



Part 5

CODES AND PROTOCOLS

Index

	Page(s)
<u>Code of Conduct for Members</u>	2 – 11
<u>Employees Code of Conduct</u>	13 – 21
<u>Protocol on Member/Officer Relations</u>	22 – 29
<u>Principles</u>	22
<u>Interpretation</u>	23
<u>Advice to Political Groups</u>	23 - 24
<u>Support Services to Members and Political Groups</u>	24
<u>Members' Access to Information and Council Documents</u>	24 – 25
<u>Chief Executive and Political Group(s) relationship</u>	25 – 27
<u>Employee/Chair Relationship</u>	27
<u>Correspondence</u>	27 – 28
<u>Involvement of Ward Councillors</u>	28
<u>Media Relations</u>	28
<u>Planning Code of Good Practice</u>	30 – 42
<u>Protocol on the Management of the Civic Allowance</u>	43 – 45



CODE OF CONDUCT FOR MEMBERS

Derbyshire Dales District Council's Code of Conduct for Elected Members (based on the Local Government Association Model)

Statement

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable, and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct, and safeguard the public's trust in local government.

Definition

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

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

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

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out

the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The use of support, training and mediation prior to action being taken using the Code is encouraged. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General Principles of Councillor Conduct

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

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

Principles:

1. **Selflessness:** Holders of public office should act solely in the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or friends.
2. **Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
3. **Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals or rewards and benefits, holders of public office should make choices on merit.
4. **Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
5. **Openness:** Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
6. **Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interests.
7. **Leadership:** Holders of public office should promote and support these principles by leadership and example.

In undertaking my role:

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

Obligations on Councillors

As a Member of Derbyshire Dales District Council, your conduct should, in particular, address the statutory principles in the Code by:

1. Championing the needs of residents, including the whole community and, in a special way, your constituents, including those who did not vote for you, and putting their interests first.
2. Dealing with representations or enquiries from residents, members of the community and visitors fairly, appropriately, and impartially.
3. Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' case work, the interests of Derbyshire Dales District Council or the good governance of Derbyshire Dales District Council in a proper manner.
4. Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties as a Member of Derbyshire Dales District Council.
5. Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
6. Being accountable for your decisions and co-operating when scrutinised internally and externally, including by local residents.
7. Contributing to making Derbyshire Dales District Council's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other Members to account but restricting access to information when the wider public interest or the law requires it.
8. Respecting the confidentiality of information which you receive as a member by:
 - (a) Not disclosing confidential information to third parties unless required by law to do so or where there is a clear and overriding public interest in doing so; and
 - (b) Not obstructing third parties' legal rights of access to information.

9. Behaving in accordance with all of Derbyshire Dales District Council's legal obligations, with particular regard to:
 - (a) The Data Protection Act 2018.
 - (b) The Freedom of Information Act 2000.
 - (c) The Bribery Act 2010.
 - (d) The Equality Act 2010.
10. Having regard to the principles of Derbyshire Dales District Council's policies, protocols, and procedures, including those relating to the use of Derbyshire Dales District Council's resources (which must not be used improperly for political purposes including party political purposes).
11. Valuing other Members and officers and engaging with them in an appropriate manner and in a manner which underpins the mutual respect between individuals that is essential to good local government and respecting and not bullying any person.
12. Always treating people with respect, including the organisations and public you engage with and those you work alongside.
13. Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the Council.

Application of the Code of Conduct

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

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor.
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.

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

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

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct.

Standards of Councillor Conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat Council employees, employees and representatives of partner organisations and those volunteering for the Council with respect and respect the role they play.

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

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

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

2. Bullying, Harassment and Discrimination

As a councillor:

2.1 I do not bully any person

2.2 I do not harass any person

2.3 I promote equalities and do not discriminate unlawfully against any person

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

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

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

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

3. Impartiality of Officers of the Council

As a councillor:

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

3.2 I take advice as necessary from professional officers in reaching decisions and ensure that all relevant information is taken into account to reach an objective decision based on merit, which is lawful and reached as a result of following a transparent process.

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

4. Confidentiality and Access to Information

As a councillor:

4.1 I do not disclose information:

- (a) given to me in confidence by anyone,**
- (b) acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless;**
 - (i) I have received the consent of a person authorised to give it;**
 - (ii) I am required by law to do so;**
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - (iv) the disclosure is:**
 - 1) reasonable and in the public interest; and**
 - 2) made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3) I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer, or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

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

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

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

You are able to hold Derbyshire Dales District Council and fellow councillors to account and are able to constructively challenge and express concern about decisions and

processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of Position

As a councillor:

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

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

7. Use of Local Authority Resources and Facilities

As a councillor:

7.1 I do not misuse council resources.

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

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

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

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

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

8. Complying with the Code of Conduct

As a councillor:

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

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

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

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

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

Protecting your Reputation and the Reputation of the Local Authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained. You should note that failure to register or disclose a disclosable pecuniary interest is a criminal offence under the Localism Act 2011.

10. Gifts and Hospitality

As a councillor:

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

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

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept within 28 days of the offer.

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

APPENDIX A**DISCLOSABLE PECUNIARY INTERESTS**

In accordance with Section 30(3) of the Act a pecuniary interest is a “disclosable pecuniary interest” in relation to a Member, if it is of a description specified below and either

- is an interest of the Member, or
- is an interest of the members spouse or civil partner, as in -
 - a person with whom the member is living as husband and wife, or
 - a person with whom the Member is living as if they were civil partners, and the Member is aware that the other person has the interest.

Subject	Prescribed description
Employment, office, trade, profession or vacation	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 the member in carrying out duties as a member, or towards the election expenses of the member. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).
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.
Licenses	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 the Member’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: that body (to your knowledge) has a place of business or land in the area of the relevant authority; and either: the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or 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 interest exceeds one hundredth of the total issued share capital of that class.



Employee Code of Conduct

Introduction

The public is entitled to expect the highest standards of conduct from all Derbyshire Dales District Council employees. Your duty is to serve the Council as a whole in providing advice, implementing its policies and delivering services to the local community. In performing your duties, you must act with integrity, honesty, impartiality and objectivity.

It is therefore important for the Council to provide guidance on standards of conduct which applies to, is available to, and understood by employees at all levels, and this Code of Conduct has been prepared accordingly.

You should read the Code in conjunction with professional standards, departmental requirements and guidance regarding standards of conduct in particular areas of work. Some of these additional sources of guidance are listed in the Appendix at the end of this Code. This list is not exhaustive and you should familiarise yourself with any relevant guidance which may be provided in relation to your particular area of work. You should address any further queries you have to your line manager or another senior manager in your department.

Whilst the Code is reasonably comprehensive, it is not possible to address every circumstance, and simply because a particular action may not be addressed within the Code, this does not condone that action by omission. It is also expected that all employees will behave within the law whilst undertaking their official duties. The Code is incorporated into, and forms part of the contractual relationship between the Council and its employees. As such, it is admissible in evidence in any proceedings under the Council's disciplinary and grievance procedures.

Status of Code

The Code applies to all employees of the Council.

1. Accountability

- 1.1 As an employee, you are required to serve the whole of the Council and serve all Councillors equally. You are accountable and owe a duty to the Council and you are expected, where it is a part of your duties, to provide appropriate advice to Councillors, senior management and fellow employees with impartiality. You must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

- 1.2 If you fail to comply with the Code's provisions, this may result in action being taken against you under the Council's Disciplinary Procedure.

2. Standards

- 2.1 You are expected to give the highest possible standard of service and, where it is part of your duties, to provide appropriate advice to Councillors and fellow employees with impartiality. The Council strives to maintain a high level of service and, you should inform your line manager if you identify any deficiency in service resulting from breaches of this Code. If you have concerns about raising the deficiency, and wish to maintain confidentiality, you can use the Council's Whistle Blowing Procedure. In this case, you should inform either your line manager, Chief Executive, Corporate Director or the Monitoring Officer.

2.2 Dress and Personal Appearance at Work

You are reminded that standards of dress, wearing of corporate and protective clothing, personal appearance and hygiene, including standards required in the interests of health and safety can be matters affecting public confidence and you should make yourself aware of, and adhere to, the expected standards of your particular employment.

3. Disclosure of Information

- 3.1 The Council is committed to open government and to rights of public scrutiny and participation. Legislation, including the Freedom of Information Act and the Data Protection Act, requires that certain types of information must be made available to the public and other recognised third parties and to employees and Councillors. Advice and guidance on the requirements of the Freedom of Information and Data Protection Acts is available from the Data Protection Officer and the Information Governance Officer.
- 3.2 You have a responsibility to safeguard the security and confidentiality of any personal information you hold and you should ensure that only the appropriate amount of information required is provided to those who have a clearly established and legitimate need to use it. Advice and guidance on your existing statutory or common law obligations regarding confidentiality is also available from the Director of Resources or Monitoring Officer.
- 3.3 You should not use any information obtained in the course of your employment for personal gain or benefit, nor should you pass it on to others who might use it in such a way. Any particular information received by you from a Councillor which is personal to that Councillor and does not belong to the Council, should not be divulged by you without the prior approval of that Councillor, except where such disclosure is required or sanctioned by law.

4. Political Neutrality

- 4.1 Certain posts are designated politically restricted by the Local Government and Housing Act 1989.

Your contract of employment will tell you whether you hold one of these posts and, if you do, you will be required by law to observe certain restrictions regarding your out of work activities. For example, you may not:

- Stand for election to local authorities (except Town or Parish Councils), the House of Commons or the European Parliament.
- Hold office in a political party.
- Canvass at elections, or
- Speak or write publicly on matters on party political lines.

4.2 Whether or not politically restricted, you must follow the Council's policies and must not allow your personal or political opinions to interfere with your work.

4.3 As a part of your work, you may be required to advise political groups. You must do so in ways which do not compromise your political neutrality.

4.4 Employees serve the Council as a whole. It follows that they must serve all Councillors and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected.

5. Mandatory Training

5.1 Mandatory training is compulsory training that is determined essential by the District Council for the safe and efficient delivery of services. This type of training is designed to reduce organisational risks and comply with local or national policies and government guidelines. The list of topics regarded as mandatory training and the roles to which they relate will be published and maintained by the HR Manager and reported annually to the Joint Consultative Group. Mandatory training will normally be provided during normal working hours and failure to undertake will be regarded as a disciplinary offence.

6. Relationships

6.1 Councillors

Employees are responsible to the Council through its senior managers. For some, their role is to give advice to Councillors and senior managers and all are there to carry out the Council's work. Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors and should therefore be avoided.

6.2 The Local Community and Service Users

You should always remember your responsibilities to the community you serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the Council's policies.

6.3 Contractors

If you engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, you should declare that relationship to your Service Director.

6.4 Orders and contracts must be awarded on merit in accordance with Financial Regulations and Contract Standing Orders and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process.

6.5 As a private citizen, you should be aware of possible conflicts of interest when you buy goods or use the services of firms who have dealings with the Council and you should follow departmental procedures relating to the disclosure of any such transactions.

7. Equalities

7.1 You must comply with the Council's Equality and Diversity Policies and legal requirements relating to equality issues. In addition to the requirements of the law, it is the responsibility of all employees to assist in the creation of a work environment where discriminatory behaviour is not tolerated.

7.2 Harassment and Inappropriate Behaviour

The Council believes in equality and social justice and will not tolerate any harassment, inappropriate behaviour, intimidation, unfair discrimination or victimisation, by or against employees, who should not be asked to suffer such behaviour.

7.3 You have a duty to ensure that the standard of conduct at work respects the dignity of others and does not cause offence. You must therefore act in such was as to avoid all forms of unacceptable behaviour in relation to other employees, clients and customers of the Council.

8. Appointment and other employment matters

8.1 If you are involved in the appointment of employees, you should be aware that it is unlawful for you to make an appointment based on anything other than the ability of the candidate to undertake the duties of the post. To avoid any possible accusation of bias you should not be involved in an appointment where you are related to an applicant or have a close association¹ with the applicant. Employees involved in the recruitment process will also be required to undertake adequate training.

- 8.2 You should not be involved in **any employment matter** including decisions relating to discipline, promotion or pay and conditions adjustments for another employee who is a relative or with whom you have a close association.

9. Outside Commitments

- 9.1 The Council will not attempt to preclude any of its employees from engaging in any other business or from undertaking additional employment. However, you must be clear about your contractual obligations and not engage in any other business or take outside employment which conflicts with the Council's interests. For example, working with or for someone, who does business or seeks to do business with the Council. If in doubt, please contact your line manager.
- 9.2 You should also follow the Council's rules on the ownership of intellectual property or copyright created during their employment – see paragraph 10.4.

10. Personal Interests

- 10.1 Personal interests must not conflict with your public duty. An official position or information acquired in the course of your employment must not be used to further personal interests or for the interests of others.

10.2 Register of Interests

You must declare to your Director any:

- Financial interest which could conflict with the Council's interests for example
 - Your property
 - Where you or yours may be the beneficiary of grant aid or sponsorship from the Council
 - Your private business and commercial interest
 - Secondary employment
- Non-financial interest that could conflict with the Council's interests
 - For example being in a personal relationship or a close association with another employee or potential employee and a decision is required that concerns them
- Interest in an existing or proposed contract with the Council for example
 - Working on a contract where a family member or friend may benefit financially
- Membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.
- Membership of any organisation, which could conflict with the Council's interests.

- 10.3 You should make any such declaration in writing to your Head of Service and copied to the Monitoring Officer. Any such declaration by a Head of Service or Monitoring Officer should be made in writing to the Chief Executive or Deputy Chief Executive as appropriate.
- 10.4 The Monitoring Officer will maintain a central record of all declarations made and hold that information in accordance with the Data protection principles.

11. Stewardship and Use of Resources

- 11.1 You must ensure that you use public funds entrusted to you in a responsible and lawful manner and must not utilise property, vehicles or other facilities of the Council for personal use unless authorised in advance to do so. You should strive to ensure value for money to the local community and to avoid legal challenge to the Council.
- 11.2 Intellectual Property is property which enjoys legal protection and is a result of intellectual effort, including patents, copyright, trademarks, designs and software. Where developed in the course of your duties, such intellectual property is the property of the Council. You should not make use of the Council's intellectual property to conduct private work.
- 11.3 Any copies of material taken for use within the Council must only be as allowed under the Copyright Act and under the appropriate licensing agreement.

12. Corruption

- 12.1 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give a gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

13. Hospitality and Gifts

13.1 Hospitality

You should only accept offers of hospitality if there is a genuine need to impart information or to represent the Council. Offers to attend purely social or sporting functions should only be accepted where the Council should be seen to be represented and with prior consent of the Corporate Director. Such authority must be recorded.

When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards operating within the Council.

When receiving authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.

Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than

personal; where you have consent to attend in advance, and where the Corporate Director is satisfied that any purchasing decisions are not compromised.

13.2 Giving Hospitality

The impression of improper influence can also arise if hospitality is provided to organisations seeking business. Any hospitality given should be appropriate and justified in the public interest and public purse.

13.3 Gifts

You should not accept significant personal gifts from contractors and outside suppliers. Token gifts of very small value like pens marked with a company name, or calendars, which might be seen as advertisements, are acceptable.

You must notify your line manager of any gifts received 'out of the blue', other than the token gifts outlined above. S/he will record receipt of the gift and decide whether the gift should be returned or forwarded to a local charity.

13.4 Failure to report gifts and hospitality may result in disciplinary action being taken against you under the Council's Disciplinary Procedure.

14. Sponsorship – Giving and Receiving

14.1 Where an outside organisation wishes to sponsor, or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of hospitality or gifts apply. No sponsorship deal should be made without the prior agreement of the Corporate Director.

14.2 Where the Council wishes to sponsor an event or service you must declare in writing to the Corporate Director any possible conflict of interest or any benefit for you or a member of your family, or for anybody with whom you have a close association. Similarly, where the Council is providing sponsorship or grant aid in the community, you should ensure that impartial advice is given and that there is no conflict of interest involved.

15. Contact with the Media

15.1 Any enquiries from the media on work-related matters should be referred to the Communications and Marketing Officer in the first instance. You should seek authorisation from your line manager, before you speak, write or give interviews to the media.

15.2 If you wish to publish books, articles or letters in relation to your work with the Council, you must first consult a member of the Corporate Leadership Team. Only with the consent may items be published.

16. Employees Facing Criminal Charges

- 16.1 The Council expects employees facing criminal charges to give notice of such without delay to their Director of Service. Sometimes the nature of the charges may be relevant to the employee's job, and in other cases the issue will be less clear cut. If you find yourself in such a position, you must be aware that your personal actions can reflect on the Council as a whole. You are therefore required to notify your Director of any criminal charge which may be pending, whether you personally feel the matter if relevant or not, and the outcome of any such charge. Your Director of Service will discuss the matter with you as to the extent to which such a charge reflects upon your ability to perform your duties effectively and to the extent to which the Council's own interest are prejudiced

Appendix

A number of additional sources of guidance are listed here. However, this list is not exhaustive and you should ensure that you familiarise yourself with any relevant guidance which may be provided in respect of your particular area of work. Any queries in this respect should be addressed to your line manager or the Human Resources Section.

- Employee Policies and Procedures of the Council
- Terms and Conditions of Employment
- Whistle Blowing Procedure
- Child Protection Policy
- Disciplinary Procedure
- Capability Procedure
- Internet and Email Use Policy and Guidance
- Equal Opportunities and Diversity Policy
- The Council's Constitution, containing Standing Orders in Relation to Contracts, Financial Regulations, Financial Procedures, Member/Officer Protocol, Members Code of Conduct
- Council's Policy Statement – 'Anti-Fraud/Corruption Strategy'.
- Data Protection Act 1998
- Freedom of Information Act 2000
- Computer Misuse Act 1990
- Codes of Practice Established by Professional Bodies (e.g. Law Society, Chartered Institute of Public Finance and Accountancy)

Protocol on Member/Employee Relations

1. Principles

- 1.1 Mutual trust and respect between elected Members and employees of the Council is at the heart of the District Council's good governance.
- 1.2 Whilst Members and employees are indispensable to one another their responsibilities are distinct. Members are accountable to the electorate and serve only as long as their term of office lasts. Employees are accountable to the Council as a whole. Their job is to give advice to Members (individually and collectively) and to carry out the Council's work under the direction of the Council.
- 1.3 The Council has adopted codes of conduct for both Members and employees. The Members' code follows the national code, which in turn is based on the general principles governing Members' conduct enshrined in law, viz
- Selflessness – serving only the public interest
 - Honesty and integrity – not allowing these to be questioned; not behaving improperly
 - Objectivity – taking decisions on merit
 - Accountability – to the public; being open to scrutiny
 - Openness – giving reasons for decisions
 - Personal judgement – reaching one's own conclusions and acting accordingly
 - Respect for others – promoting equality; avoiding discrimination, respecting others
 - Duty to uphold the law – not acting unlawfully
 - Stewardship – ensuring the prudent use of the Council's resources
 - Leadership – acting in a way which has public confidence

These principles underpin this Protocol.

- 1.4 The District Council's Employee Code of Conduct reinforces an employee's duty to serve the Council as a whole in providing advice, implementing its policies and delivering services to the local community. In performing those duties, employees must act with integrity, honesty, impartiality and objectivity.
- 1.5 Breaches of this Protocol by a Member may result in a complaint to the Standards Committee if it appears the Members' Code of Conduct has also been breached. Breaches by an employee may lead to disciplinary action.
- 1.6 The Protocol can be neither prescriptive nor comprehensive.

2. Interpretation

- 2.1 In this Protocol reference to the Council Leader includes the Deputy Leader and reference to a Committee Chairman includes the Vice Chairman.

Senior employee means an employee with management responsibility.

3. Advice to Political Groups

- 3.1 There is now statutory recognition for political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Political groups may properly call upon officers to support and contribute to such deliberations.

- 3.2 The support provided by officers can take many forms, ranging from a briefing meeting with a Chairperson or Spokesperson prior to a Committee meeting to a presentation to a full party group meeting. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups. Certain points must, however, be clearly understood by all those participating in this type of process, Members and employees alike. In particular:

- a) employee support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Employees must not be involved in advising on matters of party political business. The observance of this distinction will be assisted if employees are not expected to be present at meetings, or parts of meetings, when matters of political business are to be discussed;
- b) political group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
- c) similarly, where officers provide information and advice to a political group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.
- d) employees will not attend Political Group meetings where there are persons present who are not Members or employees of the Council.
- e) employees must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussion to another political group.
- f) Requests for employees to attend Political Group meetings should be made through the Chief Executive. Any particular cases of difficulty or uncertainty in

this area of employee advice to political groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

4. Support Services to Members and Political Groups

- 4.1 The only basis on which the Council can lawfully provide support services (eg stationery, typing, printing, photo-copying, transport, etc) to Members is **to assist them in discharging their role as Members of the Council**. Such support services must, therefore, only be used on Council business. ***(They should never be used in connection with political or campaigning activity or for private purposes)***.

5. Members' Access to Information and to Council Documents

- 5.1 Members are free to approach any Council Department to provide them with such information, explanation and advice (about that Department's functions) as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Department's activities to a request for specific information on behalf of a constituent. There is no automatic right to such information, except in the circumstances outlined below where the "Need to Know" is established. Such approaches should normally be directed to the Corporate Director or another senior officer of the Department concerned.
- 5.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 5.3 Members have a statutory right to inspect any Council document, which contains material relating to any business, which is to be transacted at a Council, Committee or Sub-Committee meeting. This right applies irrespective of whether the member is a Member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items, which may appear on the "Exempt" part of the agenda for meetings. The items in question are those, which contain exempt information relating to individuals, sensitive contract and industrial relations negotiations, advice from Counsel and criminal investigations.
- 5.4 The common law right of Members is much broader and is based on the principle that any Member has a prima facie right to inspect Council documents so far as his/her access to the document is reasonably necessary to enable the member properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the "Need to Know" principle.
- 5.5 The exercise of this common law right depends, therefore, upon the Member's ability to demonstrate that s/he has the necessary "Need to Know". In this respect a Member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "Need to Know". This question must initially be determined by the particular Corporate Director whose Department holds the document in question (with advice from the Monitoring Officer). It follows from this that the Member must give the

reason for the enquiry. In the event of dispute, the question falls to be determined by the relevant Committee – ie the committee in question with whose functions the document is held.

Members also have the same rights as members of the public to request information under the Freedom of Information Act.

5.6 Finally, Members must pay particular care with regard to the handling of confidential information and must not disclose confidential information, except in limited circumstances:

- With the consent of the person authorised to give it
- Legal requirement to do so
- Disclosure is made to a third party for the purposes of obtaining professional advice, provided that person agrees to maintain confidentiality
- Disclosure is in the public interest

5.7 Members are recommended to seek the advice of the Monitoring Officer in all circumstances relating to the potential release of confidential information.

6. Chief Executive/Political Group Relationship

6.1 The Chief Executive is expected to work closely with the political administration and to give them information, assistance and advice. Subject to maintaining a position of political neutrality the Chief Executive may develop a special relationship with the administration leadership and will not, without consent, disclose information on any confidential matters discussed with the leadership to the minority parties.

6.2 Everyone should respect the political neutrality of the Chief Executive. The Chief Executive should not be asked to play any role or undertake any task, which is likely to prejudice that neutrality or make it difficult for them to serve a different majority political party at some future time in the Authority.

6.3 All Members of the Council have a right of access to the Chief Executive. Where a Member requires information it will be provided if it is readily available, for example, in committee papers or material published on behalf of the Council. The Chief Executive is free to give advice on a confidential basis about procedural matters to any Member. In doubtful cases the Chief Executive is entitled to seek the instruction of the Leader of the Council or appropriate Member before responding to a request from a Councillor.

6.4 It is proper for the Chief Executive to develop a working relationship with the minority parties of the Council but s/he will not advise as to the policy, which any minority party should pursue. The Chief Executive will not reveal to other party groups the content of confidential discussions with any group unless consent has been specifically given by the Leader of the Group concerned. However, the Chief Executive will ensure that the Leader of the Council is aware of information that is provided to representatives of minority parties, unless it is either of a routine or trivial nature, or if to do so would be a breach of confidence or other statutory, formal or guideline requirement.

6.5 Chief Executive/Leader

The following guidelines apply to the Chief Executive and Leader of the Council in particular:

- As an employee of the whole Council the Chief Executive will inform the Leader of the Council of any case where s/he considers that the minority parties should be given information or be consulted.
- Employees will refer to the Chief Executive any request from a Member for a copy of a confidential paper, and the Chief Executive will decide whether or not the paper will be made available to the Member. The Chief Executive will inform the Leader of the Council of the decision.
- The Chief Executive and Corporate Director or Heads of Service nominated by the Chief Executive may occasionally be invited to attend meetings of political groups where advice is required on particular matters of Council business. As a matter of principle, any information provided at the request of one Group, other than of a routine or trivial nature, will be offered to all Groups.
- The Chief Executive will make arrangements to meet with the Leader of the Council as soon as practicable every four years, following the District Council elections to:
 - Discuss the majority political group's vision for the corporate direction of the Council
 - Decide on opportunities for meaningful dialogue between the two including mutually convenient meeting arrangements and topics for routine discussion
- The Leader will consult with the Chief Executive on the strategic focus of the Council and may request the Chief Executive to prepare and evaluate options for consideration.
- The Leader and the Chief Executive will regularly meet to review the Council's performance in delivering its services and discuss the strategic direction.
- The Leader will conduct the Chief Executive's annual personal development review and will discuss and evaluate the Chief Executive's personal contribution in achieving the Council's objectives.

6.2 Corporate Director (and Deputy Chief Executive)

- In addition to meetings held by the Chief Executive, there will be a need for regular liaison between the Corporate Leadership Team and Members. In addition to this the Corporate Director may arrange to hold liaison meetings with appropriate Members. The Chief Executive will be advised of these meetings.
- With the agreement of the Chief Executive, the Corporate Director may also hold meetings with Group Leaders as necessary on similar terms as described in the above provisions relating to meetings with Group Leaders held by the Chief Executive. Senior Officers may be invited into the above meeting as required for specific topics.

6.3 Political Group Meetings

In order to ensure the effective conduct of the Council's business at meetings of the Council and its associated bodies, the political groups need to meet together on a regular basis. In recognition of the importance of political group meetings, the Council will make appropriate meeting facilities available.

7. Employee/Chair Relationship

7.1 It is clearly important that there should be a close working relationship between the Chair of a Committee and the Corporate Director and other senior employees of any Department that reports to that Committee. However, such relationships ***should never be allowed to become so close, or appear to be so close, as to bring into question the employee's ability to deal impartially with other Members and other political groups.***

7.2 Whilst the Chair of a Committee (or Sub-Committee) will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, **it must be recognised that in some situations the Corporate Director will be under a duty to submit a report on a particular matter.** Similarly, the Corporate Director will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between a Chair and the Corporate Director in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

7.3 In relation to action between meetings, it is important to remember that the law only allows for decisions (relating to the discharge of any of the Council's functions) to be taken by a Committee, a Sub-Committee or an employee. The law does not allow for such decisions to be taken by a Chair or indeed by any other single Member.

7.4 The Council's delegation scheme is contained within the Council's Constitution. This contains the majority of delegations to employees. From time to time Committees and the Council give additional delegations that are added to the Constitution as it is updated periodically.

7.5 Finally, it must be remembered that employees within a Department are directly accountable to the Corporate Director. Whilst employees should always seek to assist a Chair (or indeed any member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by the Corporate Director.

8. Correspondence

8.1 Correspondence between an individual Member and an employee should not be copied (by the employee) to another Member unless the author expressly intends and states that this is the case or consents. Where correspondence is copied to another Member, this should always be made clear to the original Member. In other words, a system of "blind copies" should not be employed.

8.2 Official letters on behalf of the Council should normally be sent out over the name of the appropriate employee. It may be appropriate in certain circumstance (eg, representations to a Government Minister) for a letter to appear over the name of a

member, but this should be the exception rather than the norm. Letters, which, for example, create obligations or give instructions on behalf of the Council, should never be sent out over the name of a Member.

- 8.3 The Civic Chair of the District of Derbyshire Dales may initiate correspondence in his/her own name in relation to civic and ambassadorial duties on behalf of the Council.
- 8.4 When writing in an individual capacity as a Ward Member, a Member must make clear that fact.

9. Involvement of Ward Councillors

- 9.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise.

10. Media Relations

- 10.1 All formal relations with the media must be in accordance with the law on local authority publicity.
- 10.2 Press releases or statements made by employees must seek to promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a political group.
- 10.3 If a Member is contacted by, or contacts the media on an issue s/he should:
- Indicate in what capacity s/he is speaking, eg Ward Member, in a personal capacity.
 - If necessary and always when s/he would like a press release to be issued, seek assistance from the Council's Communications Officer or Corporate Director.
 - Take particular care in what s/he says in the run up to local or national elections to avoid giving the impression of electioneering (unless s/he has been contacted as an election candidate or political party activist).



Planning Code of Good Practice



This booklet is available in alternative formats for example large print or Braille on request. Please telephone 01629 761331 for further information.

Contents

1.	Introduction	31
2.	Relationship to the Councillor and Employee Codes of Conduct	31
3.	Training	31
4.	The general role and conduct of Councillors and officers	31 – 32
5.	Registration and disclosure of interests	32
6.	Predisposition, predetermination, or bias	32 – 33
7.	Development proposals submitted by Councillors and officers, and Council development	33
8.	Lobbying of and by Councillors	33 – 34
9.	Pre-application discussions	34 – 35
10.	Public speaking at planning committees	35
11.	Decisions which differ from a recommendation	35 – 37
12.	Committee site visits	37 - 38
13.	Dealing with the media	38
14.	Annual review of decisions	38
15.	Complaints and record keeping	38
	Flowchart	39 - 42

1. Introduction

- 1.1 The aim of this Code is to avoid impropriety or any indication of suspicion and any appearance of improper conduct. The process of decision making should leave no grounds for suggesting with any justification that a decision has been biased, partial or not well founded in any way.
- 1.2 This Code applies to Councillors and Officers at all times when involving themselves in the planning process. This includes:
- decision making meetings of the Planning Committee in exercising the functions of the Planning Authority.
 - the work of the Local Plan Advisory Working Group and Council in determining the Local Plan.
 - consultation on decisions delegated to Officers or when involved in less formal occasions such as meetings with officers or public and consultative meetings, planning enforcement matters or site specific policy issues.
- 1.3 If you have any doubts about the application of this Code to your own circumstances you should seek advice early from the Monitoring Officer, the Director of Regulatory Services or one of their staff.

2. Relationship to the Councillors' and Employees' Codes of Conduct

- 2.1 The Planning Code of Good Practice seeks to explain and supplement the Codes of Conduct for the purposes of planning control. If you do not abide by this Code you may put the Council at risk of proceedings on the legality or maladministration of the related decisions; and may place yourself at risk of being named in a report to the Ombudsman or being the subject of a complaint regarding your conduct.

3. Training

- 3.1 Before serving on the Planning Committee, Councillors must first have completed relevant training provided by the Council. The Council's Member Development Scheme requires you to keep your knowledge up to date by attending annual training on planning matters.

4. The general role and conduct of Councillors and officers

- 4.1 Councillors and officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate, whilst officers are responsible to the District Council as a whole. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors. A successful relationship between Councillors and officers will be based upon mutual trust, understanding and respect of each other's positions.

- 4.2 Councillors are required to register and declare Disclosable Pecuniary Interests and act in accordance with the Code of Conduct.
- 4.3 All Officers of the Council are subject to the Employee Code of Conduct. Additionally, employees who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute
- 4.4 Officers and serving Councillors must not act as agents for people pursuing planning matters within their authority even if they are not involved in the decision making on it.

5. Registration and disclosure of interests

- 5.1 The Derbyshire Dales Code of Conduct places requirements on Councillors regarding the registration and disclosure of their pecuniary interests and the consequences for a Councillor taking part in consideration of an issue in the light of those interests. A failure to register a disclosable interest within 28 days of election, or the provision of false or misleading information, or participation in discussion or voting in a meeting on a matter in which a Councillor or has a Disclosable Pecuniary Interest, are criminal offences.
- 5.2 Any changes to those interests must be notified within 28 days of the Councillor becoming aware of such changes.
- 5.3 If, as a Councillor, you have a Disclosable Pecuniary Interest you must not participate or give the appearance of trying to participate in the making of any decision on the matter. Pecuniary interests that emerge as part of a consultation exercise should be declared by the individual and noted on the application file by the relevant case officer.
- 5.4 If you have a Disclosable Pecuniary Interest relating to an item under discussion, you must withdraw from a committee meeting.
- 5.5 Advice should always be sought from the Council's Monitoring Officer. Ultimately, responsibility for fulfilling the requirements rests with each Councillor or employee.
- 5.6 See the Appendix to this Code of Practice for a flowchart of how Councillors' interests should be handled.
- 5.7 Employees are responsible for ensuring that they act in accordance with the Code of Conduct for Employees, and that any personal or pecuniary interests are recorded as required.

6. Predisposition, predetermination, or bias

- 6.1 Members of the Planning Committee, Local Plan Working Group (or full Council when the local plan is being considered) need to be above any appearance of bias or of having predetermined their views before taking a decision on a planning application or on planning policies.

- 6.2 The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a 'closed mind' approach and likely to leave the committee's decision susceptible to challenge by Judicial Review.
- 6.3 Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Councillor makes it clear they are willing to listen to all the considerations presented at the committee before deciding on how to vote (predisposition). The latter is alright, the former is not and may result in a Court quashing such planning decisions.
- 6.4 The Localism Act also provides that a Councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter.
- 6.5 If you have predetermined your position, you must withdraw from being a member of the decision-making body for that matter. An alternative course of action prior the meeting, would be to nominate a substitute or provide comments in writing.

7 Development proposals submitted by Councillors and officers, and Council development

- 7.1 Proposals submitted by serving Councillors, officers and their close associates and relatives can easily give rise to suspicions of impropriety. Proposals could be planning applications or local plan proposals.
- 7.2 Such proposals must be handled in a way that gives no grounds for accusations of favouritism.
- 7.3 If as a Councillor or Officer you submit a planning application, you should have nothing to do with the proceedings that determine the matter. You should declare a pecuniary interest when your application comes up on the agenda and leave the room.
- 7.4 The Director of Regulatory Services will use his/her discretion to determine whether such proposals should be reported to the planning committee and not dealt with by officers under delegated powers.
- 7.5 Proposals for the District Council's own development will be treated with the same transparency as those of private developers and will be reported to a Planning Committee for determination.

8 Lobbying of and by Councillors

- 8.1 Lobbying is a normal part of the planning process and is an attempt to influence a Councillor's view in order to achieve a particular outcome.
- 8.2 Whilst it is important that local concerns should be adequately ventilated through local Councillors, lobbying can lead to the impartiality and integrity of a Councillor

being called into question, unless care and common sense is exercised by all the parties involved.

- 8.3 In such situations, you should restrict your input to giving advice about the process and what can and can't be taken into account. You are then free to introduce issues that have been raised by your constituents, with officers. If you do express an opinion to objectors or supporters, it is important that you make clear that you will only be in a position to take a final decision after having heard all the relevant arguments and taken into account all relevant material and planning considerations at committee.
- 8.4 If however, you feel that your impartiality has been compromised by expressing a prejudicial view on an application prior to the committee considering the matter, you will need to withdraw from the decision making process. Any Councillor who finds themselves in this position should seek advice from the Monitoring Officer.
- 8.5 Where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), please advise the Monitoring Officer, who in turn will advise the appropriate officers to follow the matter up.
- 8.6 Remember, you are not there to agree with the first person that approaches you. You are there to consider the long-term interests of the community. Taking the public along with this rule can be difficult.
- 8.7 In all cases of lobbying, you may:
- Help the resident with procedural advice and information
 - Direct the lobbyist to make representations to the planning office
 - Remind the resident of their other rights, such as appearing at the meeting as part of the public participation section of the meeting
 - Receive letters and other communications from lobbyists without making comment, but pass them to the case officer
- 8.8 Please note that, unless you have a pecuniary interest, you will not have fettered your discretion or breached this Code by offering the assistance outlined above.

9. Pre-application discussions

- 9.1 Pre-application discussions between a potential applicant and a Council can benefit both parties and are encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.
- 9.2 Councillors have an important role to play in pre-application discussions, bringing their local knowledge and expertise, along with an understanding of community views.
- 9.3 Where you feel that a formal meeting would be useful in clarifying issues, you should avoid arranging a meeting yourself. Request the relevant case officer to organise it for you.

- 9.4 The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- 9.5 When attending a properly organised pre-application presentation, you can ask relevant questions to aid your understanding of the proposals.

10. Public speaking at planning committees

- 10.1 The District Council's Public Participation Scheme sets out clear protocols about who is allowed to speak, including provisions for applicants, supports, parish Councils and third party objectors.
- 10.2 New documents will not be circulated to the committee; Councillors may not be able to give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material considerations arising.
- 10.3 Messages should never be passed to individual committee members, either from other Councillors or from the public. This could be seen as seeking to influence that member improperly and will create a perception of bias that will be difficult to overcome.

11. Decisions which differ from a recommendation

- 11.1 The law requires that decisions should be taken in accordance with the Development Plan, unless material considerations indicate otherwise. This applies to all planning decisions. Any reasons for refusal must be justified against the development plan and other material considerations.
- 11.2 Material considerations include planning policy (including congruence with the local development plan), environmental impact and amenity, highway safety, flood risk and impact on historic buildings or archaeological sites.
- 11.3 The personal circumstances of an applicant or any other material or non-material planning considerations which might cause local controversy will rarely satisfy the relevant tests. Examples of material considerations are attached as an appendix.
- 11.4 Whilst it is common for Councillors to agree with their Officers, occasionally Councillors do not agree with Officer Recommendation put to the Planning Committee. This is perfectly natural, as much of planning can be a matter of balancing different issues, based on judgements as to what level of weighting should be afforded to those issues. Usually, as such items are heard and discussed by the Planning Committee it becomes apparent from the debate that there remains varying levels of discomfort with the Officer's recommendation (whether that be in a more positive or negative direction). In such cases the Committee are not duty bound to determine the application as it has been put before them by Officers. The Planning Committee has a choice to defer an item and instruct further work be

undertaken to resolve particular issues, or to overturn the Officer recommendation if they believe this is incorrect.

“When Should a “Deferral” be used?

- 11.5 Most commonly, the Officer recommendations will be accepted by the Committee. However, in instances where the Committee agree in principle with the recommendation but feel that there remain areas for improvement or clarification the Committee can request further work be undertaken before they make a decision. This request can be made via a deferral of the item.
- 11.6 The Committee may defer an item when they require further information in order to make an informed decision. The law is clear that planning decisions should not be taken unless all of the necessary facts are known, and therefore a deferral would be the appropriate action in these instances. If making a specific amendment to a scheme or providing additional information may help make a scheme acceptable this should be considered before refusing the application.
- 11.7 When the Planning Committee makes a motion to defer an item it should be made with clear instructions as to the purpose of the deferral, including clarification on exactly what is being required by the Committee. The Committee should also state what should happen next in both the event that the request is met in full, or if the request cannot be met. Options include deferring with the item to come back to Committee regardless of outcome, or deferring and delegation power to Officers later approve the application if the request is satisfied, or refusing the item if the request is not met. Usually the item would be expected to return to Committee unless the requirements are very clear. Where there is a requirement to seek clarification then it will usually be essential that the item returns to the Committee to further consider this additional evidence.
- 11.8 A deferral is a long-established procedure and fairly commonplace. However, where matters are more complex it may not be possible to resolve them at all, or via a deferral of the current application, in which case Councillors may wish to make a contrary decision to that recommended.”

Recommendation “Overturns”

- 11.9 Where Councillors decide that they disagree with the recommendations from Officers the Committee is perfectly entitled to make a contrary motion to “overturn” the recommendation. In such circumstances the Committee remains bound by law to make decisions in accordance with the Development Plan and all other material planning considerations. Therefore, the Committee will need to demonstrate that this requirement has been met in its deliberations, explaining what material considerations have made them reach their decision contrary to professional advice.
- 11.10 As planning it is a matter of weighting considerations in reaching a decision whether planning permission should be granted different people can reach different conclusions. Provided these conclusions remain “reasonable” there should be limited risk to the Council. However, there are varying levels of risk that can arise including general maladministration, creating grounds for legal challenge and

“unreasonable behaviour” likely to result in an award of costs against the Council (in the event of an appeal, or complaints to the Local Government Ombudsman). The decision may also undermine the Council’s own Development Plan policies, or possibly set a precedent that would then be hard to ignore in making consistent decision on planning applications of a similar nature thereafter.

11.11 Adhering to this procedure for “overturning” recommendations is intended to safeguard the Council and limit risks before such a decision is taken.

The Procedure for “Overturning” Recommendations

11.12 When the Planning Committee disagrees with their professional Planning Officer’s advice the Councillors can raise a motion to overturn the recommendation. This motion should include clearly stated planning reasons so that other Councillors of the Committee can decide whether they agree or disagree. The reasons should be “reasonable” as defined within planning law, and should explain

11.13 If you are proposing, seconding or supporting a decision contrary to the Officer Recommendation or the development plan, you must clearly identify and understand the planning reasons leading to this conclusion/decision. The reasons should be “reasonable” as defined within planning law, and should explain how the Development Plan and other material considerations have been taken into account to justify the motion. These reasons must be given prior to the vote and be recorded. The officer should also be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely outcome, and chances of a successful award of costs against the Council, should one be made.

11.14 Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

12. Committee site visits

12.1 A site visit is only likely to be necessary if:

- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers
- the comments of the applicant and objectors cannot be expressed adequately in writing or
- the proposal is particularly contentious.

12.2 If, as a Councillor, you become aware of a proposal you may be tempted to visit the site alone. In such a situation, you are only entitled to view the site from public vantage points and have no individual rights to enter private property. Whilst you might be invited to enter the site by the owner, it is not good practice to do so on your own, as this can lead to the perception that you are no longer impartial. Any Councillor that does undertake a site visit on their own will not be acting as part of the Local Planning Authority. The note of any visit to a site outside the Planning

Committee must be passed to a Planning Officer and will be recorded on the planning application fee.

12.3 On organised site visits, it is essential that all Councillors -

- Act as a single group and stay together at all times
- Pay close attention to the case officer's presentation so that they are in possession of all the information
- Do not enter into private discussions with applicants or objectors, including representatives of the Parish and Town Councils
- Be aware of the image they project to applicants and agents

12.4 If you are unable to attend the site visit you may vote if you feel able to make reasonable judgement on the information presented.

12.5 The site visit procedure is reproduced on the Planning Committee(s) agenda.

13. Dealing with the Media

13.1 The local press and media can ambush you with telephone calls about planning matters. In the heat of the moment you have to be careful not to make any comment on forthcoming planning applications that commits you publicly to a position on whether the application is acceptable or unacceptable. For advice on responding to media enquiries, please contact the Communications and Marketing Manager – communications@derbyshiredales.gov.uk

14. Annual review of decisions

14.1 Once a year, the Community and Environment Committee will visit a sample of implemented planning permissions to assess the quality of the decisions and the development. This may improve the quality and consistency of decision-making, strengthen public confidence in the planning system, and can help with reviews of planning policy.

14.2 Reviews will include visits to a range of developments such as major and minor schemes; upheld appeals; listed building works and enforcement cases. Briefing notes should be prepared on each case. The Corporate Committee will formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

15. Complaints and record keeping

15.1 Any issues or concerns arising from this Code can be raised with the Monitoring Officer or the Director of Regulatory Services. This Council also has a formal complaints system, which can be used if necessary and enquiries should be addressed to the Complaints Officer, email complaints@derbyshiredales.gov.uk.



QUICK GUIDE TO MATERIAL PLANNING CONSIDERATIONS

When a decision is made on a planning application, only certain issues are taken into account. These are often referred to as 'material planning considerations'.

MATERIAL PLANNING CONSIDERATIONS:

Issues that may be relevant to the decision (*There may exist further material planning considerations not included here*)

- Local, strategic, national planning policies and policies in the Development Plan
- Emerging new plans which have already been through at least one stage of public consultation
- Pre-application planning consultation carried out by, or on behalf of, the applicant
- Government and Planning Inspectorate requirements – circulars, orders, statutory instruments, guidance and advice
- Previous appeal decisions and planning Inquiry reports
- Principles of Case Law held through the Courts
- Loss of sunlight (*based on Building Research Establishment guidance*)
- Overshadowing/loss of outlook to the detriment of residential amenity (*though not loss of view as such*)
- Overlooking and loss of privacy
- Highway issues: traffic generation, vehicular access, highway safety
- Noise or disturbance resulting from use, including proposed hours of operation



- Smells and fumes
- Capacity of [physical infrastructure](#), e.g. spaces in schools
- Deficiencies in [social facilities](#), e.g. spaces in schools
- Storage and handling of [hazardous materials](#) and development of [contaminated land](#)
- Loss or effect on [trees](#)
- Adverse impact on [nature conservation](#) interests and biodiversity opportunities
- Effect on listed buildings and conservation areas
- [Incompatible or unacceptable uses](#)
- Local [financial considerations](#) offered as a contribution or grant
- [Layout and density of building](#) design, visual appearance and finishing materials
- Inadequate or inappropriate [landscaping](#) or means of enclosure

The weight attached to material considerations in reaching a decision is a matter of judgement for the decision-taker however the decision-taker is required to demonstrate that in reaching that decision that they have considered all relevant matters.

Generally greater weight is attached to issues raised which are supported by evidence rather than solely by assertion.

If an identified problem can be dealt with by means of a suitable condition then the Local Planning Authority is required to consider this rather than by issuing a refusal.

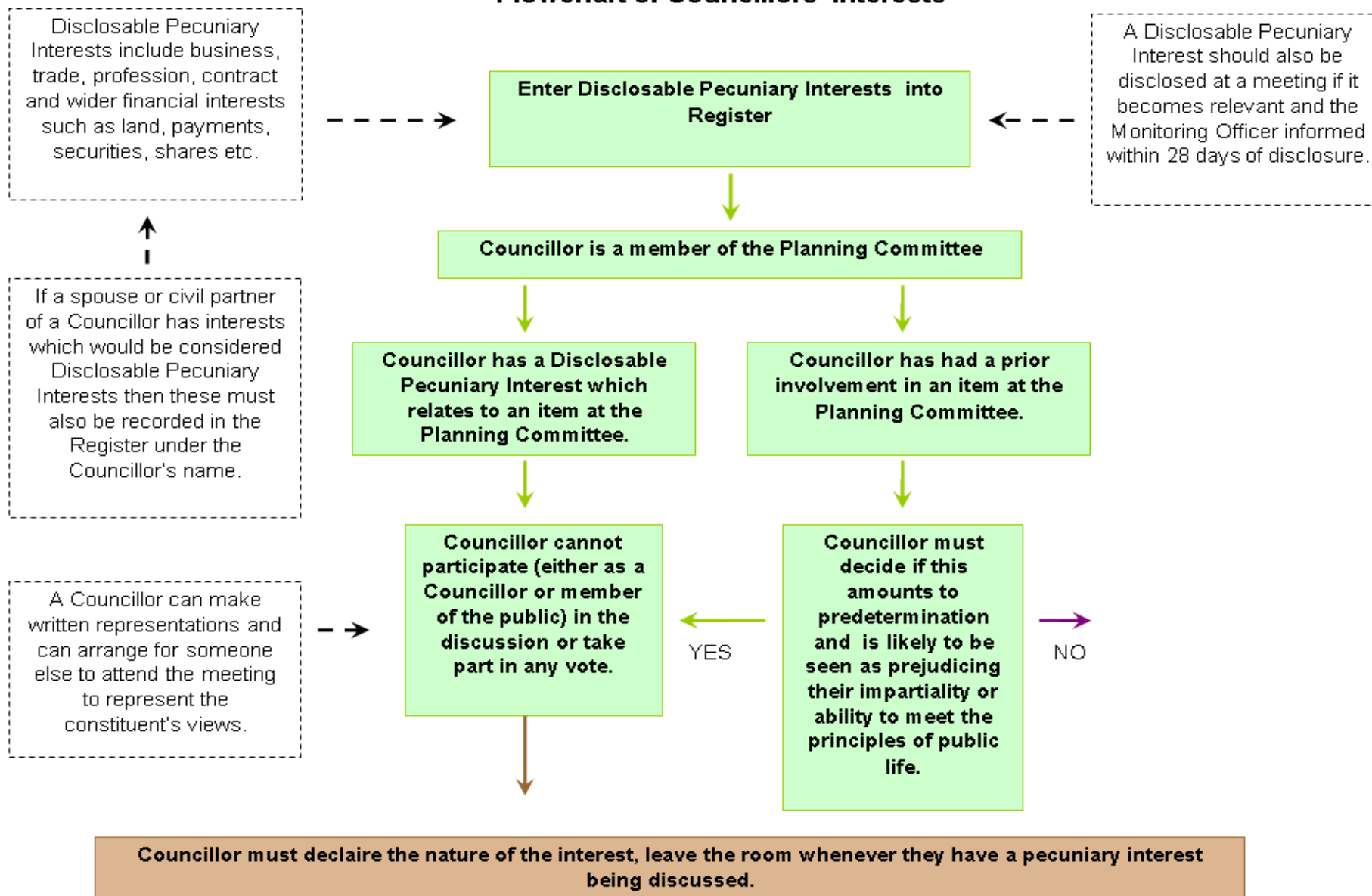
NON-MATERIAL PLANNING CONSIDERATIONS:

Issues that are not relevant to the decision: *(There exist further non-material planning considerations not included in this list)*

- **Matters controlled under building regulations** or other non-planning legislation e.g. structural stability, drainage details, fire precautions, matters covered by licences etc.
- **Private issues between neighbours** e.g. land/boundary disputes, damage to property, private rights of access, covenants, ancient and other rights to light etc.
- **Problems arising from the construction period** of any works, e.g. noise, dust, construction vehicles, hours of working *(covered by Control of Pollution Acts)*.
- Opposition to the **principle of development** when this has been settled by an outline planning permission of appeal
- **Applicant's personal circumstances** (unless exceptionally and clearly relevant, e.g. provision of facilities for someone with a physical disability)
- **Previously made objections/representations** regarding another site or application
- **Factual misrepresentation of the proposal**
- **Opposition to business competition**
- **Loss of property value**
- **Loss of view**

For more information please email planning@derbyshirdales.gov.uk or Telephone 01629 761336

Flowchart of Councillors' interests





Protocol on role of the Civic Chair of the Derbyshire Dales and use of the Civic Allowance

Revised September 2023

1. Introduction

1.1 Role and Duties of the Civic Chair of the Derbyshire Dales

There are three main important roles for the Civic Chair:

(i) As a symbol of the authority

To be the Council's 'ambassador' and to represent the District Council at events throughout the District

(ii) As a symbol of open society

- To promote inclusiveness and equality and ensure that all events promoted by the Chair are open to all
- To promote ethical trade and be the District Council's figurehead as a Fair Trade authority
- To take an active lead in promoting environmental awareness by hosting an annual event to recognise individual and community group actions
- **To foster links with local schools to encourage participation in democracy by young people**

(iii) As an expression of social cohesion

- To act as the link between the Council and the various community bodies and organisations within the Derbyshire Dales

An understanding of these roles may act as a guide when deciding upon which invitations to accept or decline, and on the legitimacy of expenditure.

2. Use of the 'Civic Allowance'

"A principal Council may pay the Chair for the purpose of enabling him to meet the expenses of his office, such Allowances as the Council thinks reasonable".

Section 3(5) of the Local Government Act 1972

In recognition of the important representative role performed by the Civic Chair of the District of Derbyshire Dales and the Deputy Civic Chair, the Council makes provision in its budget for expenses.

Separate bank accounts operate for the Civic Chair and Deputy Civic Chair, and the civic allowance amounts are paid into these accounts. The Civic Chair and Deputy Civic Chair are able to draw cheques on their accounts by arrangement with the Director of Resources.

The law does not stipulate the type or category of expenditure for which the allowance may be used, except that it is for meeting the “expenses of office”. However the allowance is commonly described as “recompense of the expenses in maintaining the dignity of the office”. It is therefore essential that each Civic Chair should account for the use of the allowance to ensure that it is used properly.

Whilst there cannot be a universally accepted list of items “acceptable” for purchase out of the allowance, some of the more general items would include:

- Clothing
- Donations to charities
- Collections
- Purchase of raffle tickets, flags, poppies etc
- Sending flowers
- One-off events held by the Civic Chair

3. Events

Priority will be given to invitations where the Civic Chair may be seen to promote the interests of the District of Derbyshire Dales. Therefore, the Council fully supports the Civic Chair and their Deputy to attend, promote and represent the authority at events held in adjoining local authorities where appropriate. (This includes all Councils in Derbyshire and others outside of the County.)

The Civic Chair may choose the style of events during his/her year of office as the District Council’s ambassador. The style of event is for the Civic Chair to decide working within the overall principles of this Code and ensuring that the agreed role of the Civic Chair is not compromised. For example, events must be seen to be promoting inclusiveness and equality and avoid the appearance that public money is being spent purely on hospitality. Any events involving any form of hospitality should be carefully thought through and be self-financing through the sale of tickets wherever practicable. Modest hospitality e.g. in the form of tea/coffee refreshments may be financed through the civic allowance.

Each individual serving Civic Chair can choose whether it is appropriate during their year of Office to hold either a “Civic Service” or relevant non-religious “Community Celebration” of the Derbyshire Dales.

3.1 Charitable Events

It is not compulsory for the Civic Chair to seek to raise funds for charity, although many do. Being associated with a named charity is often enough without the need to actively seek to raise funds

It must be borne in mind however that a lot of effort is usually spent in organising charitable events, whether it be a simple raffle or a large-scale event. Whilst officers of the Council may be called upon to help, there is a balance where their time may be better utilised elsewhere.

Permission must also be sought from charities concerned. Permission must also be sought for the reproduction of logos and enquiries raised on any particular clause within the charity’s registration details that the Council must be made aware of.

The Director of Resources will prepare suitable arrangements for accounting for all charitable funds raised, and expenses offset against them.

3.2 Accounting arrangements

The two civic allowances are not paid via payroll with appropriate tax and NI deduction. Receipts are therefore required to support incurred expenditure. When it is impracticable to obtain receipts for certain expenditure, a record should be kept by the Civic Chairman/Deputy Civic Chair, of the amount and purpose. i.e. donations, collections, raffle tickets, purchase of raffle prizes.

A simple statement will be prepared at the conclusion of the Civic Year in which the Civic Chair and Deputy declare their spending for the year. This information will be made available to the public.

At the end of the Civic Year, any balance on the two accounts will be cleared as follows; Deputy Civic Chair's account, cheque drawn and paid into the Council's general account as an underspend Civic Chair's account, cheque drawn and paid into the Council's general account as an underspend.

[This protocol was amended by motion at the meeting of Council held on 28 September 2023]