has extensive powers to investigate a complaint. If a complaint is upheld a formal report can be sent either to the Council's Standards and Ethics Committee or the Adjudication Panel for Wales.

Such complaints may be referred to the Council's Monitoring Officer for investigation and the Standards Committee for determination and remedy.

- **The Adjudication Panel for Wales**

The Adjudication Panel for Wales is an independent body established under Part III of the Local Government Act 2000. The role of the panel is to form tribunals to consider whether Members have breached their authority's statutory Code of Conduct.

The panel will also hear appeals by Members against decisions of the Council's Standards and Ethics Committee.

- **Appeals to the National Assembly for Wales**

An applicant who has been refused planning permission has a right of appeal to the National Assembly for Wales. If an appeal is successful and it is shown that the Council's conduct in dealing with the matter was unreasonable to the appellant costs may be awarded against the Council. All appeals are administered by the Planning Inspectorate.

- **Powers of the National Assembly for Wales**

The National Assembly for Wales possesses a range of powers which could be exercised where a Local Planning Authority appears to make inconsistent decisions or decisions which are seriously in conflict with National and Development Plan Policies. This could involve the greater use of the power to call in applications whereby an application will be determined by the National Assembly following a Public Inquiry. Where permission has already been granted by the Council powers exist to revoke or modify permissions or to require discontinuance of a land use which if exercised would give rise to a liability to compensate on the part of the Council.

- **Judicial Review**

If objectors are convinced that the Council in determining to grant an application did not observe their statutory obligations to carry out all necessary procedures base their decision on the development plan and take in to account all representations they may apply for Judicial Review of the decision which might result in it being quashed. In such circumstances it would be normal for the costs of the applicant to be awarded against the Council.

- **District Auditor**

Each of the above courses of action could result in significant extraordinary costs to the Council. These costs will be closely examined by the District Auditor. Where it appears to an Auditor that a loss has been incurred or a deficiency caused in the Council's accounts by the wilful misconduct of any person she/he is required to certify that the loss or deficiency is due to that person and it may therefore lead to a formal report to Council in accordance with the powers granted to District Auditors under the Local Government Act 2000.

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PART 4 – RULES OF PROCEDURE

PLANNING COMMITTEE PROCEDURE RULES

1 ESTABLISHMENT OF PLANNING COMMITTEE AND ALLOCATION OF SEATS

1.1 Establishment

The establishment, terms of reference and allocation of seats for the Planning Committee will be determined by the Council in accordance with the Council Meeting Procedure Rules.

1.2 Chair and Deputy Chair

The chair and deputy chair of the Planning Committee shall be elected by the Council in accordance with the Council Procedure Rules.

1.3 Period of office

The period of office of the chair, deputy chair and members of the Planning Committee will continue until the first meeting following the Annual Meeting of the Council in any year when no Council elections are held. In a year when Council elections are held the period of office will end on the day of the election.

2 ORDINARY MEETINGS

Ordinary meetings of the Planning Committee will take place every 4 weeks, subject to bank holiday provision, in accordance with a calendar of committee meetings approved at the Council's Annual Meeting. Ordinary meetings of the Planning Committee will (as may be appropriate):-

- (a) elect a person to preside if the chair and deputy chair are not present;
- (b) approve the minutes of the last meeting;
- (c) receive any petitions and where these Procedure Rules allow hear the address on behalf of any petitioners and any response;
- (d) receive any announcements from the chair;
- (e) deal with any business from the last meeting of the committee;
- (f) put questions to the chair or relevant employees of the Council where appropriate on items of business before the committee and to receive responses;
- (g) consider requests from members of the committee for items of business to be considered;
- (h) consider any other business specified in the agenda of the meeting including 'late representations' relating to planning applications which have been received at least 24 hours prior to the scheduled start of the meeting; and
- (i) such other matter or matters which the chair has certified as being

urgent.

3 ADDITIONAL (EXTRAORDINARY) MEETINGS

3.1 Calling additional (extraordinary) meetings

(a) Those listed below may request the proper officer to call an additional meeting of the committee in addition to ordinary meetings:-

- (i) the Council by resolution;
- (ii) the chair of the committee;
- (iii) the Head of Paid Service;
- (iv) the Monitoring Officer;
- (v) one half of the membership of the committee if they have signed a requisition and presented it to the proper officer.

(b) Any request presented in accordance with this Rule must be in writing, specify the business to be transacted at the meeting and be accompanied by a copy of any report for the meeting.

3.2 Business

Any meeting called in addition to ordinary meetings pursuant to Rule 3.1 will:-

- (a) elect a person to preside if the chair and deputy chair are not present;
- (b) consider the item or items of business specified in the request; and
- (c) such other matter or matters which the Chairman has certified as being urgent.

4 TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the proper officer and notified in the agenda.

5 NOTICE OF AND AGENDA TO MEETINGS

The proper officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least three clear days before a meeting, the proper officer will send a summons (notice of meeting) signed by him or her by post to every member of the committee or leave it at their usual place of residence or at a place nominated by the member. The agenda will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

6 CHAIR OF MEETING

6.1 Chair of the meeting

The chair of the committee will chair a meeting of the committee and in his or her absence the meeting will be chaired by the deputy chair of the committee (if any). In the absence of the chair and the deputy chair of the committee, the committee will choose a chair to chair the committee. The person presiding at the meeting may exercise any power or duty of the chair.

6.2 Conduct of the meeting by the chair

The chair shall conduct the meeting to secure a proper, full and effective debate of business items particularly where a decision is required.

Those wishing to speak on each planning application will do so in the following order:

- (a) Officers to present any issues not included in the Committee report, such as issues on the late representation sheet (3 mins);
- (b) petitioner (if applicable) to speak to any petition of objection (3 mins);
- (c) applicant (if applicable) to exercise right of response to petition (3 mins)
- (d) Members (if present) representing the Ward in which the application is located (5 mins each);
- (e) Members (if present) who do not represent the Ward in which the application is located, subject to such Members formally requesting the Chair, in writing, in advance of the meeting with details of the reasons for the request to speak (5 mins each);
- (f) Planning Committee Members to debate and decide on applications unless the Chair considers that more time is required (15 mins).

7 QUORUM

The quorum of a meeting will be one quarter of the whole number of members (rounded up to the nearest whole number). If fewer than the quorum attend the meeting or if during any meeting the chair counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

8 MOTIONS WHICH MAY BE CONSIDERED

The following motions may be moved provided that they relate to an item of business on the agenda, concern a matter within the terms of reference of the committee and will not purport to exceed the powers delegated to the committee:-

- (a) to appoint a chair of the meeting;

- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate Committee, body or individual for consideration or reconsideration;
- (e) to appoint a sub committee of the committee arising from an item on the agenda for the meeting subject to statutory constraints;
- (f) to receive reports and/or to adopt recommendations of committees or officers;
- (g) to receive reports and/or to adopt recommendations of the Cabinet;
- (h) to delegate powers to an officer of the Council or a sub-committee subject to the constraints in this Constitution and of law;
- (i) to propose a resolution which differs from that recommended in a report;
- (j) to proceed to the next business;
- (k) that the question be now put;
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
- (o) to not hear further a member named under Rule 15.3 or to exclude him or her from the meeting under Rule 15.4.

9 RULES OF DEBATE

9.1 Content of speeches/debate

Speeches, discussion and questions must be directed to the matter under discussion or to a personal explanation or point of order. The period allowed for any speech and the number of times a member may be allowed to speak will be determined by the chair subject to the obligation on him or her under Rule 6.2.

9.2 Point of order

A member may raise a point of order at any time. The chair will hear them immediately. A point of order may only relate to an alleged breach of these Committee Meeting Procedure Rules or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the chair on the matter will be final.

9.3 Personal explanation

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech or comment by the member which may appear to have been misunderstood in the present debate. The ruling of the chair on the admissibility of a personal explanation will be final.

9.4 Declarations of interest

A member may at any time declare a personal interest under the Code of

Conduct and when a member stands to make a declaration he/she shall be heard immediately and shall be allowed to make the declaration without interruption.

10 PREVIOUS DECISIONS AND MOTIONS

10.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of the committee within the past six months cannot be moved unless a motion approving the rescission has been passed at a meeting of the full Council.

10.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of the committee in the past six months cannot be moved unless a motion approving the rescission has been passed at a meeting of the full Council.

11 VOTING

11.1 Majority

Unless this Constitution or the law provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.

11.2 Chair's casting vote

If there are equal numbers of votes for and against, the chair will have a second or casting vote. There will be no restriction on how the chair chooses to exercise a casting vote.

11.3 Show of hands/Electronic Voting

The chair will take the vote by show of hands or by use of an electronic voting system if available, whichever the chair decides, or if there is no dissent, by the affirmation of the meeting.

11.4 Right to require individual vote to be recorded

Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

12 MINUTES

12.1 Signing the minutes

The chair will sign the minutes of the proceedings of the committee at the

next suitable meeting. The chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

12.2 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the chair put them but otherwise the form of the minutes will be a matter for the proper officer.

13 RECORD OF ATTENDANCE

All Councillors present during the whole or part of a meeting must accurately record their attendance on the record of attendance provided for that purpose.

14 MEMBERS OF THE PUBLIC

14.1 Exclusion of members of the public

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules or Rule 16 (Disturbance by Public).

14.2 Right of Petitioners to address committee

- (a) When a petition contains signatures of not less than fifty Cardiff electors with their addresses, a substantial proportion of whom could reasonably be expected to be affected by the matter to which the petition relates, one person from amongst those signing the petition may address a committee to which the petition has been referred on the subject matter of the petition for up to three minutes.
- (b) In any case where the petitioners object to a planning application, the applicant will also be given an opportunity to be heard.
- (c) Any petition presented direct to a committee shall be delivered to the relevant Chief Officer at least seven clear days prior to the date of the meeting of the committee at which it is to be presented, to enable the applicant to be notified if appropriate and to be present at the meeting of the committee if the applicant so wishes.
- (d) When a petitioner has been heard by the Planning Committee under this Procedure Rule, no further petition on the same item shall be considered and no further address shall be heard on that item, within six months of the committee meeting at which the petition was first considered or the petitioner heard.

15 MEMBERS' CONDUCT

15.1 Members wishing to speak

When a member speaks at a committee he or she must address the meeting through the chair. If more than one member speaks, the chair will ask one to speak and the others must remain silent until invited to speak unless he or she wishes to make a point of order or a point of personal explanation or to declare an interest.

15.2 Chair seeking order

When the chair asks for order the meeting must be silent.

15.3 Member not to be heard further

If a member persistently disregards the ruling of the chair by behaving improperly or offensively or deliberately obstructs business, the chair may move that the member be not heard further. If seconded, the motion will be voted on without discussion. If the motion is passed the named member may not discuss or debate any further business whilst it is transacted at the meeting.

15.4 Member to leave the meeting

If the member continues to behave improperly or offensively or deliberately obstructs business after such a motion is carried, the chair may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion. If the motion is passed the named member must leave the meeting forthwith.

15.5 General disturbance

If there is a general disturbance making orderly business impossible, the chair may adjourn the meeting for as long as he/she thinks necessary.

16 DISTURBANCE BY PUBLIC

16.1 Removal of member of the public

If a member of the public interrupts or disrupts proceedings of a committee, the chair will warn the person concerned. If they continue to interrupt or causes disruption, the chair will order their removal from the meeting room.

16.2 Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the chair may call for that part to be cleared.

17 COUNCILLORS ATTENDING PLANNING COMMITTEES OF WHICH THEY ARE NOT MEMBERS

A Member, who is not a member of the Planning Committee, may attend a Planning Committee meeting and with the permission of the Chair may speak but may not vote subject to the following:

- (a) where the Councillor is required to declare an interest and withdraw from the meeting under the Members' Code of Conduct; or
- (b) where the Chief Officer Legal and Democratic Services or his/her representative advises that as a matter of law non-members of a committee should withdraw.

18 RECORDING OF PROCEEDINGS OF COMMITTEES

No recording shall be made of the proceedings of meetings of committees whether audio or visual and by whatever method except with the express authorisation of the meeting. If a person records the proceedings of any meeting (or causes such recording to be effected) without authorisation then the chair will order their removal from the meeting room and shall not permit them to be admitted to a further meeting of the committee except on a written undertaking to desist from such recording and on the destruction of such recordings as may have been made and anything derived from them.

19 SUSPENSION OF COMMITTEE PROCEDURE RULES

All or any of these Committee Rules of Procedure except Rule 11.4 may be suspended by motion on notice or without notice if at least one half of the whole number of the Councillors are present. Suspension can only be for the duration of the meeting.

20 MEMBER DEVELOPMENT TRAINING

All Members of the County Council are expected to undertake a basic level of training on planning matters in their role as local Members. Specific training will be provided to the Chair, Deputy Chair and members of the Planning Committee as part of the Member Development Programme.

WLGA DRAFT PLANNING COMMITTEE PROTOCOL CONSULTATION RESPONSE – DRAFT

Q1. Do you agree with having a national planning protocol?

Overall, it is agreed the protocol will help improve consistency across the 25 LPAs. However, it is important that the protocol provides the necessary high-level clarity but avoids becoming over-prescriptive. In this respect, it needs to provide for local flexibility through discretion of the Chair and locally determined procedures on matters such as committee meeting running order and details of speaking rights having regard to the volume/nature of planning applications submitted to different sized planning authorities in Wales. A protocol provides guidance to officers and members and informs developers and members of the public and ensure that planning decisions are well founded.

It should also be noted that the attached existing protocols/rules/guidance adopted by the Council are to be reviewed/consolidated in the near future so this exercise has been useful in helping inform this process.

Q2. Do these proposals differ from the protocol you have in place? Do you see any difficulties with adopting these proposals?

A copy of the Council's Planning Code of Good Practice is attached which although similar to those proposed go into more detail regarding the Members Conduct which would avoid potential difficulties that may arise in adopting the draft proposals and see also section 7 in relation to development proposals submitted by Councillors

Q3. Does the proposal regarding voting differ from the arrangements you have in place? Do you see any difficulties with adopting these proposals?

A copy of the Council's Planning Code of Good Practice is attached which again although similar to those proposed go into more detail regarding the Members Conduct declarable interests – see also Appendix 2 attached. I note the inclusion of guidance in the draft proposals as to where a Member acts as a member for their electoral ward or as Member of the Planning Committee for an application in their electoral ward, which is useful.

Q4. Are members currently involved in pre-application discussions? Do you see any difficulties with adopting these proposals?

Whilst members are currently rarely involved in pre-application discussions unless for instance as a member of a consultee group this may become more the case following the changes introduced by the Planning Wales Act 2015 and the proposals would be useful for Member's to refer to which would help them to avoid any difficulties that may otherwise arise. The issue regarding requesting Officer attendance will need further consideration in terms of respective roles and potential resource implications.

Q5. Do these proposals differ from the arrangements you have in place? Do you see any difficulties with adopting these proposals? (Contact with Applicants, Developers and Objectors)

They are similar to the provisions the Council already has in place in the Members Planning Guide of Good Practice attached and in particular see section 5

Q6. Do these proposals differ from the arrangements you have in place? Do you see any difficulties with adopting these proposals? (Lobbying of Councillors)

Please refer to reply to Question 5 above.

Q7. Do these proposals differ from the arrangements you have in place? Do you see any difficulties with adopting these proposals? (Lobbying by Councillors)

They are similar to the provisions the Council already has in place in the Members Planning Guide of Good Practice attached and in particular see section 6

Q8. Do you see any difficulties with adopting these proposals? (Site Visits/Inspections)

No, they are similar to the provisions the Council already has in place in the Members Planning Guide of Good Practice attached which set out the requirements in greater detail and in particular see section 10 and the Guidelines for site visits attached. One consolidated document would be useful in this respect which should also explain the structure and purpose of the Site Visit to both members of the public and to the developer at the outset of the Site Visit as per Appendix 3 attached. The reasons for requesting a site visit should be based upon the planning grounds listed and should be minuted in order to avoid unnecessary delays in processing the application.

Q9. Does your authority allow public speaking? If not are there any reasons why public speaking cannot be allowed?

Yes, there are provisions regarding petitioners and the applicants right to speak at Planning Committee which are contained in paragraph 14.2 and 6.2 of the Council's Committee Procedure Rules attached, although these may need updating taking into account the use of electronic petitions, signatures and email addresses which make it difficult to determine whether or not the petitioners are Cardiff electors who could reasonably be expected to be affected by the matter to which the petition relates.

Q10. Do these proposals differ from the arrangements you have in place? Do you see any difficulties with the proposals? (Public Speaking Procedures)

Yes, there are provisions regarding petitioners and the applicants right to speak at Planning Committee which are contained in paragraph 14.2 and 6.2 of the Council's Committee Procedure Rules attached and see also the attached Council Protocol for receiving oral observations from Members who are not members of Planning Committee attached. These provisions are considered to strike an appropriate balance between allowing public/ local Ward Member representations whilst allowing for the determination of an often large number of applications within a Planning Committee meeting.

This is considered a topic where the protocol can usefully establish the need for LPAs to put in place measures for public speaking but not become over-prescriptive in terms of setting out detailed procedures which are likely to vary having regard to local context. In this respect, there would be considerable difficulties adopting the proposed arrangements. For example, where there are a large number of planning applications to be determined at Committee, 2 days is not sufficient time to allow the officer to include and comment on the petition within the report or to notify the applicant who in the interests of justice should be given sufficient time to respond to the petition at committee. Furthermore, the time implications and difficulty practically organising potentially large numbers of people to speak on specific applications are considered to have a significant negative impact on the smooth running and operation of Committee with a serious risk of long and repetitious representations which would have an adverse impact on the efficient determinations of applications at committee. There are also considered difficulties with both the notion of dialogue between the Chair/representors and the suggested order of speaking (this section & section 18). There is a significant risk of the protocol inadvertently creating confusion rather than clarity if it becomes over-prescriptive on such matters as different LPAs will have their own details relating to running order and speaking but the protocol can assist by clarifying the high-level key points.

Q11. Do these proposals differ from the arrangements you have in place? Do you see any difficulties with the proposals? (Role of Officers/ Decision-making)

No, they are similar to the provisions the Council already has in place in the Members Planning Guide of Good Practice attached which set out the requirements in greater detail and in particular see section 8.

Q12. What are your views on having a cooling off period?

This reflects the current usual practice at the Council's Planning Committee, although it is not documented it is useful exercise as it allows planning officers to return to committee with full reasons for refusal and allows the developers scope for amendment to the proposals where possible.

Q13. Are these duties different from current duties? Do you consider that training for the Chair of Planning Committee would be required?

This reflects the current usual practice at the Council's Planning Committee as per paragraph 6.2 , 9.1 and 20 of the Council's Planning Committee procedure rules attached.

Q14. Do these proposals differ from the arrangements you have in place? Do you see any difficulties with the proposals? (Role of Members at a Planning Appeal)

The proposals differ from the arrangements that the Council currently has in place in that given the constraints on finance it is not possible generally to appoint an external planning consultant to represent the Council at appeal in which case the planning officer will make it clear that the views he is presenting are those of the Planning Committee. Whilst Members

are able to attend at the appeal and provide evidence the opinions are those of an individual member and not those of the planning committee.

Q15. Do you currently require planning committee members to undertake training before participating in any decision making? Would you support a national approach to provision of training resources?

By reason of paragraph 20 of the Council's Planning Committee Procedure Rules all members of the Council are expected to undertake a basic level of training on planning matters in their role as local members. Specific training is provided to the Chair and Deputy chair and members of the Planning Committee as part of the Member Development Programme. Under paragraph 9 of the Member's Code of Good Practice training is also provided which is necessary for Planning committee members who act in a regulatory or quasi judicial manner. A national approach would be supported.

Q16. Do these proposals differ from the current customer care arrangements you have in place? Do you see any difficulties with preparing a local procedure as set out in paragraph 15.1? (Customer Care)

The Council's procedures are the same and are exercised by either the Chairman or Committee Clerk. The cut off time for late representations is 24 hours before the start of the meeting and is contained in paragraph 1(h) of the Council's Committee procedure rules. The protocol for receiving observations and representations from Members who are not Members of Planning Committee is attached and should also be included within any Planning Committee protocol in order to avoid any difficulties arising at Committee. I have also attached an informal guide as to the Council's procedure although the majority of the attached documents are on the Council's website it would be useful to have one document with regard to the protocols at Committee.

Q17. Any additional comments?

It would be useful to have an informal guide which gives advice regarding the Council's procedure although the majority of the attached documents are on the Council's website it would be useful to have one document with regard to the protocols at Committee.

**CITY & COUNTY OF CARDIFF
DINAS A SIR CAERDYDD**



STANDARDS AND ETHICS COMMITTEE: 18 MAY 2016

REPORT OF THE INTERIM MONITORING OFFICER

SOCIAL MEDIA GUIDANCE - REVIEW

Reason for this Report

1. To enable the Committee to review the guidance provided to Members on the use of social media and consider any amendments or further action required.

Background

2. In response to recognised new opportunities and challenges for Members presented by the growth of social media, the Committee considered this issue in 2013/14. At its meeting in July 2014, following consultation with political group leaders and whips, the Committee approved the Social Media Guidance for Councillors ('the Guidance').
3. The Guidance is intended to:
 - Introduce various forms of social media;
 - Set down rules governing the basic use of social media by Councillors;
 - Highlight sections of the Members' Code of Conduct that relate to the use of social media; and
 - Provide guidance in relation to the use of social media by councillors and to highlight some of the pitfalls to be aware of.
4. Upon approval of the Guidance, the Committee resolved to review this issue in due course.

Issues

5. The Social Media Guidance for Councillors approved by the Committee in July 2014 is appended as **Appendix A** to this report.
6. The Guidance was issued to Members during the roll out of new technology solutions, such as tablet computers, in 2014/15, as part of the IT Pack for Members; and has been used in Member training and development.

7. No concerns have been raised regarding the Guidance, as far as the Interim Monitoring Officer is aware; and officers in Democratic Services and Communications are of the view that the Guidance remains relevant and fit for purpose.
8. The Committee is invited to review the Guidance, make observations as appropriate, and consider whether any changes are required.

Legal Implications

9. There are no direct legal implications arising from the recommendations of this report.

Financial Implications

10. There are no financial implications arising from this report.

RECOMMENDATION

The Committee is recommended to review and comment on the current Social Media Guidance for Councillors (**Appendix A**) and to authorise the Monitoring Officer to make any amendments, as appropriate.

David Marr
Solicitor and Interim Monitoring Officer
12th May 2016

APPENDICES

Appendix A Social Media Guidance for Councillors

Cardiff Council

Social Media Guidance for Councillors

Section 1 – Introduction

Section 2 – Social Media – an Introduction

Section 3 – How to avoid trouble when using Social Media

Section 4 – Social Media issues that are specific to Councillors

Section 5 – References to other relevant Council Policies, Acknowledgements and Further Materials

Section 1

Introduction – Why Social Media is Important

People are now turning first to the web to find everything from information and entertainment to shopping and making connections with friends and colleagues. People expect to be able to comment and contribute on everything; from online versions of newspapers to items they purchase from retailers.

Residents will increasingly expect that local government will be able to provide its services online, with the same level of interactivity that they find everywhere else. It wasn't that long ago that email was a novel way to contact your Councillor and Council. Already many Councillors and Councils are interacting with the people they represent online through social media, and it won't be long before this is common expectation.¹

However, there are challenges that may discourage Councillors and the Council from engaging in social media use. For example, inappropriate use (which may occur inadvertently) can cause significant damage to a Councillor's (or even the Council's) reputation and can lead to legal claims. In addition the technology involved is changing at a fast pace. This can mean that it is hard to keep up and maintain useful interaction with residents.

The problem for Councils though, is that not engaging now represents a far greater risk than engaging. Citizens will still use these networks to talk about us, whether we add our voice to the conversation or not. The national infrastructures being built to improve government and public services will still exist, and Councils will be expected to engage with them. Citizens will expect their council to engage with them on their terms, via their channels, and to be openly available online. In fact, it is becoming increasingly clear that if councils don't use these tools, the citizens will do it for them, and bypass the council entirely.²

In response to these new opportunities and challenges this handbook is intended to:

- Introduce various forms of social media;
- Give guidance in relation to the basic use of social media by Councillors;
- Highlight sections of the Members' Code of Conduct that relate to the use of social media; and
- Provide guidance in relation to the use of social media by Councillors and to highlight some of the pitfalls to be aware of.

The Members Code of Conduct

It is vital to remember that Members must follow the Code of Conduct at all times. This includes your online activities – there are many aspects of the Members' Code of Conduct that will apply to your online activities in the same way it does to your offline life.

Why should and how can Social Media be used?

¹ Extracted from 'Connected Councillors – A guide to using social media to support local leadership' LGA

² Extracted from 'Local by Social – how Local Authorities can use social media to achieve more for less' I&DeA

The Home Office has produced a guide on the use of social media and highlights the following uses and benefits of social media:³

Communicate with citizens where they are

Many of Cardiff's citizens are already on social media, and expect to find you there too. Britons are the most prolific social networkers in Europe, with over 50% of the UK population now using Facebook. For many, it's already the place to go for debate, information and to find contact information.

However, the use of social media is not simply a numbers game. The quality of interaction and audience demographics should influence your choice of how and when to use social media. It's also important to know who is using different channels so you can better target your audience.

It's also important to remember that despite the growth of social media, many citizens are not on social media and likely never will be so traditional methods of communication should not be abandoned!

Consult and engage

Social media can be a great way to disseminate or gather information to many people quickly and cheaply. This could include asking questions to crowd-source views, but also something as simple as raising awareness of roundtables and consultation events.

Social media can be used to have discussions with service users or the people whose behaviour you want to change. Social media is one of the few ways you can directly and instantly receive feedback on your policies and decisions

Increase the impact of your communications

Most social media users will testify to the fact that you will get far greater traction with your audience if you add a social media layer to your communications - whether in an emergency, for one-off or more regular events.

Buzz generated around communications on Twitter can very quickly escalate. Stories and discussions start on Twitter but are quickly picked up, firstly by amateur bloggers, then by professional bloggers, then via news websites and often make it onto the front pages of newspapers 12-24 hours later. You have a real chance to either reinforce or prevent those front-page headlines with the effective use of social media.

Also, communicating 1-to-many rather than repeatedly 1-to-1 directly, quickly and cheaply is one of the major opportunities that social media offers.

³ Based on extracts from 'Social Media Guidance for Civil Servants' Home Office

Be more transparent and accountable

Explaining what Council and Councillors do (and why and how they do it) is already embedded in our culture through the use of public meetings, consultations and the publication of information online and in hard copy. Social media can add a further level of transparency and accountability to the public.

It allows citizens to input into decisions, to question them and for replies to be broadcast to many instead of 1-2-1. So you can hear direct from those affected by your decisions – the positive and negative – and explain and/or defend decisions.

Be part of the conversation

Most commentators will agree that there is more value to be gained from engaging in the social media conversation than not - whether you are aiming for better service delivery or behaviour change. Being present in the conversation means engaging and a core part of any good conversation is listening.

If you are not aware of rumours circulating within a particular citizen group who use a particular service regularly, you cannot address that rumour. But if you are, you can respond there quickly and easily.

To bring people together

Using social media can be a great way to connect with individuals and organisations who want the same things as you do. Social media is a quick, easy and effective way to network. Bringing together like minded people can have a multitude of benefits and have a real impact on the quality of services offered by the Council.

Section 2

Social Media – an Introduction

Social media describes a range of online services that provide easy ways to create and publish on the internet. People generally use the term to describe how content (i.e. text, video and pictures) can be shared and discussed online.

It is transforming the way that business is done and how individuals interact with each other. It is providing a voice for those who might otherwise struggle to get a platform. As a result social media will change the way that councillors and councils interact with local people.

A lot of the language used can initially seem like impenetrable jargon. However, the important thing to remember about social media is that it's social. It's about communication. It's about putting the transformative power of the printing press into the hands of the people. Just like the ability to publish political pamphlets and talk about them in public was the foundation of our democracy, social media will have just as big an effect on the way we govern and do business.

Now anyone can publish and share their views, and more importantly can engage in conversation with others about those views, with just a few clicks of a mouse. It's the political leaflet and public meeting all rolled into one.⁴

Types of Social Media

It's impossible to list all the types of social media, but the following is a very brief summary of the main popular social media platforms commonly used at the moment:

- Facebook – this is a service mainly used for telling people what you like and what you've done.
- Twitter – for telling people what your doing or thinking – right now!
- Instagram and Flickr – both for showing people your pictures.
- Foursquare – for telling people where you are.
- You Tube – for showing people your videos.
- Linked In – for professional networking.

⁴ Based on material in 'Connected Councillors – A guide to using social media to support local leadership' by the Local Government Association.

Section 3

Staying out of trouble on Social Media⁵

Any form of communication is rife with the possibility of misunderstandings. But Social media is especially vulnerable to this risk. For example, it's very difficult to convey irony in the 140 characters of a Twitter post. So a comment that would be seen as harmlessly humorous in normal conversation could be seen as seriously offensive on Twitter.

The serious legal bits and actual guidelines are at the end of this section and you should read and make sure you understand these. However, the following is intended to be a more practical guide to ensuring you stay on the straight and narrow when using social media. As a general rule, all of the below will seem like common sense – and a lot of it is.

Don't rush in!

The problems that arise from social media often stem from users forgetting two key characteristics of social media:

1. What you are saying is **permanently published, to the world** – once you say something online, it's nearly impossible to take it back. Before you know it, the off-hand comment you made when you were angry could have gone global. As it's attributed to you, your name (and that of the Council or your party if you are a Councillor) could be forever tarnished.
2. You're just using text or pictures and people reading or viewing them may not be aware of the background to the issue you're discussing. Because of this **posts can easily be misinterpreted or taken out of context**. Yes, social media is interactive, but not in the same way as a face to face conversation. Therefore, an ambiguous comment may have already done its damage before you realise it and get the chance to explain what you really meant.

Be secure

Officers of the Council and Councillors, just like anyone else, should be careful about internet security. If you lose control of a social media account to a hacker, you could suddenly find all sorts of inappropriate comments being published to the world in your name!

Use secure passwords (generally over eight characters long and using a mix of letters, numbers and symbols) and never share your password with anyone. If you are using shared IT equipment, don't store your password on the computer.

Allow disagreement but don't get into arguments

As you begin to use social media, you'll find that there are some argumentative users out there. You need to be aware that getting into an online argument rarely results in either party looking good.

⁵ This section adapts and adds to principles from the LGA publication "Connected Councillors – a guide to using social media to support local leadership".

Some comments may be out of line, but on the other hand deleting the comments of people who disagree with you will often backfire. You can't stop them from posting the same comment elsewhere, and then linking back to your site and saying you are "gagging" those who disagree with you. It's best not to get bogged down. You don't have to respond to everything – it's OK to ignore comments if necessary.

It's also worth bearing in mind that people will have a lot more confidence to say things behind the protection of their keyboard than they would in a face-to-face conversation. So you'll probably need to have an even thicker skin than normal!

Moderate your account

You will need to take note of the comments that other people make. It may be a fine line to tread, but if you allow offensive or disrespectful comments to stand then it can put off other members of the community. The easiest way to handle this is to "moderate" comments.

The process of moderation involves identifying, deleting or reporting comments or content that is inappropriate. If you do so, it's best to clearly set out somewhere on your account the reasons why comments may be rejected.

A couple of sample Moderation Policies can be found here:

The BBC's very detailed Moderation Policy -
<http://news.bbc.co.uk/1/hi/help/4176520.stm>

Welsh Government's shorter Moderation Policy –
<http://wales.gov.uk/topics/tourism/workingtourismindl1/socialmediause/?lang=en>

For Facebook or other social networks, including multi-media sites like YouTube and Flickr where people can post public or semi-public messages to your profile, you will need to regularly check on messages or, far less preferably, disable message posting. It is worth noting that you cannot moderate Twitter as such but you can 'block people' who are posting inappropriate comments or report them to Twitter.

Think about who you contact and engage with

Some of the terminology in social media, like 'friending' can imply an intimacy or support that's not really there. Both terms just mean you have linked your account to someone else so you can share information.

Savvy internet users are used to this, but some people may find it obtrusive if their council or councillor begins following them online. It's probably best to let other people initiate online contact with you, and then to respond rather than actively trying to "friend" or otherwise make contact with residents.

Most social media platforms restrict or limit use by minors, however these rules are hard to monitor and are therefore often breached. You should be very careful about contacting, 'liking', or 'friending' those who are or appear to be under the age of 18. If you have any doubt at all about whether it's appropriate to engage in any sort of online contact with a minor, it's probably best to err on the side of caution.

Equally, you should be aware that creating a social media account rarely involves any checks on identity. Therefore, people may not always be who they say they are.

Beware the irony

Very few writers are able to communicate sarcasm or irony well through short online messages. It's probably best to assume that you're among the vast majority who can't.

Own up

Social media is great at transparency. The best users admit mistakes rather than try to cover them up (which isn't normally possible anyway).

Amending your text and acknowledging your mistake – perhaps by putting a line through the offending words and inserting a correction or providing an update section at the bottom of a post – shows you are not pretending it didn't happen, and is much better than just deleting it when dealing with online misfires.

Legal considerations⁶

This section does not purport to be a complete assessment of all the legal pitfalls that may catch out a social media user, but it highlights some of the main concerns. If you have any questions or concerns in relation to a particular issue please contact the Council's legal services team.

It's worth remembering that most of these pitfalls can be avoided if you make sure that everything you say online is objective, balanced, informative and accurate.

Libel

If you publish an untrue statement about a person which is damaging to their reputation they may take a libel action. This will also apply if you allow someone else to publish something libellous on your website if you know about it and don't take prompt action to remove it.

A successful libel claim may result in an award of damages.

Copyright

Placing images or text on your site from a copyrighted source (for example extracts from publications or photos) without first seeking proper permission is likely to breach copyright. Avoid publishing anything you are unsure about, or seek permission in advance.

Breach of copyright may result in an award of damages.

⁶ This section is adapted from CivicSurf's Legal Guidance for councillor blogs. Included here under Creative Commons attribution, non-commercial license.

Data Protection and Confidentiality

Avoid publishing the personal data of individuals unless you have their express written permission.

In addition, some information that you receive in your role as a Councillor will be confidential. Obviously, this sort of material should not be published online.

Further guidance can be sought from the Council's Improvement & Information Management Team or Monitoring Officer.

Obscene or offensive material

It goes without saying that you should avoid publishing anything that people would consider obscene or offensive. Publication of obscene material (and some types of offensive material) is a criminal offence.

The Council's use of Social Media

Material published by the Council itself is, for obvious reasons, restricted in terms of content. It must not:

- contain party political material;
- persuade the public to a particular political view;
- promote the personal image of a particular councillor or party; or
- promote an individual councillor's proposals, decisions or recommendations, or personalise issues.

In addition, the Council should not assist (such as by re-tweeting) in the publication of any material that does any of the above.

What does the Council consider to be inappropriate or offensive?

The Council will not tolerate inappropriate or offensive use of social media and will take action against anyone found to have made any such comments. For Councillors, this could result in comments being reported to the Standards & Ethics Committee or the Public Services Ombudsman for Wales.

It's impossible to write a list of everything that could be seen as inappropriate or offensive. Below is a list of examples of the type of comment or material that might fall into this category, but you should be aware that this is not an exhaustive list.

You should not use social media in a way that:

- is illegal;
- breaches confidentiality, for example by:
 - revealing confidential or commercially sensitive information belonging to the Council;

- giving away personal or confidential information about an individual (such as a fellow Councillor, officer or a service user) or organisation (such as a service provider or partner authority); or
- improperly discussing the Council's internal workings (such as agreements that it is reaching or its future plans that have not been communicated to the public) or;
- does anything that could be reasonably considered insulting, threatening, discriminatory against, or bullying or harassment of, any individual, for example by:
 - making offensive or derogatory comments (in particular in relation to any of the Protected Characteristics contained in the Equality Act 2010, being: age, disability, gender reassignment, marriage or civil partnership, pregnancy, race, religion or belief, gender or sexual orientation);;
 - using social media to bully another individual (such as an officer or service user of the Council); or
 - posting images or comments that are offensive, obscene or links to such content or;
- brings the Council into disrepute, for example by:
 - making defamatory comments about the Council, officers, individuals, organisations or groups;
 - promotes illegal activity or is intended to deceive; or
- breaches copyright, for example by:
 - using someone else's images or written content without permission; or
 - failing to give acknowledgement where permission has been given to reproduce something.

If you have any doubt at all about whether content is appropriate, it probably isn't! If you are still in any doubt, you should contact the Council's Monitoring Officer before posting.

Section 4

Social Media Issues that are Specific to Councillors

As you get started in social media and build your online profile, there are a few things to bear in mind. While there's no additional legal or ethical burden around using social media, the usual rules still apply and you need to think about them in this new context.

In the main, Councillors have the same legal duties online as anyone else, but failures to comply with the law may have more serious consequences. There are some additional duties around using social media websites for electoral campaigning and extra care needs to be taken when writing on planning, licencing and other regulatory matters.

Use of social media by members of planning, licensing or other regulatory committees is not permitted during the course of such meetings.

This section looks at some issues that are particularly relevant to the life and work of a Councillor and builds on the principles set out in Section 3.

Bias and pre-determination

If you are involved in determining planning or licensing applications or other quasi-judicial decisions, avoid publishing anything online that might suggest you don't have an open mind about a matter you may be involved in determining.

If not, the decision runs the risk of being invalid.

Interaction with Councillors by the Council Online

Whilst it is important to remember the principles set out in this guide in relation to the Council itself not promoting political views, the Council must acknowledge that social media channels are now used for communication and finding information by many residents. Therefore, Council materials may make reference to the social media accounts of Councillors as a means of contacting that Councillor.

Electoral periods

The Electoral Commission requires that candidates provide a return of expenditure on any form of advertising or campaign literature and that includes web advertising. And there are additional requirements, such as imprint standards for materials which can be downloaded from a website. Full guidance for candidates can be found at www.electoralcommission.org.uk. In particular you should also read the useful guidance that can be found here: www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents

The Members' Code of Conduct⁷

Aspects of the Members' Code of Conduct will apply to your online activity in the same way it does to other written or verbal communication you undertake.

⁷ This section is adapted from CivicSurf's Legal Guidance for councillor blogs. Included here under Creative Commons attribution, non-commercial license.

The nature of a Councillor's hours and work on local issues may mean that the line between work life and home life is not always clear. Councillors can have 'blurred identities'. This means you may have a social media account where you comment both as a Councillor and as an individual. For example a Facebook account where you've posted about a great night out (personal) and another time explained the Council position on pothole repair (Councillor). It may be clear in your mind when you are posting in a private capacity or as a Councillor, but it could be less clear to others.

Whilst there are a number of factors which will come into play which are more a question of judgment than a hard and fast line, it is worth assuming that any online activity can be linked to your official role. This is because the judgment of whether you are perceived to be acting as a Councillor will most likely be taken by someone else. Unless you've gone to significant effort to keep an online persona completely separate from your Councillor identity, you are unlikely to be able to claim that you were acting in a completely private capacity.

As a result the Council's Standards and Ethics Committee strongly recommends that Councillors separate their social media use. **The Committee recommends using separate social media accounts for Council and private business.** Whilst this will not always protect comments that you intended to be "private", it will help to keep your identities separate; and reduce the risk of a comment you intended to be private as being viewed as having been made in a public capacity.

Such blurred identities might also have implications where your views are taken as those of your organisation or political party, rather than your personal opinion. There is a need therefore to get your position on social media accounts/profiles clear so that it cannot be misinterpreted that you are acting as the corporate voice for the Council. Indeed, there is an important difference between communicating on behalf of the Council, or as a Councillor or as a private citizen and the former will be held to a higher standard than the latter.

With this latter point in mind, you need to be aware that how you use your online identity will also determine how online content will be treated in respect of the Members' Code of Conduct. Councillors are expected to communicate politically. The key, however, to whether your online activity is subject to the Code of Conduct is whether you are giving the impression that you are acting as a Councillor. And that stands whether you are in fact acting in an official capacity or simply giving the impression that you are doing so.

As has already been mentioned, aspects of the Members' Code of Conduct will apply to your online activity in the same way it does to other written or verbal communication you undertake. Members should comply with the general principles of the Code in what they publish and what they allow others to publish.

You will need to be particularly aware of the following sections of the Code:

- Treat others with respect. Avoid personal attacks and disrespectful, rude or offensive comments.

- Comply with equality laws.
- Refrain from publishing anything you have received in confidence.
- Ensure you don't bring the Council, or your Councillor role, into disrepute.

If you have any doubt about any online issues, please contact the Monitoring Officer.

“Although these warnings may seem stark, they shouldn't put you off engaging online. Use your common sense. The things that can get you in hot water anywhere else are the same things to avoid in social media. Most councillors who are using social media engage with citizens in entirely constructive and often colourful fashions without ever engaging the Code of Conduct or running foul of the law”⁸

⁸ Connected Councillors, Social Media Handbook.

Section 5

References to other relevant Council Policies, Acknowledgements and Further Materials

Further Reading Materials

You may also wish to look at:

- Connected Councillors – A guide to using social media to support local leadership' Local Government Association
- Local by Social – how Local Authorities can use social media to achieve more for less' Improvement and Development Agency
- CivicSurf's website: www.civicsurf.org.uk
- The Local Government Associations webpages on Social Media: <http://www.local.gov.uk/socialmedia>

Other Council Policies

These Council's IT policies are also relevant: They can be found here: http://cmsweb/cardiff/content.asp?nav=3011%2C4058%2C4062%2C4069&parent_directory_id=3094

Acknowledgements

Material in this Policy has been based on and/or reproduced with thanks from the following publications:

- Connected Councillors – A guide to using social media to support local leadership' Local Government Association
- Local by Social – how Local Authorities can use social media to achieve more for less' Improvement and Development Agency
- CivicSurf's Legal Guidance for councillor blogs. Included here under Creative Commons attribution, non-commercial license
- Social Media policies in use by other Local Authorities including Cheshire East, Lincolnshire and Devon
- Social media guidance for civil servants. Published by the Cabinet and Home Offices and reproduced under the terms of the Open Government Licence

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CITY AND COUNTY OF CARDIFF DINAS A SIR CAERDYDD



STANDARDS AND ETHICS COMMITTEE: 8 MAY 2016

REPORT OF THE INTERIM MONITORING OFFICER

FORWARD PLAN 2016/17

Reason for this Report

1. To consider the updated Forward Plan of matters for consideration by the Standards and Ethics Committee in 2016/17.

Background

2. The Standards and Ethics Committee's Terms of Reference provide the Committee with responsibility in the following areas:
 - (a) To monitor and scrutinise the ethical standards of the Authority, its Members, employees and any associated providers of the Authority's services and to report to the Council on any matters of concern.
 - (b) To advise the Council on the content of its Ethical Code and to update the Code as appropriate.
 - (c) To advise the Council on the effective implementation of the Code including such matters as the training of Members and employees on the Code's application.
 - (d) To consider and determine the outcome of complaints that Councillors and co-opted members have acted in breach of the Code in accordance with procedures agreed by the Standards Committee, including the imposition of any penalties available to the Committee.
 - (e) To oversee and monitor the Council's Whistleblowing procedures and to consider ethical issues arising from complaints under the procedure and other complaints.
 - (f) To grant or refuse requests for dispensations in respect of Members' interests under the Members' Code of Conduct in accordance with the relevant statutory provisions.

- (g) To undertake those functions in relation to Community Councils situated in the area of the Council and members of those Community Councils which are required by law.
- (h) To recommend to Council and the Executive any additional guidance on issues of probity.
- (i) To hear and determine any complaints of misconduct by Members or a report of the Monitoring Officer, whether on reference from the Ombudsman or otherwise.
- (j) To recommend the provision to the Monitoring Officer of such resources as he/she may require for the performance of his/her duties.

Issues

- 3. The work plan for the Committee needs to reflect the Council's Annual Governance Statement, and any issues arising from the Committee's work in promoting high standards and managing complaints. The views of this Committee assist in the development of an ongoing work programme designed to promote and maintain high standards of conduct across the Council.
- 4. The Committee agreed its Forward Plan at the Committee meeting in September 2015, and has reviewed it at subsequent meetings. At its meeting in March 2016, the Committee resolved to add a number of actions agreed in response to the Wales Audit Office Follow On report.
- 5. An updated Forward Plan is attached at **Appendix A** for the Committee's consideration.

Legal Implications

- 6. There are no direct legal implications arising from the content of this report. However, the Committee is reminded of its statutory role contained in the extract from the Local Government Act 2000 set out below which should be considered alongside its terms of reference when setting the Forward Plan:

54 Functions of standards committees

(1) The general functions of a standards committee of a relevant authority are--

- (a) promoting and maintaining high standards of conduct by the members and co-opted members of the authority, and*
- (b) assisting members and co-opted members of the authority to observe the authority's code of conduct.*

(2) Without prejudice to its general functions, a standards committee of a relevant authority has the following specific functions—

(a) advising the authority on the adoption or revision of a code of conduct,

(b) monitoring the operation of the authority's code of conduct, and

(c) advising, training or arranging to train members and co-opted members of the authority on matters relating to the authority's code of conduct.

7. The Committee has the same statutory functions in relation to Community Councils and Community Councillors as it has in relation to the County Council and County Councillors (pursuant to section 56(1) of the Local Government Act 2000).

Financial Implications

8. There are no direct financial implications arising from this report.

RECOMMENDATION

The Committee is recommended to consider the updated Forward Plan 2016/17, as set out in **Appendix A**, and advise the Monitoring Officer of any amendments to be made and how it wishes to progress the various items or topics contained therein.

David Marr
Interim Monitoring Officer
12 May 2016

Appendices

Appendix A Updated Forward Plan 2016/17

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APPENDIX A

STANDARDS AND ETHICS COMMITTEE – FORWARD PLAN 2016/17

The following topics have been prioritised on a Red / Amber/ Green (RAG) basis with Red being the highest priority and include indicative timescales as applicable:

TOPIC	OBJECTIVE/OUTCOME	WHO IS RESPONSIBLE?	PRIORITY	REVIEW DATE
(1) S&E Committee Annual Report	Prepare Annual Report	Committee Chair / Monitoring Officer	AMBER	On Agenda (May 2016)
(2) Social Media	To review the Members' Guidance recommended by the Committee in July 2014 (scheduled for review on / after April 2015)	Monitoring Officer	AMBER	On Agenda (May 2016)
(3) Gifts and Hospitality	<p>(1) To monitor and review the acceptance of gifts and hospitality by Members; and</p> <p>(2) To consider standards and ethics issues relating to the provision by the Council of gifts and hospitality to third parties (to include issues such as a policy in relation to when the provision of hospitality is appropriate and the monitoring of such provision).</p>	Monitoring Officer	AMBER	July 2016
(4) Role Descriptions for Standards and Ethics Committee Members	To review roles and responsibilities of all Members of the Standards and Ethics Committees.	Monitoring Officer	GREEN	

TOPIC	OBJECTIVE/OUTCOME	WHO IS RESPONSIBLE?	PRIORITY	REVIEW DATE
(5) Review of Members' Code of Conduct and Guidance	To consider updates and guidance from the Ombudsman on the Members' Code of Conduct.	Monitoring Officer	GREEN	
(6) Review of Member/Officer Protocol	To review the Member/Officer Protocol. This is expected to form part of a wider review of the Council's Constitution by the Constitution Committee.	Monitoring Officer and Chief HR Officer	GREEN	
(7) Planning processes and procedures (Members Planning Code of Good Practice)	To improve public perceptions relating to openness and transparency To review procedure rules for continuous improvement	Monitoring Officer and Director of City Operations	RED	On Agenda (May 2016)
(8) Charter between Cardiff Council and the Community Councils	To update the Charter and monitor its operation.	Monitoring Officer	AMBER	July 2016
(9) Review of Officer/Employee Code of Conduct and Guidance	To review and improve the Officer Code of Conduct. To support the dissemination of information and training to officers.	Monitoring Officer/Chief HR Officer	GREEN	
(10) Whistleblowing Policy	To monitor and review the operation of the Council's whistleblowing arrangements; to receive information on reports made under the Whistleblowing Policy and consider any ethical issues arising	Monitoring Officer	GREEN	March 2017

TOPIC	OBJECTIVE/OUTCOME	WHO IS RESPONSIBLE?	PRIORITY	REVIEW DATE
(11) Officers' Personal Interests Policy	To monitor and review the implementation of the new Policy	Monitoring Officer	GREEN	January 2017
(12) Annual Meeting with Group Leaders and Whips	To facilitate ongoing engagement with representatives from all political groups.	Elected Members	GREEN	September 2016
(13) Members' Role in Safeguarding Vulnerable Children and Adults	To consider a draft Members' Protocol	Monitoring Officer	GREEN	Completed
(14) Attendance at Conferences	To review and update the Council's policy and procedure in respect of conference attendance by Members and Senior Officers.	Monitoring Officer	AMBER	July 2016
(15) Ward Member Protocol	To review the Council's Protocol and consider any changes required	Monitoring Officer	GREEN	
(16) Members' Protocols	To review and consider any changes required to other relevant Member Protocols	Monitoring Officer	GREEN	
(17) Observation of Committee meetings	Independent Members to attend other Committee meetings to become more acquainted with the work of different committees.	Independent Members of the Committee	AMBER	Ongoing

TOPIC	OBJECTIVE/OUTCOME	WHO IS RESPONSIBLE?	PRIORITY	REVIEW DATE
(18) Member Briefings	To publish biannual Member Briefings on the work of the Committee, underlining the importance of the Cardiff Undertaking and member conduct and behaviour (WAO Action Point P5a).	Chair / Monitoring Officer	AMBER	July 2016
(19) Training	To work alongside the Democratic Services Committee to enhance and support training, with a new programme to commence in May 2017 (WAO Action Points P5b and P5c).	Monitoring Officer	GREEN	July 2016