PART 5

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MEMBERS' CODE OF CONDUCT

The Members' Code of Conduct is intended to promote high standards of behaviour amongst the elected and co-opted Members of the council.

The Code is underpinned by the following principles of public life[1], which should borne in mind when interpreting the meaning of the Code:-

Selflessness	Holders of public office should act solely in terms of the public interest.
Integrity	Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
Objectivity	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
Accountability	Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
Openness	Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
Honesty	Holders of public office should be truthful.
Leadership	Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

[1] Revised principles updated by the Committee on Standards in Public Life, January 2013, chpt 3, following Full Council decision 11/07/13

PART 1
GENERAL PROVISIONS

1. INTRODUCTION AND INTERPRETATION

1.1 This Code applies to **you** as a Member of East Cambridgeshire District Council ('ECDC').

1.2 The term "**the Authority**" used in this Code refers to ECDC.

1.3 "**Member**" means any person being an elected or co-opted Member of the Authority.

1.4 It is **your** responsibility to comply with the provisions of this Code.

1.5 Definitions: In this Code –

"**Disclosable Pecuniary Interest"**	means the description of interests specified in Regulations made by the Secretary of State (set out in Appendix A).
"**Dispensation"**	means a exemption from an obligation or rule, granted by or as if by the Authority by the Proper Officer under section 33 Localism Act 2011, in respect to of Disclosable Pecuniary Interests, or under s1 Localism Act 2011 in respect of Prejudicial Interests, on the grounds set out in Appendix B.
"**Meeting**"	means any Meeting of:- a) The Authority; b) Any Meetings with the Council's officers; c) Any of the Authority's Committees, sub-committees, joint committees, joint sub-committees, or area committees; d) Any site visits to do the business of the Authority; e) Any of the Authority's advisory groups and, working parties and panels.
"**Personal Interest"**	means the description of non-disclosable pecuniary interest or non-pecuniary interest specified in paragraph 10.
"Prejudicial Interest"	means a Personal Interest in the business of the Authority, where that business would affect the financial or regulatory position of that person or body and the interest is one which the member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest. It will **not** be a Prejudicial Interest if this relates to receipt of statutory benefits; allowances, payments or indemnities provided to Members; ceremonial honours given to Members or setting of Council tax, rates or precepts.

"Speaking Right" means the right of a Member to speak, make representations and answer questions in relation to a matter that they have a Prejudicial Interest and only applies to such an interest and ***not a matter where they have a Disclosable Pecuniary Interest***. **This Speaking Right does not extend to Meetings or discussions with officers or site visits.**

1.6 In this Code "relevant authority" has the meaning given to it by section 27(6) of the Localism Act 2011.

2. SCOPE

2.1 You must comply with this Code whenever you act, claim to act or give the impression you are acting in your official capacity as a Member of the Authority.

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

3. GENERAL OBLIGATIONS

3.1 You must treat others with respect.

3.2 **You must not:-**
(a) do anything, which may cause the Authority to breach UK equalities legislation.
(b) bully any person.
(c) intimidate or attempt to intimidate any person who is or is likely to be:-
(i) a complainant,
(ii) a witness, or
(iii) involved in the administration of any investigation or proceedings,
in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's code of conduct.
(d) do anything, which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.
(e) conduct yourself in a manner, which could reasonably be regarded as bringing your office or authority into disrepute.

4. YOU MUST NOT:-

4.1 disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:-
(a) you have the consent of a person authorised to give it;
(b) you are required by law to do so;
(c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(d) the disclosure is:-
(i) reasonable and in the public interest; and

(ii) made in good faith and in compliance with the reasonable requirements of the authority.

4.2 prevent another person from gaining access to information to which that person is entitled by law.

5. YOU MUST NOT:-

5.1 use or attempt to use your position as a Member improperly to confer on, or secure for yourself or any other person, an advantage or disadvantage.

6. YOU MUST:-

6.1 when using or authorising the use by others of the resources of the Authority:-
(a) act in accordance with your Authority's reasonable requirements;
(b) ensure that such resources are not used improperly for political purposes (including party political purposes); and

6.2 have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.

PART 2
INTERESTS

7. DISCLOSABLE PECUNIARY INTERESTS

7.1 **Breaches of the rules relating to Disclosable Pecuniary Interests may lead to criminal sanctions.**

7.2 You have a Disclosable Pecuniary Interest if it is of a description specified in Regulations made by the Secretary of State (Appendix A) and either:
(a) it is an interest of yours, or
(b) it is an interest of:
(i) your spouse or civil partner,
(ii) a person with whom you are living as husband and wife, or
(iii) a person with whom you are living as if you were civil partners,
and you are aware that that other person has the interest.

8. REGISTRATION OF DISCLOSABLE PECUNIARY INTERESTS

8.1 **You must,** within 28 days of:
(a) this Code being adopted or applied by the Authority; or
(b) your election or appointment (where that is later),
notify the Authority's Monitoring Officer in writing of any Disclosable Pecuniary Interests you have, and
subject to paragraph 14 (sensitive interests), such notifications will be placed on the Register of Interests.

8.2 **You must**, within 28 days of becoming aware of any new Disclosable Pecuniary Interest or any change to any such interest, notify the Authority's Monitoring Officer in writing of that new Disclosable Pecuniary Interest or change. Subject to paragraph 14 (sensitive interests), such notifications will be placed on the Register of Interests.

9. DISCLOSABLE PECUNIARY INTERESTS IN MATTERS CONSIDERED AT MEETINGS

9.1 If you attend a Meeting and have and are aware that you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at that Meeting-

(a) **you must disclose** to the Meeting the existence and nature of the Disclosable Pecuniary Interest in that matter unless paragraph 14 (sensitive interests) applies. **If you have not already done so, you must notify the Authority's Monitoring Officer** of the interest before the end of 28 days beginning with the date of the disclosure, and

(b) whether the interest is registered or not you **must not** – unless you have obtained a dispensation from the Authority's Monitoring Officer –

(i) participate, or participate further, in any discussion of the matter or vote at the Meeting; or

(ii) remain in the Meeting whilst the matter is being debated or participate in any vote taken on the matter at the Meeting.

Note: Council Procedure Rule 19.3.4 requires you to leave the room where the Meeting is held while any discussion or voting takes place on a matter, which is a Disclosable Pecuniary Interest or affects that Disclosable Pecuniary Interest.

OTHER INTERESTS

10. PERSONAL INTERESTS

10.1. You have a Personal Interest in any business of the Authority where –

(a) it relates to or is likely to affect—

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body—
(aa) exercising functions of a public nature;
(bb) directed to charitable purposes; or
(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),
of which you are a member or in a position of general control or management;

(iii) the interests of any person or body from whom you have received a gift or hospitality *as a Member*, with an estimated value of at least £100 in the last 3 years; ***or***

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being[2] or the well-being a person or body listed in 10.2, to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or

[2] Defined as anything that could affect quality of life either positively or negatively.

inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area,

AND that interest does not otherwise fall into the category of a Disclosable Pecuniary Interest.

10.2 (a) a member of your family or any person with whom you have a **close friendship**; or

(b) any person or body or firm who employs or has appointed or are in partnership with those detailed in 10.2(a), (as an employee, partner or director);

(c) any person or body in whom those detailed in 10.2(a) have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body or person described in 10.1(a)(i) or (ii).

11. REGISTRATION OF PERSONAL INTERESTS,

11.1 **You must,** within 28 days of:
(a) this Code being adopted or applied by the Authority; or
(b) your election or appointment (where that is later),
notify the Authority's Monitoring Officer in writing of any Personal Interests you have detailed under 10.1(a)(i)-(iii) and
subject to paragraph 14 (sensitive interests), such notifications will be placed on the Register of Interests.

11.2 **You must**, within 28 days of becoming aware of any new Personal Interest or any change to any such interest, notify the Authority's Monitoring Officer in writing of that new Personal Interest or change. Subject to paragraph 14 (sensitive interests), such notifications will be placed on the Register of Interests.

12. DECLARATION OF PERSONAL INTERESTS AND PARTICIPATING IN ANY MEETING WHERE THESE ARE DISCUSSED

12.1 If you attend a Meeting at which any item of business is to be considered and you are aware that you have a Personal Interest in that item, then subject to paragraph 14 (sensitive Interests) **you must** make a verbal declaration of the existence and nature of that interest at the outset of the Meeting or before the consideration of the item of business.

12.2 Sub-paragraph 12.1 only applies where you are aware or ought reasonably to be aware of the existence of the Personal Interest.

12.3 Where you have a Personal Interest in that item of business you may remain in the Meeting, debate and vote on the item.

13. PREJUDICIAL INTERESTS, DECLARATIONS AND EXERCISING A SPEAKING RIGHT IN ANY MEETING WHERE THESE ARE DISCUSSED

13.1 If you attend a Meeting at which any item of business is to be considered and you are aware that you have a Prejudicial Interest (as defined in paragraph 1.5) in that item, then, subject to paragraph 14 (sensitive Interests) **you must** make a verbal declaration of the existence and nature of that interest at the outset of the Meeting or before the consideration of the item of business. If you wish to exercise a Speaking Right (as

defined in paragraph 1.5), you should make a verbal declaration to this effect at this time.

13.2 Subject to 13.3, where you have a Prejudicial Interest in any item of business, then unless you have obtained a dispensation from the Authority's Monitoring Officer, **you must not**

(a) participate, or participate further, in any discussion of the matter or vote at the Meeting; or

(b) remain in the Meeting whilst the matter is being debated or participate in any vote taken on the matter at the Meeting.

13.3 Where you have a Prejudicial Interest, you may exercise a Speaking Right and then **must** leave the Meeting where the business is being discussed. **You must not participate in any debate or vote.**

Note: Council Procedure Rule 19.3.5 requires you to leave the room where the Meeting is held while any discussion or voting takes place on a matter, which is a Prejudicial Interest or affects that Prejudicial Interest, UNLESS you are exercising a Speaking Right and once that Speaking Right has been exercised you must leave the room.

14. SENSITIVE INTERESTS

14.1 Where you consider (and the Authority's Monitoring Officer agrees) that the nature of a Disclosable Pecuniary or Personal or Prejudicial Interest is such that disclosure of the details of the interest could lead to you or a person connected with you being subject to intimidation or violence, it is a "Sensitive interest" for the purposes of the Code. Details of the Sensitive interest do not need to be disclosed on the Register of Interests or to a Meeting, although the fact that you have a Sensitive interest, will be placed on the Register of Interests as being withheld under section 32(1), or section 1 Localism Act 2011, and disclosed at any Meeting. The obligations in relation to participation in Meetings under paragraphs 9, 12 and 13 still, otherwise, apply.

Note: Register of interests
Interests notified to the Monitoring Officer will be on a specified form approved for the purpose by the Monitoring Officer and for this purpose will be deemed the "register of interests". A copy of the Register of Interests will be available for public inspection and will be published on the Authority's website.

Appendix A
Disclosable Pecuniary Interests

This note explains the requirements of the Localism Act 2011 (ss 29-34) in relation to Disclosable Pecuniary Interests. These provisions are enforced by criminal sanction.
They came into force on 1 July 2012.

1 Notification of Disclosable Pecuniary Interests

Disclosable Pecuniary Interest	*description*
Employment, office, trade, profession or vocation[3]	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a Member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land, which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial

[3] The word "vacation" is used in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 No 1464. This is, however, believed to be a typographical error and should read "**vocation"**.

interest exceeds one hundredth of the total issued share capital of that class.

These descriptions on interests are subject to the following definitions:
"**the Act**" means the Localism Act 2011;
"**body in which the relevant person has a beneficial interest**" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
"**director**" includes a member of the committee of management of an industrial and provident society;
"**land**" excludes an easement, servitude, interest or right in or over land, which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
"**M**" means a Member of a relevant authority;
"**Member**" includes a co-opted Member;
"**relevant authority**" means the authority of which M is a Member;
"**relevant period**" means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;
"**relevant person**" means M or any other person referred to in section 30(3)(b) of the Act;
"**securities**" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Offences
It is a criminal offence to

- Fail to notify the Monitoring Officer of any Disclosable Pecuniary Interest within 28 days of election
- Fail to disclose a Disclosable Pecuniary Interest at a Meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a Disclosable Pecuniary Interest that is not on the register that you have disclosed to a Meeting
- Participate in any discussion or vote on a matter in which you have a Disclosable Pecuniary Interest (without a dispensation)
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a Disclosable Pecuniary Interest or in disclosing such interest to a Meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a Councillor for up to 5 years.

Appendix B
Dispensation grounds:

The Authority's Monitoring Officer[4] may grant a dispensation only if, after having had regard to all relevant circumstances, the Monitoring Officer considers that —

- without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- granting the dispensation is in the interests of persons living in the Authority's area, or
- considers that it is otherwise appropriate to grant a dispensation.

A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.

[4] As Proper Officer

PROTOCOL ON MEMBER/OFFICER RELATIONS CONVENTIONS FOR MEMBER/OFFICER RELATIONS

These conventions set certain agreed procedures and standards by which the Council will operate.

The conventions should be read in conjunction with the current Members' Code of Conduct, the Council's Protocols and Guidance in Part 5 of the Constitution and with Procedure Rules.

It is of course impossible to prescribe "rules and regulations" to cover every situation which may arise. The purpose of these conventions, therefore, is to set out an agreed approach in the following areas:-

1. Officer Advice to Party Groups
2. Support Services to Party Groups
3. Access to Information and Council Documents
4. Meeting dates
5. VIP visits, Public Meetings and Consultations
6. The Member/Officer Relationship
6. Correspondence
7. Use of Council Resources
9. Press and Public Relations
10. Complaints
11. Petitions
12. Allegations of Breach of this Protocol.

These conventions are not intended to be (and should not be read as) a rigid set of prescriptive rules to be applied in a legalistic way. Rather they are a workable flexible framework, the main principles of which are:

- the political neutrality of officers and officer support
- confidentiality in dealing with information
- mutual respect between Members and officers

The guidance set out in this document should be interpreted in the light of those principles. A copy of these conventions has been sent to all Members of staff.

Any doubt or difficulty over any area contained in these conventions should be referred to the Chief Executive or the Monitoring Officer for advice.

1.0 OFFICER ADVICE TO PARTY GROUPS

1.1 Council officers of all grades must, of course, remain politically neutral in relation to Council business. It is particularly important that Political Groups recognise this, especially when asking for officer input on any matter.

1.2 Input from officers must be available to all Members. It can take many forms - from a briefing meeting with a Chairman of any Member Body or Group Spokesperson (if appointed) prior to a meeting, through to a presentation to a Group meeting. It is likely to be rare that Officers, other than the Chief Executive and Directors and Service Leads, will be requested to attend Group Meetings. However, if Officers receive an invite to attend a Group meeting, they must clear their attendance with the relevant Service Lead.

1.3 Officer input must necessarily be constrained in some circumstances, for example:

1.3.1 Officer input in these circumstances will not extend beyond providing input and advice on matters of COUNCIL business. Officers must not in any circumstances be involved in advising on matters of Party business. Officers should not therefore be expected to be present at Group or Party meetings, or parts of such meetings, when matters of Party business are to be discussed or, in some circumstances as explained further on, when non-Council personnel are present.

1.3.2 Party Group meetings cannot make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and neither officers nor Members must interpret or act on them as such.

1.3.3 Information and advice given by officers to Party Group meetings on Council business is not a substitute for, nor does it preclude, the need for all necessary information and advice to be given to any other Member or to any Member body considering the issue in question.

1.4 Normally, only Councillors should be at Group or other meetings at which officers are asked to provide information and advice. Considerable care must be taken where officers are asked to provide such information and advice to Party Group or other meetings, which include persons who are not Members or officers of the Council. Such people are not bound by the Members' Code of Conduct or Employees' Code of Conduct - particularly the provisions relating to declarations of interest and to confidentiality. Consequently, officers may not be able to provide the same level of information and advice as they would to a Members only meeting. It is highly unlikely that officers should attend such meetings, as this may leave the Council open to disclosure of confidential information. In such circumstances, Officers should clear, in advance, Service Lead or Chief Executive whether their attendance at the meeting is appropriate.

1.5 Confidentiality must be maintained. Officers will not relay the content of any such Group meeting to other Groups, nor will Group Members purport decisions made at those meetings to be Council decisions or to have the backing or otherwise of officers.

2.0 SUPPORT SERVICES TO PARTY GROUP

2.1 The Council can only lawfully provide support services to Members (for example typing, stationery, printing and copying, research, etc) to help Members discharge their Council duties and for Council business.

2.2 Such support services must not be used for party political or campaigning activity or for private purposes. You are referred to paragraph 6.1 of the Member's Code.

3.0 ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

3.1 The Council has adopted a Protocol on Access to Information to which all Members should have regard.

3.2 In addition, there are a number of legal provisions governing both rights of and limitations on access to information. The Members Code of Conduct (paragraph 4) also states that Members must not:

"4.1 disclose information given in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(a) you have the consent of a person authorised to give it;

(b) you are required by law to do so;

(c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(d) the disclosure is—

(i) reasonable and in the public interest; and

(ii) made in good faith and in compliance with the reasonable requirements of the authority; or

4.2 prevent another person from gaining access to information to which that person is entitled by law."

4.0 MEETINGS

4.1 Dates and Timings

The Democratic Services Manager will set the annual Calendar of Meetings in consultation with Group Leaders. The setting of ad-hoc Member meetings or the rearranging of calendar meetings will be discussed with the Members of that meeting. The Chairman of that Member meeting will have the final say on the date for the meeting. Where no Chairman has yet been appointed for any meeting, any date will also be discussed with the Members of that meeting but the final say on the dates will be with the Chief Executive. There is a presumption that the calendar of meetings, once agreed, will be adhered to as far as possible and that dates will only be changed in exceptional circumstances. The Chairman of the Committee will have the final say on changes or cancellation of meetings.

4.2 Briefings

The Chairman of a Member body may require a briefing on the published agenda for meetings of that body with the Lead Officer(s) for that body and other officers as appropriate.

5.0 VIP VISITS, PUBLIC MEETINGS AND CONSULTATIONS

5.1 The Council has adopted protocols both for royal visits ("Civic and Ceremonial in East Cambridgeshire") and on other VIP visits (non-ministerial/ceremonial) which will be followed as appropriate.

5.2 Whenever the Council organises a public meeting to consider any issue, Group Leaders and the local Member(s) will be informed.

5.3 Similarly when the Council organises a public consultation exercise on any issues, Group Leaders and appropriate local Member(s) will be informed.

6.0 THE MEMBER/OFFICER RELATIONSHIP

6.1 Mutual respect between Members and Officers is essential to the good running of the Council, particularly, for example, the relationship between the Chairman of any

Member body and the designated Lead Officer(s). It is important though that that relationship does not lead to questions about the officer's ability to deal impartially with other Members, including Party Groups. It is equally important, however, that the relationship is not tainted by abuse of power or offensive, abusive, intimidating, malicious or otherwise inappropriate behaviour. Members are obliged, under paragraph 3 of the Member Code of Conduct, to treat others with respect and not to do anything which compromises or is likely to compromise the impartiality of those that work for or on behalf of the Authority.

6.2 Lead Officer(s) have prime responsibility for drawing up agenda with the allocated Democratic Services Officer, in consultation with the Chairman of that Member body.

6.3 Under the current law, decisions on Council business can only be made either by properly constituted Member bodies or by the officer to whom that decision has been delegated. Chairmen, Leaders of Political Groups, Party Group meetings, Briefing meetings, etc cannot lawfully make decisions on behalf of the Council.

6.4 Members seeking advice from or being consulted by officers must remember both that each officer is responsible ultimately not to them but to the Chief Executive and that officers cannot go beyond their delegated authority. Members may also wish to consider in this context the Council's Local Code of Conduct as regards lobbying.

6.5 Officers work to the instructions of their senior officers, not individual members. It follows that, whilst such officers will always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given by their managers. If an enquiry is purely to seek factual information, Members should normally direct their requests and concerns to a senior officer, at least in the first instance.

6.6 Officers will do their best to give timely responses to Members' enquiries. However, officers should not have unreasonable requests placed on them. Their work priorities are set and managed by senior managers. Members should avoid disrupting officers' work by imposing their own priorities.

6.7 Members will endeavour to give timely responses to enquiries from officers.

6.8 An officer shall not discuss with a Member personal Council related matters concerning him/herself or another individual employee. This does not prevent an officer discussing personal matters with his/her ward member in his/her own time.

6.9 Members should avoid discussing Council business in officers' free time.

6.10 In seeking to deal with constituents' queries or concerns, Members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested timescale, and may need to seek instructions from their managers.

6.11 Members may request senior officers to provide them with such information, explanation and advice, as they may reasonably need to assist them to discharge their role as Members. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of third party, it will only be provided if: a) it is in the public domain, and b) it is not barred by the Data Protection Act or other exemption or exception under the Freedom of Information/ Environmental Information Regulations from being given.

6.12 Before meeting with Officers, Members should consider whether they have any Disclosable Pecuniary Interests ('DPI'), Personal or Prejudicial interest in the matters being discussed, that would prevent their participation under the Localism Act/ and or the Member Code of Conduct. If it is a DPI, the Member should follow paragraph 9 of the Member Code of Conduct and must declare the existence and nature of the DPI.

The Member must not participate in the Meeting when the item is due for discussion and/ or debate and/or vote and must leave the room. If this is a Personal Interest, then, the Members must follow paragraph 12 and declare the existence and nature of the Personal Interest and subject to that, may participate and (where relevant) vote at the meeting. Where this is a Prejudicial Interest, Members must follow paragraph 13 of the Member Code of Conduct and disclose the existence and nature of the Prejudicial Interest. The Member must leave the room when the item is discussed, unless they are exercising a Speaking Right (as defined in paragraph 1.5 of the Member Code of Conduct). This is subject to any of these interests being "sensitive" and if that applies, Members are referred to paragraph 14 of the Member Code or the Monitoring Officer for further guidance on what they need to do in such circumstances. Note that the requirement to leave formal meetings is supported by the Council's Procedure Rules in the Constitution. Members should also follow the guidance relating to Planning and Licensing Applications (where relevant to the matter) and appoint an agent (this may be a friend/ family member or unrelated party and does not have to be a paid agent) to deal with these issues on their behalf. Note that Members must not use, or attempt to use, their position as a Councillor improperly to confer on or secure for themselves or any other person an advantage or disadvantage. Members are referred to paragraph 5 of the Members' Code.

7.0 CORRESPONDENCE

7.1 Correspondence between an individual Member and an officer should not normally be copied by the officer to any other Member (unless this relates to general issues, or matters that the Officer cannot deal with directly without other officers' involvement). Members should make it clear if they do not wish correspondence to be forwarded to other officers. However, Members must note that their correspondence with the Council is subject to the provisions of the Data Protection Act 1998, and the Freedom of Information 2000/Environmental Information Regulations 2004 and may be disclosable to third parties in any event.

7.2 Official letters sent out on behalf of the Council will normally bear the name of the Council officer concerned, not of a Member. The Chief Executive may approve the sending of a letter on Council headed paper in the name of a Member. Letters, which, for example, create obligations or give instructions on behalf of the Council should never be in the name of a Member.

8.0 USE OF COUNCIL RESOURCES

8.1 The Council provides all Members with services such as printing and photocopying, and goods such as stationary and computer equipment, to assist them in discharging their roles as Members of the Council. These goods and services are paid for by the public purse and they should not be used for private purposes or in connection with party political or campaigning activities. You are referred to paragraph 6 of the Members Code and the Guidance for Staff, Members and Candidates during an Election period.

8.2 Members should ensure they understand and comply with the Council's own rules about the use of resources. In particular, those where facilities are provided in Members' homes at the Council's expense and in relation to use of ICT. You are referred to the Council's E-mail and the Internet Policy and Statement of Good Practice.

8.3 Members should not put pressure on staff to provide resources or support which officers are not permitted to give. Examples are: -

- business which is solely to do with a political party;
- work in connection with a ward or constituency party political meeting;
- electioneering;
- work associated with an event attended by a member in a capacity other than as a member of the Council;
- private personal correspondence;
- work in connection with another body or organisation where a member's involvement is other than as a member of the Council; and
- support to a member in his/her capacity as a councillor of another local authority.

9.0 PRESS AND PR

9.1 The Council has adopted protocols on press and news releases, which cover most situations we are likely to encounter.

10.0 COMPLAINTS

10.1 The Chief Executive or Service Lead will advise local Members of the receipt of any Council business related complaint from a member of the public in their ward, where appropriate. Members will not be involved in the handling of complaints, except for referral of an original complaint. If this is a complaint regarding a Member's conduct, then this will be dealt with under the Council's Councillor complaint handling procedures.

11.0 PETITIONS

11.1 Council has adopted a Petitions Scheme (see key documents). Members can obtain a copy of this from the Council, or view via the Council's website and should refer to it as necessary.

12.0 ALLEGATIONS OF BREACHES OF THIS PROTOCOL

12.1 This part of the protocol should be read in conjunction with the Council's "whistle-blowing" policy

12.2 Members or officers with questions about the implementation or interpretation of any part of his protocol should seek the guidance of the Monitoring Officer.

12.3 A Member who is unhappy about decisions taken by, or the conduct of, an officer, should:

- Avoid personal attacks on, or abuse of, the officer at all times,
- Ensure that any criticism is well founded and constructive,
- Never make a criticism in public, and
- Take up the concern with the officer privately.

12.4 If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the member should raise the issue with the officer's manager or the relevant senior officer.

12.5 A serious breach of this protocol by an officer may lead to an investigation under the Council's disciplinary procedure.

12.6 An officer who believes a Member may have acted other than in accordance with this protocol, should try to resolve the issue with the member directly, if not should raise his/her concern with the Monitoring Officer. He/she will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the leader of the relevant party group. More serious complaints may involve alleged breaches of the members' code of conduct and may be referred to the Monitoring Officer for consideration under the Councillor complaint handling procedure.

GUIDANCE FOR STAFF, MEMBERS AND CANDIDATES DURING AN ELECTION PERIOD

The Code below sets out guidance to staff, Members and candidates.

If you have any queries please contact the Returning Officer at East Cambridgeshire District Council, The Grange, Nutholt Lane, Ely, Cambs, CB7 4EE, telephone number (01353) 665555

INTRODUCTION

The need to demonstrate the political impartiality of the authority's paid service is never more important than in the run up to an election. The Council has therefore agreed these guidelines for staff, members and candidates to protect the reputation of the Council and to guard against even the suspicion of officers or members in any way compromising this impartiality.

The guidance is based on the Codes of Conduct for Members and Employees and the Code of Recommended Practice on Local Authority Publicity. Reference has also been made to protocols in use at other authorities and which apply to the civil service.

This protocol has been agreed by the Leaders of the Groups on the Council, the Standards Committee[5] and representatives of the Council's staff. It shall be issued to all staff, Members, candidates and agents before every Parliamentary, European Parliamentary, County Council, District Council or Mayoral (or Police Commissioner's) election which includes electors in the District or a part of the District. There are regulations that would apply to the period in which a petition is being organised on having an elected Mayor for either the District or the County and in any subsequent referendum.

PROTOCOL ON CONDUCT DURING THE ELECTIONS

1. PRINCIPLES

1.1 The overriding principle on which this Protocol is based is that the Council will not act in any way, and will avoid any appearance of acting in any way, that supports the candidature of any person more than any others, or that supports a political position adopted by a candidate or party more than any other.

1.2 The Council must continue to function effectively during an election period but must be sensitive to the need to avoid staff becoming, or appearing to become drawn into party political activity or the resources of the Council being used, or appearing to be used, for political purposes.

1.3 The Council will be open about the way it will conduct itself during an election and will issue this protocol to the media in advance of the election period and make it available to the public including by posting it on the Council's web site.

2. APPLICATION

2.1 This protocol applies from the date on which a general election is announced and in all other cases from the publication of the Notice of Election until the Declaration of the Result of Poll.

[5] The Council no longer has a Standards Committee, as from 1 July 2012

2.2 It applies to all Members and employees of the Council and shall be brought to the attention of contractors undertaking work for the Council within the District during the election period.

3. ACCESS TO INFORMATION

3.1 The Council shall provide any candidate, organisation and any member of the public on request with factual information that would be made available at any other time.

3.2 For District Council elections, Members remain in office until after the poll even if they are not re-elected. They therefore retain the additional rights to information given by the Council's Constitution. They are bound by the Code of Conduct and the provisions of the Constitution. They will not seek access to information that is not publicly available and that they do not need to know for their duties as a councillor.

3.3 The Council shall not express any opinions or comments on any enquiries arising from the campaigns of any candidate or group of candidates or that a Chief Officer regards in any way as politically controversial.

4. MEDIA RELATIONS AND PUBLICITY

4.1 The Council will not issue media releases during the election period, which name or quote any Member, candidate or agent nor any political party or group or the policies associated with any candidate, political party or group.

4.2 The Council's protocols on press and news releases shall be suspended during the election.

4.3 Media releases during this period will be restricted to those issued by, or on behalf of, the Returning Officer and those, sanctions as being necessary to provide local people with factual information about services.

4.4 The Council will continue to respond to enquiries from the media, but such responses will be limited to the provision of factual information and will not express any opinions or offer any commentary.

4.5 The Council will continue to function as normally as possible, including the holding of meetings previously scheduled and necessary to conduct the business of the authority.

4.6 The Council will not stage any other events during this period which give a platform to any Members or candidates for election. The most senior officer present at any event staged by the Council shall close it if there is any attempt to use it to promote the election of any person.

4.7 The Council's officers may attend events arranged by others during this period but will leave any event at which the election of any candidate or group of candidates is promoted.

4.8 No exhibitions shall be staged by the Council, or on premises under the control of the Council, which in any way promote a candidate at the election or that advocate a politically contentious policy.

4.9 No consultations undertaken during this period shall include any reference to any Member or candidate nor any political party or group nor the policies associated with any political party or group.

4.10 The Council's web site will continue to identify the existing councillors throughout the period and will also list all the candidates standing for election. All publications that include a listing of existing councillors will continue to be available to the public throughout the period. Where practicable all enquirers will be informed of the election on application for any such publication.

5. CONDUCT OF STAFF

5.1 Staff will act fairly, impartially and courteously to all candidates and agents. No employee, while acting in an official capacity, shall take part in any activity during an election that would associate them with any candidate or political party or group.

5.2 Some of the staff of the Council are employed in politically restricted posts. These are subject to statutory restrictions that include:

- Holding office in a political party, acting as an election agent or canvassing on behalf of a political party or a candidate for election.
- Speaking in public, giving interviews or publishing any written work with the intention of affecting public support for a political party.

These restrictions apply at all times, including in the employee's personal and private life.

5.3 No political posters or similar election material shall be displayed in any District Council office, or on cars while in use for official business or parked in car parks at the Council's offices.

5.4 No one will be employed in the administration of the election who has canvassed on behalf of a candidate at the election or has in any other way promoted a candidate.

5.5 Other than these restrictions, staff who are not in politically restricted posts and not employed in the administration of the election, are free to engage fully in the political process of an election.

5.6 Political Assistants as employees of the Council are bound by the guidance contained therein. Political Assistants are also designated as Politically Restricted Posts and are prohibited from engaging in certain activities as prescribed by the Local Government and Housing Act 1989.

6. USE OF PROPERTY AND RESOURCES

6.1 Once an election is called, all candidates have the right to use public meeting rooms for election meetings free of hire charge, although they can be asked to meet the cost of caretaking etc. and they do not take priority over any pre-existing booking of the facility. The Council will apply the same rate of charge, and give the same assistance and service to any candidates requesting the use of the Council's facilities for the purpose of holding an election meeting.

6.2 Council premises shall not be used in any other circumstances to promote or signify any favour or support for any individual candidate or political party. General

photographs of the exterior of Council premises from outside the site are permissible, providing they are not used to exploit or indicate the views of the Council or any of the staff working in those premises. Photographs of staff are not permitted on the Council's premises or while they are engaged on official business.

6.3 Members cannot use the resources of the Council for party political purposes. Use should reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which the Member has been elected or appointed.

7. INTERPRETATION AND REVIEW

7.1 The Returning Officer's interpretation of this protocol is final.

7.2 This protocol shall be reviewed at the request of the Group Leaders, the Finance & Assets Committee [or the Finance & Assets (Ethical Governance) Sub-Committee], the Joint Consultative Committee or the Returning Officer. No review shall be conducted during an election period except at the instigation of the Returning Officer.

PROTOCOL FOR AGENDA PLANNING

1.0 PURPOSE

1.1 To give Guidance to Chairmen of Committees and the Chief Executive and Directors and Service Leads in relation to the operation of agenda planning meetings.

1.2 To identify specific constitutional references in relation to agenda planning and related matters to assist Members of Council in fulfilling their duties.

2.0 WHAT IS AGENDA PLANNING?

2.1 The agenda planning process for the Council has now become a key part of the decision-making and planning process.

- Agree an annual agenda plan for all relevant Committees.
- Ensure a consistent approach to budget and service planning across the Council.
- Act as a framework for consultation with political groups and/or the public.
- Inform the Members and public of forthcoming meetings - available on website.
- Enable the Chief Executive and Directors or Committee Leads to plan effectively the resources required to meet the agreed timetable.

3.0 AGENDA PLANNING MEETINGS – PURPOSE

3.1 It is proposed that the business for agenda planning meetings is as follows:

- Agree and update an annual Committee plan
- Review forthcoming Committee agendas
- Respond to requests for agenda items from other Members.
- Identify PR matters for inclusion in PR plan
- Agree dates for special meetings - the Chairman will have the final say on the date of the meeting.

4.0 ATTENDANCE AT AGENDA PLANNING MEETINGS

4.1 The Chairman and Vice-Chairman of the relevant Committee, plus the relevant Lead Officer(s) for the Committee, and an Officer from Democratic Services will attend.

5.0 FREQUENCY OF AGENDA PLANNING MEETINGS

5.1 Agenda planning meetings will be timetabled to coincide with the Committee agenda preparation processes on the basis of at least one per Committee cycle. The dates and frequency of these meetings will be set in consultation with the Committee Chairmen.

PROTOCOL ON MEMBERS' ACCESS TO COUNCIL HELD INFORMATION

1.0 INTRODUCTION

1.1 One of the most frequent concerns of Members is over what Council held information they have a right to see and use. This is an area of concern countrywide and the implementation of the Freedom of Information Act (FOIA) and the Environmental Information Regulations (EIR), and the access to information legislation make this a key issue for Councils.

2.0 MEMBERS RIGHTS OF ACCESS AND USE OF INFORMATION: THE LEGAL POSITION

2.1 In addition to their rights as members of the public, elected Members have been given additional rights by statute, by the courts, etc.

2.2 Statute

2.2.1 Members' rights of access to Council information are principally enshrined in the Local Government Act 1972, the Local Government (Access to Information) Act 1985 and the Local Government (Inspection of Documents) (Summary of Rights) Order 1986.

2.2.2 Section 228 (3) of the Local Government Act 1972 gives Members the right to inspect the Council's accounts and takes copies throughout the year. Also, under Section 17 of the Local Government Finance Act 1982, Members have rights to inspect "books, deeds, contracts, bills, vouchers and receipts" prior to audit each year.

2.2.3 Under the Local Government (Access to Information) Act 1985, any Member of the Council can inspect any document held by the Council relating to any business to be transacted at a Council Committee or Sub-Committee PRIOR to that meeting taking place - whether or not they are a member of that Committee or Sub-Committee. It is important to note that this right relates only to Committees and Sub-Committees and can only be exercised before the meeting. It also only relates to matters to be considered by that meeting.

2.2.4 This right includes access to documents containing exempt information relating to:-

- the financial business affairs of a person (including the Council) - unless that document relates to proposed contract terms

- proposals to give under any enactment a notice imposing requirements on a person

2.2.5 The Access to Information Procedure Rules in Part 4 of the Constitution provide Members with some additional rights to access exempt information, and this/ other information will be provided in accordance with those Rules.

2.2.6 The Freedom of Information Act ('FOIA') and the Environmental Information Regulations ('EIR') require the Council to respond within 20 working days to

written requests for information from any source. The Council can claim exemptions or exceptions and refuse to supply the information if, for example:

- the information is intended to be published in the future
- there are security/defence/international relations issues
- it is the subject of / or part of legal proceedings
- there are health and safety reasons
- it involves personal information
- this involves confidential information

We can charge for the provision of the information (but this is usually restricted to photocopying charges/ postage) and can also refuse to provide it if the time it takes would exceed the current statutory limit (for FOIA this is 18 hours). However, the presumption is disclosure, unless the exemptions or exceptions apply and some information should routinely be disclosed under the Model Publication scheme (as directed by the Information Commissioner) in any event.

This Act works two ways for Members – not only can you make FOIA/ EIR requests for information to Council officers but you can be subject to FOIA / EIR requests from the public.

2.3 The Courts View

2.3.1 The House of Lords in 1983 defined Members' rights of access to Council documents as follows:

- Members are entitled "by virtue of office to have access to all written material in the possession of the local authority" if they show a "need to know" in order to perform their duties as a councillor.

2.3.2 This right is not "a roving commission to go and examine" the Council's books or documents. It is essential that a "need to know" is properly established. Curiosity is not enough. So while Members may have a good reason to see all written material on a matter relating to a committee on which they serve, Members not on that committee would need to identify their own "need to know".

2.4 Confidentiality

2.4.1 Of course there is a statutory framework dealing with confidentiality of items discussed in committee, including agenda reports and background papers. However, use of confidential information outside meetings is a further danger area. Councillors receive a great deal of confidential information in their capacity as councillors and it is obviously important that such information is handled carefully. It has been given in confidence and that confidence must be respected.

2.4.2 While the deliberate leaking of confidential information is not generally the problem in local government that it might be in other areas, there are legal sanctions. If information is supplied in confidence to a councillor, there is an understanding that it will be treated as confidential and that understanding can only be overridden when there is a clear public interest in disclosing it. The courts

have defined "public interest" very narrowly and differentiate between "what is in the public interest and what is of interest to the public".

2.4.3 The Member's Code of Conduct (paragraph 4) says:
A Member "*must not* –

4.1 disclose information given in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(a) you have the consent of a person authorised to give it;

(b) you are required by law to do so;

(c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(d) the disclosure is—

(i) reasonable and in the public interest; and

(ii) made in good faith and in compliance with the reasonable requirements of the authority; or

4.2 prevent another person from gaining access to information to which that person is entitled by law."

2.4.4 Members must also remember that information held on Council computers is subject to control under Data Protection Legislation. Similarly, Members themselves are registered under the Data Protection Acts to handle constituency information. Improper access to and/or use of computer-held information could expose the Council, and the individual Member to sanctions under the criminal law.

2.4.5 Under the Council's Constitution, any Member of the Council is permitted to attend a meeting of any Committee, Sub-Committee, Panel or Working Party of which he or she is not a Member. By agreed practice, Members may also speak at that meeting by notification to its Chairman but may not, of course, vote. The rules on declaration of Disclosable Pecuniary Interest (DPI), Personal and Prejudicial Interests apply to attendance at such meetings in the usual way and so do the rules as to the use of any information acquired by attendance at that meeting.

3.0 CONCLUSION

3.1 It is clearly important to the smooth running of Council business that both Councillors and officers know what the rules are on access to and use of Council held information. As set out above, the principle issues are the "need to know" on the part of any Member seeking access to Council held information and the need to consider, at all times, issues of confidentiality.

3.2 If you wish to obtain access to information held by the Council

1. Any request for access to information should be made to the Monitoring Officer and such decision will be made in consultation with Chief Executive and/or Directors and Service Lead.
2. In the case of dispute, the final decision shall be made by the Chief Executive.

GUIDANCE ON PLANNING FOR MEMBERS

1.0 INTRODUCTION

1.1 Planning is a subject that excites strong feelings. The planning system frequently creates perceived “winners” and “losers”, it involves the rights of others over one’s property and the financial consequences of a decision may be substantial. Accordingly, it appears to be viewed by the public as an area vulnerable to misuse by Members and officers.

1.2 Planning Officers follow strict rules concerning the unauthorised preparation and submission of plans and documents for private purposes within the district. All officers are bound by the staff code of conduct, which sets out procedures to be followed when they wish to submit a planning application.

1.3 Members must follow the Members’ Code of Conduct (MCC). While this does not specifically refer to the planning system, it does provide that Members:

- must not conduct themselves in a manner which could reasonably be regarded as bringing the office or authority into disrepute (3.2(e)).

- must not use or attempt to use their position as a member improperly to confer on or secure an advantage or disadvantage for themselves or others (5).

- must, when using or authorising the use of authority resources (i) act in accordance with the authority's reasonable requirements; (ii) ensure that such resources are not used improperly for political purposes (including party political purposes) (6, 6.1).

- disclose to that Meeting the existence and nature of a Disclosable Pecuniary Interest (‘DPI’), or Personal Interest or Prejudicial interest at the commencement of that Meeting, or when the interest becomes apparent (9.1(a); 12.1 & 13.1). For this purpose, a Meeting includes any meeting of the authority, as well as meetings with Council officers, site visits and advisory groups. For the full definition of Meeting, see paragraph 1.5 of the Member Code of Conduct.

- must withdraw from a meeting if they have a DPI, or Prejudicial Interest, unless a dispensation has been granted, or in the case of Prejudicial Interests (and not a DPI), the Member is exercising a Speaking Right under the Code . If the Member is exercising a Speaking Right, they must do so and then withdraw from the Meeting as soon as this has taken place. The Speaking Right does not apply to meetings with Officers or site visits. For the full definition of Interests or Speaking Rights see paragraphs 1.5 and 7 of the Member Code of Conduct.

This guidance is given to assist Members to follow the provisions of the Code of Conduct. It also serves to inform Members of the public and other parties in the planning system of the standards of conduct they can expect from members.

2.0 MEMBERS MAKING PLANNING APPLICATIONS

2.1 Members wishing to make a planning application should:

(i) First notify the Monitoring Officer in writing of their intention,

(ii) Appoint an agent to deal with all aspects of the case,
(iii) Not take part in any direct discussions with Planning Officers, other Members or representatives of other bodies covering the matter, and
(iv) Not attend meetings that might be arranged to discuss any aspect of the case, including site visits.

2.2 Applications made by or on behalf of Members and which are recommended for approval, will always be referred to the Planning Committee for determination except in the case of minor householder applications, for example home extensions, where there are no objections following the consultation process. Cases which are reported to the Planning Committee will state that the application is made by or on behalf of a Member and will include a note by the Monitoring Officer on whether or not to the best of their knowledge the application has been dealt with in accordance with this guidance.

2.3 Applications for planning permission by Members or their spouse or partners are DPIs, where they own the land. Equally if they do not own the land, but have a contract with the authority for sale of that land with the authority, then that will be a Disclosable Pecuniary Interest. All those matters should be conducted through an agent. Participation by the Member in any Meeting where a Member's DPI is considered may lead to criminal proceedings being taken against them and criminal sanctions. In addition, applications by the Member's family or by people with whom a Member has a close friendship are likely to give rise – even if made through an agent – to a clear Prejudicial Interest and Members should not participate in any discussions relating to such applications directly with officers from the planning team, or attend meetings to discuss these with officers from the planning team. Members should not participate in meetings where these Prejudicial Interests are considered, and should leave the room, unless they are exercising a Speaking Right, and once this Speaking Right has been exercised, they should leave the Meeting Room. Members should note, once again, that the Speaking Right does not apply to Meetings with Officers or site visits.

2.4 Members of the Planning Committee may have a Personal Interest in application made by another Member and will need to carefully consider whether or not they also have a Prejudicial Interest as defined in the Code of Conduct. Applications would need to be made to the Monitoring Officer for a dispensation by any of the Members who considered themselves to have a Prejudicial Interest but who wished to participate in the decision, under any allowable criteria set out in Appendix B to the Member Code of Conduct.

2.5 Members who are on the Planning Committee and are likely to submit a number of planning applications should consider resigning from the Committee.

2.6 Serving Councillors who are Members of Planning Committee should never act as agents for individuals (including a company, group or body) pursuing a planning matter.

3.0 MEMBERSHIP OF THE PLANNING COMMITTEE

3.1 Members should not seek, or accept, membership of any committee if that would involve them in disclosing an interest so often that they could be of little value to the committee, or if it would be likely to weaken public confidence in the duty of the committee to work solely in the general public interest. No Member should therefore seek or accept appointment to the Planning Committee where they, or a body in which they have a DPI and are involved in the planning system, construction or development.

3.2 Members shall be appointed to the Planning Committee are deemed to have agreed to undertake training in planning policies and procedures, provided through the Council.

4.0 LOBBYING OF MEMBERS

4.1 Generally all citizens have the democratic right to have their views heard by their elected representatives. A ward councillor has a constituency responsibility to be in touch with local opinion on local issues, and to advise on general problems of constituents and on individual cases. For example, a constituent may be looking for help from a Member in obtaining, opposing or finding out more about a planning permission. There is no problem if the councillor listens to the constituent and informs him or her about how best to pursue the matter. However, Members should avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants and objectors.

4.2 Members may often be asked to act as mediators between objectors and developers. Generally it is better in such circumstances either to arrange for the 2 sides to meet but take no part in the proceedings, or to advise both sides, to put their views through the relevant planning officer. This is because it is important that Members are not seen to have prejudged the issue.

4.3 Any Member who has an interest in an application should reveal this interest to lobbyists where possible. A Member with a DPI or Prejudicial Interest should inform lobbyists that they cannot take any part in the determination of the application, that they must not even discuss the matter with officers from the planning team and they should refer the lobbyists to another Member.

Lobbying of Planning Committee Members

4.4 Problems arise when the constituent expects more from a Member who is on the Planning Committee. They may wish the Councillor to advocate that an application should be given permission, or promise to vote for it, or organise opposition to it or enter into discussions to counteract the views of objectors. A Member can easily find his or her position prejudiced by becoming drawn into participating in advocacy, lobbying and the use of pressure on other Members. For Members of the Planning Committee this is the line which it is unwise to cross because the Member will be in danger of being unfair or prejudiced.

4.5 It is up to the individual Member of the Planning Committee to decide the extent to which it is wise to allow lobbying. The receipt of information seems acceptable but being urged to give support should be the "break-off point". Anything more than that, such as suggestions of a pact to arrange support or being asked to lobby, put the individual councillor in an invidious position and should be rejected. Members may find this difficult when they live in their ward, there are relatively few electors and everyone knows each other. Any constituent trying to put inappropriate pressure on Members to support an application is in danger of urging them to breach their fiduciary duty. Members need to make their decision in accordance with the planning merits of the application and the principles of decision making contained in the Constitution. Members may find it helpful to provide constituents with a copy of this guidance.

4.6 Members should make oral declarations at Planning Committee meetings of significant contact with applicants and objectors, in addition to the usual disclosures of interests, as required under the Member Code of Conduct.

4.7 Lobbyists frequently ask Members to meet them on or near the site Members should refer to paragraph 7 of this guidance if that occurs.

5.0 LOBBYING BY MEMBERS

5.1 Members must not use their position to improperly secure for themselves or any other person an advantage or disadvantage. This means that they must follow the same guidance that applies to constituents. While they can pass on information and seek to persuade the Members of the Planning Committee on their point of view, they must never expect or seek Committee Members to commit themselves to a particular view before they have considered all the relevant information at the meeting.

5.2 Members who have a DPI or Prejudicial Interest in an application must not lobby other Members, nor should they directly discuss the application with Planning Officers or submit written representations. If Members have a Personal Interest, they should disclose this to the Member they are lobbying. Members with a DPI should appoint an agent to act on their behalf. If this is a matter where the Member does not have a DPI, but are nevertheless making an application for planning permission (if, for example, it relates to land that the Member does not own, or have a beneficial interest in *yet*, this will be a Prejudicial Interest and Members must appoint an agent to deal with the matter on their behalf). If they have a Prejudicial Interest in a planning application for other reasons, then they may wish to appoint an agent to act on their behalf if they wish to raise concerns about the application with Planning Officers. They may attend the Planning Committee Meeting, if they intend to exercise a Speaking Right and once exercised, must then leave the Meeting. Any appointed agent will have the same rights of access to the Committee and to officers as any other member of the public. Members with a DPI in an application may not act on behalf of their constituents, and should follow the guidance given in paragraph 4.3 when receiving such requests. Where the Member has not made the application, but has a Prejudicial Interest in an application, they may attend the Planning Meeting where the application is considered, if they wish to represent their constituents in the matter. However, they may only do so by exercising a Speaking Right and then withdraw as outlined above and should inform their constituents of the limit to their ability to represent them fully in the application.

5.3 Other Members frequently ask Members to meet them on or near the site. Members should refer to paragraph 7 of this guidance if that occurs.

6.0 CONSIDERING APPLICATIONS

6.1 All applications considered by the Planning Committee must be the subject of full written reports from officers with recommendations. The recommendations must be those of a Planning Officer exercising their professional judgement. No Member shall seek to compromise a Planning Officer's professional judgement in the recommendation that they make in relation to any application.

6.2 The consideration of a planning application must never be the subject of a whip imposed by a political Group and there should not be political Group meetings before meetings of the Planning Committee to discuss applications. The view of the Ombudsman is that the use of political whips at group meetings in this way amounts to maladministration.

6.3 No Member of the Committee will participate in the determination of any application in which they have a DPI or Prejudicial Interest or in which they have publicly expressed

a conclusive view prior to the Committee meeting ie they have a "closed mind". Section 25 of the Localism Act 2011 provides that "**Prior indications of view of a matter not to amount to predetermination etc"**. However, Councillors or co-opted Councillors are *still* required to keep an open mind on Council decisions. Councillors will not necessarily be seen to have a closed mind if a *"decision maker has previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take in relation to the matter **and**" this is "relevant to the decision"*[6] In practice this should mean that Councillors can engage with the public/ developers/ applicants and objectors prior to decisions and even campaign against certain developments, without being prevented from participation in the decision-making Committee. **However**, for Planning Committees, which are administrative decision making bodies, it will be difficult to give the impression of an open mind, where Councillors have had a high level of involvement or make particularly strong statements in favour or against proposals before a decision is taken. Members are therefore encouraged to exercise caution. Members should seek advice from the Monitoring Officer if you have been involved in this way and are due to sit on any Committee or Sub-Committee making a relevant decision. Furthermore, membership of a lobby group that has expressed views directly relating to the planning application may constitute a Personal Interest. Residence in part of the district which will be particularly affected by a planning application usually constitutes a Personal Interest which should be declared. Members must consider each particular situation on its merits and, if in doubt about whether the decision may affect a DPI or amount to a Prejudicial Interest, should seek advice from the Monitoring Officer. Their continued involvement could amount to maladministration and/or bias and/or predetermination that could invalidate the decision. If a Member participates in a Meeting in which he or she has a DPI then this may lead to criminal proceedings being taken against them and criminal sanctions.

6.4 Taking account of the need to make decisions impartially and only after having heard all the relative evidence and argument at Committee, Members should not openly and finally declare which way they intend to vote in advance of Planning Committee. To do so without all relevant information and views would be unfair and may amount to maladministration.

6.5 In discussing, and then determining a planning application or any other planning matter, Members will take into account the planning merits of the case and the reasons for making a final decision should be clear and convincing and supported by planning evidence. If Members wish to refuse/approve an application against officer advice, or impose additional conditions to a permission, the reasons must be clearly stated in the decision. In addition, a detailed minute of the Committee's reasons will be placed on the application file.

7.0 SITE VISITS

7.1 Site visits can often be a useful part of the decision making process, helping Members to understand the physical context of the site proposals. However, there are dangers for Members, whether on the Planning Committee or not, in attending informal visits.

7.2 While Members are free to view the site and its context from the nearest public highway or other public land they are advised not to meet and/or discuss applications (on site or elsewhere) with applicants, their agents, objectors, other than as part of a formal

[6] *(s25(2)(a)&(b) Localism Act 2011.*

organised Planning Committee site visit. Where Members feel it is appropriate to attend such a meeting they will wish to consider whether to take an officer or other Member with them.

7.3 The Planning Committee has adopted a 'Site Visit Protocol', which will be followed at all formal committee site visits.

8.0 PLANNING COMMITTEE MEMBERS WHO ARE ALSO PARISH COUNCILLORS

8.1 Being a Parish or Town Councillor who also sits on the District Planning Committee does not automatically create any interest. An interest will only exist where the planning application being considered directly affects the "other" authority. Where an interest arises from membership of another body or authority, it is most likely to be a Personal one, but may be Prejudicial. If the Member has a Personal Interest, then they are required under the Member Code to declare this, but this does not prevent a Member participating in the debate or voting on an issue. If Members are unclear they should seek advice from the Monitoring Officer before the Planning Meeting. If this is Prejudicial, then the Member may still exercise a Speaking Right and must then retire from the Meeting room whilst the debate and voting takes place.

8.2 A Parish or Town Councillor who also sits on the Planning Committee must be careful to keep an open mind and should not give the impression that they have made up their mind on a planning application before the meeting of the Committee where a decision is due to be made. At the Planning Committee meeting they can then consider all the issues, including the officer's report.

8.3 A Member of the Planning Committee who participates in the consideration of the application, firstly through the Parish Council or a Sub-Committee of the Parish Council, should expressly state (and be noted in the minutes of the meeting) that a provisional view was taken and that the matter will be reconsidered in the light of all relevant documents and representations at the Planning Committee meeting. Provided that this approach is followed there is no objection in principle to a Member voting at both Parish/Town and District level. Members may prefer to be cautious and not speak or vote at the Parish or Town Council. In this case there is no objection to the Member listening to the debate at the Parish or Town Council.

8.4 In relation to Parish or Town Councillors who are not on the District Planning Committee or who feel that the issue is so important that they wish to campaign actively on it, there are no restrictions. Such Members can express their views at both Parish and District level but, obviously, will not be able to vote on the planning application at District level.

9.0 FURTHER GUIDANCE

9.1 Members requiring further guidance should refer their enquiries to the Monitoring Officer. Members should also take note of their obligations to register gifts and hospitality, and the affect on participation of any meeting that this may have.

10. BIAS AND PRE-DETERMINATION

(Note: this is a Common Law issue which is outside and dealt with separately from the Members' Code of Conduct)

10.1 Members will note that section 25 Localism Act 2011[7] has attempted to revise the position in relation to bias and predetermination, for all decisions taken after this was enacted. This section provides:

> **"*Prior indications of view of a matter not to amount to predetermination etc***
> *(1) Subsection (2) applies if—*
> *(a) as a result of an allegation of bias or predetermination, or otherwise, there is an issue about the validity of a decision of a relevant authority, and*
> *(b) it is relevant to that issue whether the decision-maker, or any of the decision-makers, had or appeared to have had a closed mind (to any extent) when making the decision.*
> *(2) A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because—*
> *(a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and*
> *(b) the matter was relevant to the decision."*

10.2 Members are still required to have an open mind, and in terms of the common law perspective, much of the previous caselaw would still be applicable, until this provision has been fully tested in Court. Therefore, when coming to a decision whether to take part in a Planning Committee application decision, Members are asked to consider "would a fair-minded observer, knowing the background, consider that there was a real possibility of bias arising from a particular councillor being a member of the relevant decision-making body?" and "whether, from the point of view of the fair-minded and informed observer, there was a real possibility that the planning committee or some of its members were biased in the sense of approaching the decision with a closed mind and without impartial consideration of the planning issues".

10.3 Pre-determination occurs when a member effectively has a **closed mind** when approaching a planning application. It is objectively determined i.e. it is what appears to the public. Pre-determination is likely to be evidenced by previous statements by the Member either at meetings or in the Press, that he is determinedly for or against a proposal.

10.4 Members who have demonstrated that they have a closed mind prior to a decision being taken should not participate at all in the decision-making process, as if they do there is a strong risk that the decision will be vulnerable to being quashed and that a finding of maladministration would be made against the Council.

[7] In force from 15 January 2012

THE ROLE OF ELECTED MEMBERS IN RELATION TO LICENSING COMMITTEE HEARINGS

1.0 INTRODUCTION

1.1 The Licensing Act 2003 transfers to the Council the decision making on licences for regulated entertainment and the provision of alcohol, as well as late night refreshment. Concerns regarding this shift in responsibility have centred around doubts surrounding the impartiality of Councillors and especially as regards those who will make-up the Licensing Committee deciding upon applications. This concern arises from a view that Councillors are subject to local political pressures and a belief that they will regard the views of local residents as taking precedence over the other interests of their communities.

1.2 The role of an elected Member on the Licensing Committee will involve balancing the multiple needs and interests of the local community, whilst prioritising the four Licensing Objectives of the Licensing Act 2003. In doing so, the elected Member must maintain his/her impartiality and, as public perception of probity is critical, his/her appearance of impartiality too, during the decision making process. This guidance is intended to assist local authorities to ensure their elected Members achieve this, thereby protecting themselves and the Council from accusations of maladministration or judicial review proceedings.

1.3 The guidance within is written with *all* elected Members in mind, whether they sit on a Licensing Committee or not.

1.4 Members must follow the Members' Code of Conduct (MCC). While this does not specifically refer to the Licensing system, it does provide that Members:

- must not conduct themselves in a manner which could reasonably be regarded as bringing the office or authority into disrepute (3.2(e)).

- must not use or attempt to use their position as a member improperly to confer on or secure an advantage or disadvantage for themselves or others (5).

- must, when using or authorising the use of authority resources (i) act in accordance with the authority's reasonable requirements; (ii) ensure that such resources are not used improperly for political purposes (including party political purposes) (6, 6.1).

- disclose to that Meeting the existence and nature of a Disclosable Pecuniary Interest (DPI), or Personal Interest or Prejudicial interest at the commencement of that Meeting, or when the interest becomes apparent (9.1(a); 12.1 & 13.1). For this purpose, a Meeting includes any meeting of the authority, as well as meetings with Council officers, site visits and advisory groups. For the full definition of Meeting, see paragraph 1.5 of the Member Code of Conduct.

- must withdraw from a meeting if they have a DPI, or Prejudicial Interest, unless a dispensation has been granted, or in the case of Prejudicial Interests (and not a DPI, the Member is exercising a Speaking Right under the Code . If the Member is exercising a Speaking Right, they must do so and then withdraw from the Meeting as soon as this has taken place. The Speaking Right does not apply to meetings

with Officers or site visits. For the full definition of Interests/ or Speaking Rights see paragraphs 1.5 and 7 of the Member Code of Conduct.

1.5 This guidance is given to assist Members to follow the provisions of the Code of Conduct. It also serves to inform Members of the public and other parties in the licensing system of the standards of conduct they can expect from members.

2.0 MEMBERS MAKING LICENSING APPLICATIONS

2.1 Members wishing to make a licensing application should:

(i) First notify the Monitoring Officer of their intention,
(ii) Appoint an agent to deal with all aspects of the case,
(iii) Not take part in any direct discussions with the Licensing Officer or other Council Officers, other Members or representatives of other bodies covering the matter, and
(iv) Not attend meetings (formal or informal) that might be arranged to discuss any aspect of the case, including site visits.

2.2 Applications made by or on behalf of Members will always be referred to the Licensing Committee for determination. The report will state that the application is made by or on behalf of a Member and will include a note by the Monitoring Officer on whether or not to the best of their knowledge the application has been dealt with in accordance with this guidance.

2.3 Applications made by Members or their spouses or partners are likely to be DPIs, where the application affects their employment, trade or profession. If this applies then the application and process should be conducted through an agent. Participation by the Member in any Meeting where a Member's DPI is considered may lead to criminal proceedings being taken against them and criminal sanctions. In addition, applications by the Member's family or by people with whom a Member has a close friendship are likely to give rise – even if made through an agent – to a clear Prejudicial Interest and Members should not participate in any discussions relating to such applications directly with officers from the licensing team, or attend meetings to discuss these with officers from the licensing team. Members should not participate in meetings where these Prejudicial Interests are considered, and should leave the room, unless they are exercising a Speaking Right, and once this Speaking Right has been exercised, they should leave the Meeting Room. Members should note, once again, that the Speaking Right does not apply to Meetings with Officers or site visits.

2.4 Members of the Licensing Committee may have a Personal Interest in applications made by another Member and will need to carefully consider whether or not they also have a Prejudicial Interest as defined in the Code of Conduct. Applications would need to be made to the Monitoring Officer for a dispensation by any of the Members who considered themselves to have a Prejudicial Interest but who wished to participate in the decision, under any allowable criteria set out in Appendix B to the Member Code of Conduct.

2.5 Members who are on the Licensing Committee and are likely to submit a number of licensing applications should consider resigning from the Committee.

3.0 MEMBERSHIP OF THE LICENSING COMMITTEE

3.1 Members should not seek, or accept, membership of any committee if that would involve them in disclosing an interest so often that they could be of little value to the committee, or if it would be likely to weaken public confidence in the duty of the committee to work solely in the general public interest. No Member should therefore seek or accept appointment to the Licensing Committee where they, or a body in which they have a DPI and are involved in the licensing system or trades.

3.2 No Member shall be appointed to the Licensing Committee without having agreed to undertake training in relevant licensing matters provided through the Council.

4.0 LOBBYING OF MEMBERS

4.1 All citizens have the democratic right to have their views heard by their elected representatives. A ward Councillor has a constituency responsibility to be in touch with local opinion on local issues, and to advise on general problems of constituents and on individual cases. For example, a constituent may be looking for help from a Member in obtaining, opposing or finding out more about a licensing permission. There is no problem if the Councillor listens to the constituent and informs him or her about how best to pursue the matter. However, Members should avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants and objectors.

4.2 Where a Member wishes to assist either an applicant or an objection in relation to a licensing matter they may do so, but they will not then be able to sit as a member of a hearing determining that application – only to attend on behalf of the party whose views they are representing.

4.3 Any Member who has an interest in an application should reveal this interest to lobbyists where possible. A Member with a DPI or Prejudicial Interest should inform lobbyists that they cannot take any part in the determination of the application, that they must not even discuss the matter with officers from the licensing team and they should refer the lobbyists to another Member.

Lobbying of Licensing Committee Members

4.4 Problems can arise when the constituent expects more than is appropriate from a Member who is on the Licensing Committee. They may wish the Councillor to advocate that an application should be given permission, or promise to vote for it, or organise opposition to it or enter into discussions to counteract the views of objectors. A Member can easily find his or her position prejudiced by becoming drawn into participating in advocacy, lobbying and the use of pressure on other Members. For Members of the Licensing Committee this is the line, which it is unwise to cross because the Member will be in danger of being unfair or prejudiced.

4.5 It is up to the individual Member of the Licensing Committee to decide the extent to which it is wise to allow lobbying. The receipt of information seems acceptable but being urged to give support should be the "break-off point". Anything more than that, such as suggestions of a pact to arrange support or being asked to lobby, put the individual Councillor in an invidious position and should be rejected. Members may find this difficult when they live in their ward, there are relatively few electors and everyone knows each other. Any constituent trying to put inappropriate pressure on Members to support an application is in danger of urging them to breach their fiduciary duty. Members need to

make their decision in accordance with the licensing objectives and the principles of decision making contained in the Constitution. Members may find it helpful to provide constituents with a copy of this guidance.

4.6 Members should make oral declarations at Licensing Committee meetings/hearings of significant contact with applicants and objectors, in addition to the usual disclosures of personal and prejudicial interests.

5.0 LOBBYING BY MEMBERS

5.1 Members must not use their position to improperly secure for themselves or any other person an advantage or disadvantage. This means that they must follow the same guidance that applies to constituents. While they can pass on information and advise the Members of the Licensing Committee on their point of view, they must never expect or ask Committee Members to commit themselves to a particular view before they have considered all the relevant information at the meeting.

5.2 Members who have a DPI or Prejudicial Interest in an application must not lobby other Members nor should they directly discuss the application with Licensing Officers or submit written representations. If Members have a Personal Interest, they should disclose this to the Member they are lobbying. Members with a DPI should appoint an agent to act on their behalf. If this is a matter would amount to a Prejudicial Interest then Members may wish to appoint an agent to act on their behalf if they wish to raise concerns about the application with Licensing Officers. They may attend the Licensing Committee Meeting, if they intend to exercise a Speaking Right and once exercised, must then leave the Meeting. Any appointed agent will have the same rights of access to the Committee and to officers as any other member of the public. Members with a DPI that is affected by an application, may not act on behalf of their constituents, and should follow the guidance given in paragraph 4.3 when receiving such requests. Where the Member has not made the application, but has a Prejudicial Interest in an application, they may attend the Licensing Meeting where the application is considered, if they wish to represent their constituents in the matter. However, they may only do so by exercising a Speaking Right and then withdraw, as outlined above, and should inform their constituents of the limit to their ability to represent them fully in the application.

6.0 CONSIDERING APPLICATIONS

6.1 No Member shall seek to compromise any Officer's professional judgement in the advice that they give in relation to any application.

6.2 The consideration of a licensing application must never be the subject of a whip imposed by a political Group and there should not be political Group meetings before meetings of the Licensing Committee to discuss applications.

6.3 No Member of the Committee will participate in the determination of any application in which they have a DPI or Prejudicial Interest or in which they have publicly expressed a conclusive view prior to the Committee meeting ie they have "a closed mind". Section 25 of the Localism Act 2011 provides that "**Prior indications of view of a matter not to amount to predetermination etc"**. However, Councillors or co-opted Councillors are *still* required to keep an open mind on Council decisions. Councillors will not necessarily be seen to have a closed mind if a *"decision maker has previously done anything that directly or indirectly indicated what view the decision-maker took, or*

*would or might take in relation to the matter **and**" this is "relevant to the decision"*[8] In practice this should mean that Councillors can engage with the public/ developers/ applicants and objectors prior to decisions and even campaign against certain developments, without being prevented from participation in the decision-making Committee. **However**, for Licensing Committees, which are quasi-judicial decision making bodies, it will be difficult to give the impression of an open mind, where Councillors have had a high level of involvement or make particularly strong statements in favour or against proposals before a decision is taken. Members are therefore encouraged to exercise caution. Members should seek advice from the Monitoring Officer if you have been involved in this way and are due to sit on any Committee or Sub-Committee making a relevant decision. Furthermore, membership of a lobby group that has expressed views directly relating to the licensing application may constitute a Personal Interest. Residence in part of the district, which will be particularly affected by a licensing application usually constitutes a Personal Interest, which should be declared. Similarly regular use or membership of premises the subject of a licensing application is also likely to constitute a Personal Interest. Members must consider each particular situation on its merits and, if in doubt about whether the decision may affect a DPI or amount to a Prejudicial Interest, should seek advice from the Monitoring Officer. If a Member participates in a Meeting in which he or she has a DPI, then this may lead to criminal proceedings being taken against them and criminal sanctions.

7.0 SITE VISITS

7.1 Site visits can often be a useful part of the decision making process, helping Members to understand the physical context of the site proposals. However, there are dangers for Members, whether on the Licensing Committee or not, in attending informal visits.

7.2 Members will view the site from the nearest public place. Only with the consent of the relevant landowner, obtained by the Licensing Officer, will they go on any premises. They will keep together as a group and should not engage individually with any applicant(s), objector(s), responsible authorities, statutory consultees or any of their representatives as part of the formal organised site visit.

7.3 The Licensing Committee has guidance on Licensing Site Visits, which will be followed at all formal committee site visits.

8.0 LICENSING COMMITTEE MEMBERS WHO ARE ALSO PARISH COUNCILLORS

8.1 Being a Parish or Town Councillor who also sits on the District Council's Licensing Committee does not automatically create any interest. An interest will only exist where the licensing application being considered directly affects the "other" authority. Where an interest arises from membership of another body or authority, it is most likely to be a Personal one, but may be Prejudicial. If the Member has a Personal Interest, then they are required under the Member Code to declare this, but this does not prevent a Member participating in the debate or voting on an issue. If Members are unclear they should seek advice from the Monitoring Officer before the Licensing Meeting. If this is Prejudicial, then the Member may still exercise a Speaking Right and must then retire from the Meeting room whilst the debate and voting takes place.

8.2 A Parish or Town Councillor who also sits on the Licensing Committee must be careful to keep an open mind and should not give the impression that they have made up their

[8] *(s25(2)(a)&(b) Localism Act 2011.*

mind on a licensing application before the meeting of the Committee where a decision is due to be made. At the Licensing Committee meeting they can then consider all the issues.

8.3 A Member of the Licensing Committee who participates in any consideration of any licensing application firstly through the Parish Council or a Sub-Committee of the Parish Council should expressly state (and be noted in the minutes of the meeting) that a provisional view was taken and that the matter will be reconsidered in the light of all relevant documents and representations at any Licensing Committee hearing. Provided that this approach is followed there is no objection in principle to a Member voting at both Parish/Town and District level. Members may prefer to be cautious and not speak or vote at the Parish or Town Council. In this case there is no objection to the Member listening to the debate at the Parish or Town Council.

8.4 In relation to Parish or Town Councillors who are not on the District Licensing Committee or who feel that the issue is so important that they wish to campaign actively on it, there are no restrictions. Such Members can express their views at both Parish and District level but, obviously, will not be able to vote on the licensing application at District level.

9.0 FURTHER GUIDANCE

9.1 Members requiring further guidance should refer their enquiries to the Monitoring Officer. Members should also take note of their obligations to register gifts and hospitality and the affect on participation of any meeting that this may have. Please also see the Guidance on Planning for Members in relation to bias and pre-determination.