

# PART 5 - CODES AND PROTOCOLS

## 5.1 Members' Code of Conduct

Approved by the Chichester District Council at its meeting on 9 October 2012

### Part 1 – Introduction and Interpretation

This Code applies to you as a member of Chichester District Council when you act in your role as a member. It is your responsibility to comply with the provisions of this Code.

As a member you are a representative of this authority and the public will view you as such. Therefore, your actions impact on how the authority as a whole is viewed and your actions can have both positive and negative impacts on the authority.

You should read this Code together with the general principles of public life on which it is based and which are set out in the Appendix.

In this Code-

'meeting' means any meeting of:

- (a) the authority
- (b) the Executive of the authority (The Cabinet)
- (c) any of the authority's or its executive's committees, sub-committees, panels and forums, joint committees or area committees; whether or not the press and public are excluded from the meeting in question by virtue of a resolution of members

'member' includes a co-opted member (voting and non-voting) and an appointed member (Appointed members apply to parish councils only)

If you need guidance on any aspect of this Code you should seek it from the Monitoring Officer or Deputy Monitoring Officer.

### Part 2 – Scope and General Obligations

#### 1. Scope

- (1) This Code applies to all members of Chichester District Council, including co-opted voting members
- (2) You must comply with this Code whenever you:
  - a. conduct the business of your authority or
  - b. act, claim to act or give the impression you are acting as a representative of your authority or in your official capacity as a member of the authority
- (3) Where you act as a representative of your authority-
  - a. on another authority, you must, when acting for that other authority, comply with that other authority's Code of conduct: or;

- b. on any other body, you must, when acting for that other body, comply with your authority's Code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## 2. General Obligations

- (1) When acting in your role as a member of the authority –
  - a. **do not** conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
  - b. **do not** use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
  - c. **do** treat others with respect;
  - d. **do not** bully any person;
  - e. **do not** intimidate or attempt to intimidate any person who is or is likely to be a complainant or a witness, or involved in any investigation or proceedings about a complaint that a member (including yourself) has failed to comply with his or her authority's code of conduct;
  - f. **do not** do anything which may cause the authority to breach any of the equality duties (as set out in the Equality Act 2010);
  - g. **do not** do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority;
  - h. **do not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, unless:
    - i. you have the consent of a person authorised to give that consent;
    - ii. you are required by law to do so;
    - iii. the disclosure is made for the purpose of obtaining professional legal advice and the recipient agrees not to disclose the information to any other person; or
    - iv. the disclosure is-
      - (aa) reasonable and in the public interest; and
      - (bb) made in good faith and in compliance with the reasonable requirements of the authority; and
      - (cc) you have consulted the Chief Executive, the Monitoring Officer or the District Treasurer prior to its release.
  - i. **do not** prevent another person from gaining access to information to which that person is entitled by law;
- (2) When using or authorising the use by others of the resources of the authority -
  - a. **do** act in accordance with the authority's reasonable requirements including the requirements of the authority's Information Security Policy;
  - b. **do** make sure that such resources are not used improperly for political purposes (including party political purposes); and
  - c. **do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- (3) When reaching decisions on any matter –
  - a. **do** have regard to any relevant advice provided to you by the authority's Chief Finance Officer or the authority's Monitoring Officer, where that officer is acting pursuant to his or her statutory duties; and
  - b. **do** give reasons for all decisions in accordance with any statutory

requirements and any reasonable additional requirements imposed by the authority.

### **Part 3 – Disclosable Pecuniary Interests (Localism Act 2011)**

#### **3. Notification of disclosable pecuniary interests**

- (1) Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.
- (2) A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the description at sub-paragraph (3) below. Any interest which your partner may have is only treated as your interest if you are aware that your partner has the interest.
- (3)
  - a. any employment, office, trade, profession or vocation carried on for profit or gain;
  - b. any payment or provision of any other financial benefit (other than from the authority) made or provided within the preceding 12 months in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a);
  - c. any contract which is made between you or your partner (or a body in which you or your partner has a beneficial interest) and the authority under which goods or services are to be provided or works are to be executed and which has not been fully discharged.
  - d. any beneficial interest in land which is within the area of the authority;
  - e. any licence (alone or jointly with others) to occupy land in the area of the authority for a month or longer;
  - f. any tenancy where (to your knowledge) the landlord is the authority and the tenant is a body in which you or your partner has a beneficial interest;
  - g. 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:
    - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*(certain words and expressions used in this list are defined in Regulations)*

- (4) You must, within 28 days of becoming aware of any new interest or change to any interest registered under sub-paragraph (1) notify the Monitoring Officer of the details of that new interest or change.

#### **4. Register of interests**

Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

#### **5. Sensitive interests**

- (1) Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.
- (2) You must, within 28 days of becoming aware of circumstances which mean that information excluded under paragraph (1) is no longer sensitive, notify the Monitoring Officer so that the information is included in your authority's register of members' interests.

#### **6. Non participation in case of disclosable pecuniary interest**

- (1) If you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting-
  - a. you must disclose the interest to the meeting.
  - b. you may not participate in any discussion of the matter at the meeting, unless you have received a dispensation from the Monitoring Officer.
  - c. you may not participate in any vote taken on the matter at the meeting, unless you have received a dispensation from the Monitoring Officer.
  - d. you must leave the room whilst the business is discussed, unless the public have the right to attend, in which case you should move to the public seating area. You may then make representations, answer questions or give evidence relating to the business, provided the public are also allowed to attend the meeting for the same purpose, and you have a dispensation from the Monitoring Officer enabling you to do so.
  - e. if the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

- (2) Where, as an executive member, you may discharge a function alone, and you become aware of a disclosable pecuniary interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

## **7. Offences**

- (1) It is a criminal offence to-
  - a. fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election;
  - b. fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
  - c. fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting;
  - d. participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest, unless you have received a dispensation from the Monitoring Officer;
  - e. fail to notify the Monitoring Officer within 28 days of the interest, if you are an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter;
  - f. knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting;
- (2) The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

## **Part 4 – Other Interests (Personal and Prejudicial)**

### **8. Notification of other interests**

- (1) In addition to the disclosable pecuniary interests notifiable under the Localism Act 2011, you must, within 28 days of—
  - a. this Code being adopted by or applied to your authority (or within the preceding four months); or
  - b. your election or appointment to office (where that is later), notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the following descriptions, for inclusion in the register of interests.
- (2) You have a personal interest in any business of your authority where it relates to or is likely to affect—
  - a. Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
  - b. any body of which you are a member or in a position of general control or management —
    - i. exercising functions of a public nature;
    - ii. directed to charitable purposes; or
    - iii. one of whose principal purposes includes the influence of public opinion

- c or policy (including any political party or trade union);
  - c the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
- (3) You must, within 28 days of becoming aware of any new interest or change to any interest registered under sub-paragraph (1) notify the Monitoring Officer of the details of that new interest or change.

## 9. Disclosure of other interests

- (1) Subject to sub-paragraphs (2) to (5) below, where you have a personal interest described in paragraph 8 above or in paragraph (2) below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the relevant time at the meeting, at the commencement of that consideration, or when the interest becomes apparent.
- (2) (A) You have a personal interest in any business of your authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of your ward affected by the decision;
- (B) In sub-paragraph (2) (A), a relevant person is—
- a.
    - i. your spouse or civil partner,
    - ii. living with you as husband and wife or as if you are civil partners,
    - iii. your grandparent,
    - iv. a lineal descendant of your grandparent,
    - v. a parent, sibling or child of a person within paragraph (i) or (ii),
    - vi. the spouse or civil partner of a person within paragraph (iii), (iv) or (v), or
    - vii. living with a person within paragraph (iii), (iv) or (v) as husband and wife or as if they are civil partners.
  - b. any person with whom you have a close association;
  - c. any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - d. any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - e. any body of a type described in paragraph 8(2) (a) or (b).
- (3) Where you have a personal interest in any business of your authority which relates to or is likely to affect a body described in paragraph 8(2) (a) or (b),

you need only disclose to the meeting the existence and nature of that interest if you address the meeting on that business.

- (4) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(2) (c), you need not disclose that interest if it was registered more than three years before the date of the meeting.
- (5) Where you have a personal interest but, by virtue of paragraph 11, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

## **10. Register of interests**

Any interests notified to the Monitoring Officer, under paragraph 8 above, will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

## **11. Sensitive interests**

- (1) Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.
- (2) You must, within 28 days of becoming aware of circumstances which mean that information excluded under paragraph (1) is no longer sensitive, notify the Monitoring Officer so that the information is included in your authority's register of members' interests.

## **12. Non participation in case of prejudicial interest**

- (1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business—
  - a. affects your financial position or the financial position of a person or body described in paragraph 9 (2) (B); or
  - b. relates to the determining, amendment, modification, variation, or revocation of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 9 (2)(B),

or of any condition, limitation or term to which it is subject.

- (2) You do not have a prejudicial interest in any business of the authority where that business relates to the functions of your authority in respect of—
  - a. housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - b. schools, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - c. statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - d. an allowance, payment or indemnity given to members;
  - e. any ceremonial honour given to members; and
  - f. setting council tax or a precept under the Local Government Finance Act 1992.
- (3) Subject to sub-paragraph (4) below, where you have a prejudicial interest in any business of your authority—
  - a. you must disclose the interest to the meeting.
  - b. except as in d. below, you may not participate in any discussion of the matter at the meeting, unless you have received a dispensation from the Monitoring Officer or the interest is of the type mentioned in paragraph 8(2)(a).
  - c. you may not participate in any vote taken on the matter at the meeting, unless you have received a dispensation from the Monitoring Officer.
  - d. you must leave the room whilst the business is discussed, unless the public have the right to attend, in which case you should move to the public seating area. You may then make representations, answer questions or give evidence relating to the business, provided the public are also allowed to attend the meeting for the same purpose.
  - e. you must not seek improperly to influence a decision about that business.
- (4) Where the interest is of the type mentioned in paragraph 8(2) (a), you may participate in the discussion, but may not vote in relation to the matter unless you have obtained a dispensation from the Monitoring Officer.
- (5) Where, as an executive member, you may discharge a function alone, and you become aware of a prejudicial interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

### **13. Interests arising in relation to overview and scrutiny committees**

You also have a prejudicial interest in any business before an overview and scrutiny committee of the authority (or of a sub-committee of such a committee) where—

- a. that business relates to a decision made (whether implemented or not) or action taken by the executive or another of the authority's committees, sub-committees, joint committees or joint sub-committees; and

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

In such case you may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and, unless the public have the right to attend, you must leave the room where the meeting is held immediately after answering questions or giving evidence. You must not seek improperly to influence a decision about that business.

#### **14. Pre-determination or bias**

- (1) Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as member. However, do not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties. You must retain the ability to consider the matter with an open mind and to give proper consideration to all the facts and information relevant to the decision.
- (2) When making a decision, do consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken.

#### **15. Compliance with Constitution**

Failure to comply with the requirements of the Council's Constitution shall be deemed to be a breach of this Code.

## **Appendix 1 to Members' Code of Conduct - The General Principles of Public Life**

### **Selflessness**

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

### **Integrity**

2. Members should not place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

### **Objectivity**

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

### **Accountability**

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

### **Openness**

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

### **Honesty**

6. Members should not place themselves in situations where their honesty may be questioned, should not behave dishonestly and should on all occasions avoid the appearance of such behaviour.

### **Leadership**

7. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

## Appendix 2 to Members' Code of Conduct

### Guidance to members on the offer, acceptance and declaration of receipts of gifts and hospitality

#### Introduction

This guidance sets out members' obligations to declare gifts and hospitality received in their *official capacity as members of the Council*. Failure to comply with these rules is a breach of the Members' Code of Conduct.

Breaches of the Code render members liable to a complaint being reported to the Monitoring Officer who can decide whether there should be an investigation into the allegation.

The press and public have the right to inspect your gift and hospitality declarations which is published online in your Declarations of Interest forms via the Council's web site at <http://chichester.moderngov.co.uk/>.

#### What are the rules?

You must register *every* individual gift or item of hospitality received that is over £50 in value.

Your registration must be made *within 28 days of the date you received it*, by updating your Register of Interests form on the Council's modern.gov intranet site.

You must declare the *value* and details of the gift or hospitality received.

Even if all members, or a large number of them, received the same gift or were invited to the same event, they must each make *individual* notifications.

#### Should I accept gifts and hospitality?

Your 'official capacity as a member of the Council' is when you undertake one of the following:

- You conduct the business of your authority, or
- You act, claim to act or give the impression you are acting as a representative of your authority or in your official capacity as a member of the authority

In considering whether to accept gifts or hospitality Members should have regard to the following general principles:

- Never accept a gift or hospitality as an inducement or reward for anything which you do as a Member
- Never accept a gift or hospitality which might be open to misinterpretation
- Never accept a gift or hospitality which puts you under an improper obligation, and
- Never solicit a gift or hospitality

Registering gifts or hospitality received under the Code does not automatically mean it is appropriate or sensible to accept them in the first place.

Particular care should be taken in relation to gifts and hospitality offered by current or potential contractors for the Council, or from applicants for grant funding, or developers with planning applications pending. In certain cases the acceptance of a gift or hospitality from these sources could constitute a criminal offence, even if declared. If there is any suspicion that any offer is intended as an inducement then the gift should be politely declined.

Only use the declaration form for things received in your capacity as a Chichester District councillor. If you receive things in another capacity, e.g. arising from holding another public office, register in accordance with whatever code is in place for that other body. If a particular body does not actually require you to register anything (e.g. a community association), then you do not need to do anything in respect of the receipt of a gift or hospitality directly attributed to your role within that organisation.

However, you should always consider whether any gifts or hospitality could be seen as being connected with your public role as a Member. If in doubt, declare it.

### **What is the value of the gift or hospitality?**

You may have to estimate how much a gift or hospitality is worth. The form requires you to give an estimate of the value. It is suggested that you take a common sense approach, and consider how much you reasonably think it would cost a member of the public to buy the gift, or provide the hospitality in question. If as a result you estimate that the value is greater than £50, then you should declare receipt.

Where hospitality is concerned, you can disregard catering on-costs and other overheads, e.g. officers and room hire. If the sandwiches or your meal, including drinks and alcohol, would cost £50 in a comparable establishment providing food of comparable quality, register it.

If you are not certain whether the value is under £50, the safest course is to register it and give an approximate value.

### **What about gifts of low value?**

There is no requirement to declare gifts of a value of less than £50. However, in order to be transparent, if you receive a series of related gifts in connection with your role as a Member which are all under £50, but together total above £50, then you should register them if they are from the same person.

If the small gifts received from different persons are connected in some way, it is *good practice* to register them. If the hospitality can be related to a Council decision in the foreseeable future, even if it is under £50, it should be politely declined.

### **Gifts which are more likely to be considered acceptable:**

In appropriate circumstances members may choose to accept gifts and hospitality in the following circumstances:

- Civic hospitality provided by another authority
- modest refreshments received in the ordinary course of duties as a member e.g. at formal meetings or when in contact with constituents
- Tickets for sporting, cultural events which are sponsored or supported by the Council

- Small gifts of low intrinsic value i.e. below £50 which are branded with the name of the company or organisation making the gift (e.g. diaries, calendars etc.)
- Modest souvenir gifts with a value below £50 from another public body given on the occasion of a visit by or to that body
- Hospitality received in the course of an external visit or meeting which has been authorised by the Council. In such cases the arrangements should be made by officers rather than the members who will be benefiting and hospitality should be commensurate with the nature of the visit, and
- Other unsolicited gifts where it is impracticable to return them or where refusal would in the circumstances cause offence

Receipt of gifts and hospitality of this type is still subject to the requirements of the Code regarding the notification of gifts and hospitality of greater than £50 in value. The appropriateness of acceptance should always be considered beforehand. It should also be noted that the mere fact that a gift or hospitality does not have to be notified does not necessarily mean that it is appropriate to accept it.

**Guidance on particular gifts and hospitality**

Tickets to events - the evidence of the register indicates that the most common benefits accepted by Chichester District Councillors from time to time, are tickets to functions, notably theatrical performances in the district and Goodwood events. If a Member considers it appropriate to accept such tickets, then the value must be assessed and if greater than £50 they should be declared as gifts.

Civic Ceremonial - Should any personal gift be offered in such circumstances the approach to be adopted in relation to acceptance must be considered in accordance with this guidance.

**What happens if I do not register a gift or hospitality?**

Failure to declare receipt of a gift or hospitality over £50 is a breach of a Members' Code of Conduct. An alleged breach of the Code can be the subject of a complaint to the Monitoring Officer which could result in the matter becoming the subject of a formal investigation.

**How do I register gifts and hospitality I receive?**

The best advice is to get into the habit of registering things as soon as possible.

You should log on to the modern.gov intranet page

<http://chichesterintranet.moderngov.co.uk/> and access the Work To Do link on the left hand side, click on the Options Tab and then select Edit my Register of Interests. The relevant part of the form looks like this:

<b>12. Gifts and hospitality - Have you received (in your capacity as a member/co- opted member) a gift or hospitality with an estimated value of at least £50 from any body or person?</b>	
<b>Name of body/person</b>	<b>Gift and value</b>

Once you have edited the form click on Submit for Sign Off. Your edited form is returned

to Democratic Services who will check it and sign it off. Once this process has been completed it will be visible on the Council's web page <http://chichester.moderngov.co.uk/>.

**Further assistance**

It is each Member's own individual responsibility to observe this guidance but the Monitoring Officer and Democratic Services officers will help where possible. If you have any questions at all please contact the Monitoring Officer for advice and assistance.

## **5.2 Arrangements for Dealing with Standards Allegations under the Localism Act 2011**

### **1. Context**

These Arrangements set out how you may make a complaint that an elected or co-opted member of this authority or of a Parish Council within the District has failed to comply with the authority's code of conduct, and set out how the authority will deal with allegations of a failure to comply with the authority's code of conduct.

Under section 28 (6) and (7) of the Localism Act 2011, the Council must have in place 'arrangements' under which allegations that a member or co-opted member of the authority or Parish Council or of a committee or sub-committee of the authority has failed to comply with that authority's code of conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one 'independent person', whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated and whose views can be sought by the authority at any other stage, or by a member against whom an allegation has been made.

### **2. The Code of Conduct**

The Council has adopted a Code of Conduct for members, which is attached as appendix one to these Arrangements (available at Part 5.1 of this Constitution) and available for inspection on the authority's website and on request from the reception desk at Chichester District Council East Pallant House 1 East Pallant Chichester.

### **3. Making a complaint**

If you wish to make a complaint, please write or e-mail to:

Mr Nicholas Bennett  
Monitoring Officer  
Chichester District Council  
East Pallant House  
1 East Pallant  
Chichester West Sussex PO19 1TY

[nbennett@chichester.gov.uk](mailto:nbennett@chichester.gov.uk)

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from the reception at Chichester District Council East Pallant House 1 East Pallant Chichester.

Please do provide us with your name and a contact address or e-mail address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. A full copy of your complaint form and supporting documents will be sent to the member against whom your complaint is about (the subject member). The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. We will consider your request and if we decide to agree to it we will not disclose your name and address to the member against whom you make the complaint without your prior consent. If we refuse your request you will be notified and given the opportunity to decide whether or not you wish to proceed with your complaint.

The subject member may provide his/her written comments about your complaint to the Monitoring Officer.

The subject member will have the opportunity to consult, at this stage, with an Independent Person.

#### **4. Validation**

Your complaint will be considered by the Monitoring Officer. If she is of view that it does not fundamentally relate to a code of conduct matter she will decline to process it further under this procedure. For example it is generally considered that complaints about statements made in respect of the merits of a planning application will not be dealt with under this procedure. The planning system itself is considered to give all parties a fair opportunity to express their views and comment upon the views of others. The code of conduct complaints procedure will not produce an outcome that will assist in the planning process.

If the Monitoring Officer has declined to process your complaint further under this procedure, you will be informed of this and, if possible other options open to you will be suggested.

Once validated by the Monitoring Officer, your complaint will proceed to the Initial Assessment.

#### **5 Will your complaint be investigated?**

##### Monitoring Officer's Initial Assessment

The Monitoring Officer will carry out an initial assessment of every complaint received and, after consultation with the Independent Person, may take a decision as to whether it should proceed to the Assessment Sub-Committee stage. The details given in your complaint form together with any supporting documents that you have submitted, together with any comments that the subject member has made and any further response from you, will be taken into consideration.

The Monitoring Officer may decide a complaint does not proceed if:

- It is about someone who is no longer a member of the Council

- There has been a long delay before the complaint was made
- The complaint appears to be minor, politically motivated, malicious or not sufficiently serious to warrant further action
- Whilst framed as a code of conduct matter, is fundamentally a challenge to an expression of fact or opinion made during a debate at a Council meeting or is fundamentally a challenge to the underlying merits of a council determination (e.g. a planning application)
- In order to resolve the matter, you are prepared to accept and the subject member has given a written apology
- Both you and the subject member are prepared to resolve the matter by having a mediation / conciliation meeting

This list is not intended to be exhaustive and the Monitoring Officer in consultation with the Independent Person may decide that a complaint does not merit further consideration for any other reason which appears to them to be relevant.

If you are a parish councillor and the subject member (or one of them) is a member of the same parish council, the Monitoring Officer may, in consultation with the Independent Person, refer the entire complaint to the Sussex Associations of Local Councils (SALC). SALC will appoint a Panel to hear your complaint and decide whether it is sufficiently serious to be put through the procedure set out below or whether it should be settled in some other way within the parish council.

Where the Monitoring Officer has taken the decision that the complaint does not merit further consideration or is to be referred to SALC for mediation / conciliation, the Monitoring Officer will inform you of his/her decision and the reasons for that decision.

### Assessment Sub Committee

The Assessment Sub-Committee will consist of three members of the Council's Standards Committee. If the subject member is a parish councillor, a parish councillor who is a co-opted member of the Standards Committee will also attend in an advisory capacity. The Monitoring Officer will refer the complaint to the Assessment Sub-Committee provided she considers it is appropriate to do so (see above: Monitoring Officer's Initial Assessment).

The complaint form and any supporting documents that have been submitted will be copied to all members of the Sub Committee.

Having received a copy of the complaint form the subject member may have submitted written comments to the Monitoring Officer. Such comments will also be copied to all members of the Assessment Sub-Committee, together with any further response from you.

The Assessment Sub-Committee is likely to be held in private and therefore neither you nor the subject member may attend. The Monitoring Officer and the Independent Person will attend and, if required, give advice.

The Assessment Sub-Committee may decide:

- (i) To take no further action on the complaint
- (ii) To ask for further information
- (iii) To refer the complaint to the Monitoring Officer to arrange for an investigation to be carried out
- (iv) To refer the matter to the Monitoring Officer for other steps e.g. for a written apology from the subject member to be sent to the complainant or to request mediation / conciliation or training for the member
- (v) To refer the complaint to the police or other regulatory agency if the complainant identifies potential criminal conduct or breach of other regulation.

Where the Monitoring Officer or the Assessment Sub-Committee requires additional information in order to come to a decision, you may be asked to provide such information or the Assessment Sub-Committee may request information from the subject member against whom your complaint is directed.

As stated above, the Assessment Sub-Committee may request that the Monitoring Officer attempts to resolve the matter informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology or other actions.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the police and/or other regulatory agencies.

The complainant and the subject member will be notified of the Assessment Sub-Committee's decision with reasons.

## **6. How is the investigation conducted?**

The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as appendix two to these Arrangements.

If the Assessment Sub-Committee decides that a complaint merits formal investigation, the Monitoring Officer will appoint an investigating officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether they need to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the subject member and ask that member to provide his/her explanation of events, and to identify what documents they need to see and who they need to interview. In exceptional cases, where it is appropriate to keep your identity confidential or where disclosure of details of the

complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the subject member, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send their final report to the Monitoring Officer.

**7. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and, if satisfied, in consultation with the Independent Person, that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the subject member, notifying you that they are satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, the Investigating Officer may be asked to reconsider the report.

**8. What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and will then refer the matter for local hearing before the Hearing Sub-Committee.

The Hearing Sub-Committee will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings, which is attached as Appendix Three to these Arrangements.

Essentially, the Monitoring Officer will conduct a pre-hearing process, requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing. At the hearing, the Investigating Officer will present his/her report, call such witnesses as considered necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearing Sub-Committee. The subject member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearing Sub Committee as to why they consider that they did not fail to comply with the Code of Conduct.

The Hearing Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearing Sub-Committee concludes

that the member did fail to comply with the Code of Conduct, it will then consider what action, if any, the Hearing Sub-Committee should take as a result of that failure to comply. In doing this, the Hearing Sub-Committee will give the subject member an opportunity to make representations and will consult the Independent Person, and will then decide what action, if any, to take in respect of the matter.

**9. What action can the Hearing Sub-Committee take where a member has failed to comply with the Code of Conduct?**

The Standards Committee has delegated to the Hearing Sub-Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearing Sub-Committee may:

- a. Publish its findings in respect of the member's conduct.
- b. Write a formal letter of censure to the councillor found to have breached the Code of Conduct.
- c. Report its findings to the Council meeting for information.
- d. Recommend to the member's group or the parish council (or in the case of ungrouped members recommend to the Council meeting) that they be removed from any or all committees or sub-committees of the Council.
- e. Recommend to the Leader of the Council or the parish council that the member be removed from the Cabinet or be removed from particular portfolio responsibilities, or if the subject member is the Leader of the Council, recommend to the Council that the Leader be removed from office in accordance with Article 6 of Part 2 of the Constitution.
- f. Recommend to the relevant Council to arrange training or mediation / conciliation or other appropriate remedy for the member.
- g. Accept the written apology of the subject member to you.

The Hearing Sub-Committee has no power to suspend or disqualify the member or to withdraw members' basic or special responsibility allowances.

**10. What happens at the end of the hearing?**

At the end of the Hearing Sub-Committee, the chairman will state the decision of the Hearing Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearing Sub-Committee resolves to take.

As soon as reasonably practicable thereafter, a formal decision notice will be issued and a copy will be sent to you, to the subject member and the clerk to any relevant parish council. The decision notice will be available for public inspection at the Council's offices and the decision may be reported to the next meeting of the Council.

**11. Who sits on the Hearing Sub-Committee?**

The Hearing Sub-Committee is a sub-committee of three (3) members of the Council's Standards Committee. The Hearing Sub-Committee will elect one of its members to act as chairman.

The Independent Person is invited to attend all meetings of the Hearing Sub-Committee and their views are sought and taken into consideration before the Hearing Sub-Committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **12. Who is the Independent Person?**

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is then appointed by the Council. The definition of an Independent Person can be found in section 28 of the Localism Act 2011.

## **13. Revision of these arrangements**

The Council may by resolution agree to amend these Arrangements, and has delegated to the Monitoring Officer the right to depart from these Arrangements where she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **14. Appeals**

There is no right of appeal for you as complainant or for the subject member against a decision of the Monitoring Officer or of the Assessment Sub-Committee or Hearing Sub Committee.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

## **Appendix 2 to Arrangements for Dealing with Standards Allegations under the Localism Act 2011**

### **Investigations Procedure**

#### Introduction

This document sets out the procedure which will be followed once a decision has been taken that an allegation of misconduct by a member should be investigated.

It should be read in conjunction with the document Arrangements for Dealing with Standards Allegations under the Localism Act 2011.

#### The appointment of the Investigating Officer

Upon deciding to refer an allegation for investigation, the Monitoring Officer will appoint an Investigating Officer and instruct him/her to conduct an investigation of the allegation and report on it. The Monitoring Officer may appoint a replacement if the Investigating Officer is unable to complete the investigation. The Investigating Officer may be an officer of the authority or another authority or an external investigating officer. They should not be connected with the Standards Committee.

#### The role of the Investigating Officer

The role of the Investigating Officer is to ensure, as far as possible, that all the information which is relevant to the allegation is identified and presented in their report.

Subject to the agreement of the Monitoring Officer, the Investigating Officer may appoint a person(s) to assist him/her in the conduct of his/her functions and may obtain such professional advice as may be necessary for the conduct of the investigation.

#### Notification requirements

Once an Investigating Officer has been appointed, the Monitoring Officer will notify the subject member against whom the allegation has been made that the matter is being referred for investigation and inform him/her who is conducting the investigation.

The Monitoring Officer will notify the complainant that an investigation will take place and that they may be contacted in relation to that investigation.

#### Conduct of the investigation

The Investigating Officer shall have a broad discretion as to how to conduct the investigation.

They may require the subject member and the complainant to provide them with information and/or documents which are relevant to the investigation. They may require them to provide details of other people who may be able to assist with the investigation.

The Investigating Officer may request any person to attend an interview with him/her and/

or provide him/her with documents and/or information.

Any person who is interviewed may arrange to have a friend or solicitor with him/her (provided that person is not connected to any matter under investigation).

The Investigating Officer will produce a written statement for signature in respect of any interviews that they conduct.

#### Referral to the Monitoring Officer

The Investigating Officer may refer the matter back to the Monitoring Officer if it appears to them appropriate to do so. For example, if the member is seriously ill or the decision to investigate should be reconsidered in the light of new evidence.

#### Deferral of investigation

The Monitoring Officer has discretion to defer the investigation if it appears appropriate to do so. For example, if there is a criminal investigation taking place.

#### Confidentiality

The Investigating Officer shall request that anyone contacted in relation to the investigation shall maintain confidentiality in order to maintain the integrity of the process.

#### Draft report

When the Investigating Officer is satisfied that they have sufficient information, or have obtained as much information as is reasonably practicable to obtain, they shall prepare a confidential draft report setting out the details of the allegation, the relevant sections of the code, a summary of the allegation, the response of the subject member, the information, documents and evidence taken during the course of the investigation, a statement of his/her draft findings, and the Investigating Officer's conclusion as to whether the member has breached the Code of Conduct.

The draft report should be sent to the Monitoring Officer, the complainant, the subject member and the Independent Person for their comments. The Investigating Officer may wish to conduct further investigations once they have received those comments, before producing the final report.

#### Final report

The final report should include the same sections as the draft report and a final conclusion as to whether there has been a breach of the Code of Conduct.

It may be helpful to include a chronology, summary of disputed facts and/or to append witness statements or other documents.

#### Action on receipt of report

If the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer will review the report and, if satisfied that the report is sufficient, in consultation with the Independent Person, will write to

the complainant and the subject member notifying them that no further action is required and enclosing a copy of the report.

If the Monitoring Officer is not satisfied that the investigation has been conducted properly, she may ask the Investigating Officer to reconsider his/her report.

If the report concludes that there is evidence of a failure to comply with the Code of Conduct the matter will be referred to the Hearing Sub-Committee.

The hearings process is the subject of a separate procedure.

## **Appendix 3 to Arrangements for Dealing with Standards Allegations under the Localism Act 2011**

### **Hearings Procedure**

The following process will be followed where the Investigating Officer has considered that there is evidence that the subject member has breached the Code of Conduct.

#### **Pre-hearing process**

The Monitoring Officer will, where possible, arrange for the Hearing Sub-Committee to meet to hear the complaint within three months of receiving the Investigating Officer's report. She should aim to find a date which the witnesses, the Investigating Officer, the complainant and the subject member can attend. The Monitoring Officer should give all those involved sufficient notice of the date for the Hearing Sub-Committee meeting.

The Monitoring Officer will require the subject member to give his/her response to the Investigating Officer's report in order to identify what is likely to be agreed and what is likely to be in contention at the Hearing Sub-Committee.

If the subject member wishes to rely on evidence at the committee, they should provide it in writing to the Monitoring Officer as soon as possible. The Investigating Officer may have taken a witness statement from him/her or set out his/her comments in the report but if the subject member wishes to add to what the Investigating Officer has written they should provide a witness statement to the Monitoring Officer as soon as possible.

The Hearing Sub-Committee will not allow new arguments or evidence to be presented at the hearing.

The Monitoring Officer will consider whether it is appropriate to hear two complaints together e.g. if they relate to the same member or to the same incident or occasion.

The subject member should be provided with the Investigating Officer's report and any evidence which will be heard at the hearing.

The Monitoring Officer should provide the members of the Hearing Sub-Committee with all the evidence in advance of the hearing so that they can read it to identify any potential conflicts of interest.

The Monitoring Officer will provide the Hearing Sub-Committee with a report which summarises the allegation. This should include a list of agreed facts and disputed issues and outline the proposed procedure for the hearing (this will be based upon the Procedure for the Hearing Sub-Committee at the end of this appendix).

A Member Services officer will act as a point of contact for the subject member, the complainant, the Independent Person and any witnesses who will give evidence.

## **The Hearing Sub-Committee**

The Hearing Sub-Committee will generally take place in public. If the subject member is a parish councillor, a parish councillor who is a co-opted member of the Standards Committee will attend in an advisory capacity, in addition to the three voting members of the Sub-Committee.

An Independent Person will be invited to attend the hearing and will be asked to comment on whether there has been a breach of the Code of Conduct and on appropriate sanctions.

If the subject member does not attend the hearing, the Hearing Sub-Committee may adjourn the hearing or may continue to reach a decision on the basis of the Investigating Officer's report and, if it decides to do so, any evidence that it hears.

Whilst the Hearing Sub Committee is a meeting of the authority, it is not a court of law. It does not hear evidence under oath. The rules of natural justice should nevertheless be carefully followed and the Hearing Sub-Committee will have due regard to the seriousness of the proceedings for those involved, the Council and the public.

The Hearing Sub-Committee will decide disputed issues and whether the subject member has breached the code on the balance of probabilities.

## **Representation**

The subject member may choose to be represented if they wish. They will have to bear the cost of being represented. The Hearing Sub-Committee may refuse to allow any person to remain at the hearing if they are disruptive. The Hearing Sub-Committee will have the discretion to hear opening or closing arguments from the subject member and the Investigating Officer if it feels it would assist them in reaching a decision.

## **Evidence**

The Hearing Sub-Committee will control the procedure and evidence presented at a hearing, including the number of witnesses and the way they are questioned. All matters relating to the evidence and procedure are within its discretion.

Generally the subject member is entitled to present his/her case as they see fit.

Witnesses of facts that are disputed would normally be expected to attend to be questioned. Character witnesses will normally provide written evidence, which can be read at the hearing.

Witnesses may be questioned by the Hearing Sub-Committee, the Independent Person, the Investigating Officer and the subject member.

The onus is on the subject member to ensure the attendance of the witnesses whom they would like to give evidence to assist them. The Hearing Sub-Committee can limit the number of witnesses or the issues which can be covered by them.

Neither the Hearing Sub-Committee nor the subject member will have any power to compel witnesses to give evidence.

## **At the Hearing Sub Committee**

At the hearing, the Investigating Officer will present his/her report, call such witnesses as they consider necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. The Investigating Officer may ask the complainant to attend and give evidence to the Hearing Sub-Committee. The Investigating Officer may be asked about his/her report or any matters relating to his/her involvement.

## **Role of the Monitoring Officer**

References to the Monitoring Officer should be read to include any representative of the Monitoring Officer.

The Monitoring Officer has a key role in ensuring the smooth running of the pre-hearing and hearing process. He or she will remain neutral throughout and will provide independent advice to the Hearing Sub-Committee.

## **Role of the complainant**

The role of the complainant will usually be limited to being a witness for the Investigating Officer and they are not a party to the proceedings. However, the Hearing Sub-Committee might wish to consult him/her at any stage in the hearing if it feels that his/her comments would assist it.

## **Decision**

The Hearing Sub-Committee must consult the Independent Person before reaching its decision.

The Hearing Sub-Committee may wish to retire to consider its decision. The Monitoring Officer may assist it in setting out the reasons for their decision.

The Hearing Sub-Committee will reach a decision as to whether the subject member has breached the code of conduct. If it decides that the subject member has not breached the Code of Conduct, it will take no further action. If it decides that the subject member has breached the Code of Conduct, it should go on to decide what sanction, if any, is appropriate.

## **Sanctions**

The Hearing Sub-Committee will consult the Independent Person before imposing any sanction and give the subject member the opportunity to make representations.

The Hearing Sub-Committee should consider all the mitigating and aggravating circumstances that appear to it to be relevant. For example, it may wish to consider:

- What were the actual and potential consequences of the breach?
- How serious was the breach?
- What is the attitude of the subject member now? Have they apologised?
- Has the subject member previously been dealt with for a breach of the Code of

Conduct?

The following are examples of mitigating and aggravating factors, but these lists should not be regarded as exhaustive.

### **Mitigating Factors**

- An honest but mistaken belief that the action was not a breach of the Code of Conduct
- A previous record of good service
- Evidence that they were suffering from ill health at the time of the breach

### **Aggravating Factors**

- Dishonesty
- Continuing to deny the facts or blaming other people
- Evidence of a failure to follow advice or warnings

The priority of the Hearing Sub-Committee should be to ensure that there are no further breaches of the Code of Conduct and that public confidence is maintained.

### **Sanctions**

The sanctions available to the Hearing Sub-Committee are:

- Publish its findings in respect of the member's conduct.
- Write a formal letter of censure to the member found to have breached the Code of Conduct.
- Report its findings to Council for information.
- Recommend to the member's group leader or the Parish Council (or, in the case of un-grouped members, recommend to the Council meeting) that they be removed from any or all committees or sub-committees of the Council.
- Recommend to the Leader of the Council or the Parish Council that the member be removed from the Cabinet or removed from particular portfolio responsibilities.
- Recommend to the relevant Council training, mediation / conciliation (or other appropriate remedy) for the member.
- Accept the written apology of subject member.

### **Notice of the decision**

As soon as is reasonably practicable after the hearing, the Monitoring Officer shall issue a formal decision notice in consultation with the chairman of the Hearing Sub-Committee, and send a copy to the complainant, the subject member and any relevant parish council. The decision notice will be available for public inspection and may be reported to the next meeting of the Council.

### **Procedure of the Hearing Sub-Committee**

- 1 Election of a chairman.
2. Chairman to introduce members and all parties present.

3. Chairman to outline complaint and explain procedure.
4. Investigating officer to outline the case as to why they believe the subject member has breached the Code of Conduct and call any witnesses (including the complainant if necessary).
5. Subject member and the Hearing Sub-Committee may ask questions of the Investigating Officer and any witnesses.
6. The subject member outlines their case as to why they believe that they have not breached the Code of Conduct and may call witnesses.
7. The Investigating Officer (and possibly the complainant) and the Hearing Sub-Committee may ask questions of the subject member or any of his/her witnesses.
8. The subject member and the Investigating Officer may be asked to give brief closing remarks.
9. The Independent Person will be invited to give comments.
10. The Hearing Sub-Committee will retire to consider whether the subject member has breached the Code of Conduct.
11. The chairman will announce the Hearing Sub-Committee's decision as to whether the Code of Conduct has been breached by the subject member.
12. If no breach, is found the meeting will be closed.
13. If a breach is found, the subject member will be invited to give further comment on any mitigating circumstances;
14. The Investigating Officer may comment upon appropriate sanction.
15. The Independent Person will be invited to give further comments.
16. The Hearing Sub-Committee will retire to consider sanction.
17. The Hearing Sub-Committee will announce sanctions which it is imposing on the subject member and then close the meeting.
18. A written decision notice will be issued and sent to all parties as soon as reasonably practicable after the Hearing Sub-Committee.

## **5.3 Code of Conduct for Employees**

### **EMPLOYMENT POLICY STATEMENT**

#### **Policy Statement**

Local Government employees are expected to give the highest possible standards of service to the public and, where it is part of their duties, to provide appropriate advice to other employees and Councillors with impartiality. The Council requires all of its employees to comply with this policy statement and to demonstrate the highest standards of probity, honesty and professionalism.

#### **Scope**

This policy relates to all employees employed by the District Council.

This policy statement will be brought to the attention of all Chichester District Council employees.

In addition to all requirements that exist in regulation, the national conditions of service and the Council's own local employment policies and contracts of employment contain many references to conduct and are incorporated where appropriate into this policy statement. In particular, the Council has approved policies in areas such as Diversity and Equality and Bullying and Harassment and all employees are expected to behave in a way which does not conflict with those policies.

#### **Policy Standards**

##### **1. Disclosure of Information**

- 1.1 It is generally accepted that open government is best and this is supported by the wide access that the Freedom of Information Act gives to public information, in addition to the fact that certain other information must be made available to Councillors, auditors, government departments, service users and the public.
- 1.2 The authority itself may decide to make public other types of information. Employees must be aware of the types of information which in Chichester District Council are open and those which are not, and act accordingly. The Council's policy is to make as much information available to the public as possible. In preparing committee reports, for example, items should not be made 'exempt', even though this might be technically possible, unless disclosure would prejudice the position of the Council or the individual or Company concerned. Whenever possible, reports should be written so that they can be made public. Generally, therefore, factual information may be released unless:
  - (i) it is (or is likely to be) the subject of an exempt report; or
  - (ii) it relates to the personal circumstances of an employee, a councillor or council tax-payer or user of Council services; or
  - (iii) it is covered by restrictions under the Data Protection Act.

Guidance can be obtained from Democratic Services or Legal Services in respect of reports to committee.

- 1.3 Employees must not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received from a Councillor or a fellow employee which is personal to that person and does not belong to the Council, should not be divulged without the prior approval of that person.
- 1.4 Services have individual policies and procedures for handling requests for information from councillors and managers must ensure that all employees are familiar with departmental conventions and practice.

## **2. Political Neutrality**

- 2.1 Employees service the Council as a whole. It follows that they must serve all Councillors and not just members of any controlling group of councillors, and must ensure that the individual rights of all councillors are respected.
- 2.2 Whether or not their post is politically restricted, employees must follow every lawful expressed policy of the Council and must not allow their personal or political opinions to interfere with their work. Information on politically restricted posts can be obtained from the Human Resources.
- 2.3 Employees who are involved in politics or who speak as a private individual directly to the press or at a public meeting should ensure that nothing they say might lead the public to the conclusion that they were representing the Council's views. Employees should be circumspect in commenting publicly on topics where the Council has an interest, perhaps as a service provider.

## **3. Relationships**

### **3.1 Councillors**

Employees are responsible to the Council through its senior managers. For some, a key task is to give advice to councillors and the Council. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity with individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

Employees must be mindful that councillors have been elected by the community to represent their interests and therefore have a special role in the Council in determining policy, setting strategic priorities and monitoring work programmes. They must be treated at all times with courtesy and respect. Although it is desirable to meet councillors in a friendly, open and sincere fashion, undue familiarity can be counter-productive and can sometimes be regarded as impolite. First name terms are acceptable in informal discussions and meetings as well as in writing. A degree of formality such as the use of the formal title 'Councillor' should be observed at committee and sub-committee meetings when the public or third parties are present and at other meetings with third parties or the public.

### **3.2 The Local Community and Service Users**

Employees should always remember their responsibilities to the community and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Council.

### **3.3 Contractors**

All personal relationships with contractors or potential contractors (i.e. contractors who could bid for Council work) should be declared in writing to a Senior Officer and the Monitoring Officer. In certain cases, not to divulge such information could contravene the law.

Orders and contracts must be awarded on merit, by fair competition against other tenders, and no favouritism should be shown to businesses run by, for example, friends, partners or relatives. No part of the community should be discriminated against.

If employees engage or supervise contractors or have an official relationship with contractors and have previously had or currently have a relationship (i.e. working or friendship) in a private or domestic capacity with a contractor or potential contractor, they should declare in writing that relationship to their Head of Service.

## **4. Appointment and other Employment Matters**

4.1 If employees are involved in appointments they should ensure that these are made on the basis of merit. It would be unlawful to make an appointment which was based on anything other than the ability of the candidate to undertake the work. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or where they or a close member of their family have a personal relationship (including friendship) outside work with him or her. Any such relationship must be declared in writing to the Head of Service.

4.2 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close friend.

4.3 Only Senior Officers are authorised to give employer's references on behalf of the Council. It is acceptable for other employees to give character references for a colleague but they must make clear that they are writing in a personal capacity and must not use official notepaper. Employees are expected to consult their Director before including them as referees in an application form.

## **5. Outside Commitments**

5.1 Employees may have conditions of service which require them to obtain written consent before taking any outside employment and should be clear about their contractual obligations. No employees should take outside employment which conflicts with the authority's interests. Depending on the post held and service, this

could for example include being employed by or having a financial interest in contractors bidding for/carrying out council work or commercial companies competing for work with the Council.

5.1 The Council has adopted the following policies:-

1. employees on Hay Scale 6 or above (and equivalent grades) shall not engage in any other business or take up any additional appointment without the express consent of the Council;
2. employees on Hay Scale 5 or below (and equivalent grades) may use their own time as they wish, provided additional employment or other external activities (whether paid or not) do not conflict with the authority's interests, weaken confidence in the conduct of the Authority's business;
3. all employees are covered by (i) and (ii), whether or not they are covered by the relevant national conditions of employment;
4. work arising from additional employment or other outside interests may not be carried out in office time nor use made of Council resources or facilities (including IT) for those purposes.

5.2 Employees should follow the Council's policies on the ownership of intellectual property or copyright created during their employment, as follows:-

1. all creative designs, writings and drawings produced by employees in the course of their duties, belong to the Council;
2. all inventions made by employees are the property of their Council if made during the course of their normal duties (which include those described in their notice of terms of employment, and those duties arising from an instruction or a relevant Manager or other authorised officer of the Council).

## **6 Personal Interests**

- 6.1 All employees must declare in writing to their **D i r e c t o r** , non-financial interests which they consider could bring about conflict with the authority's interests, for example involvement with an organisation receiving grant aid from the authority, membership of a public sector governing body, and involvement with an organisation or pressure group which may seek to influence the Council's policies. This would not include involvement as an ordinary member of the public, e.g. in being consulted or attending meetings of an organisation on a local issue.
- 6.2 Employees must declare in writing to their Director any financial interests which could conflict with the Authority's interests, e.g. any pecuniary interest in a business or company within the District or with which the Council might do business.
- 6.3 Employees must declare in writing to their **D i r e c t o r** membership of any organisation (including societies, masonic lodges, chapters or trusts) not open to the public without formal membership and commitment of allegiance, and which has secrecy about its rules or conduct.

- 6.4 Employees must declare in writing to their Director any interest they have as freeholder, lessee, licensee or tenant in any land or property in the District except their main residence as recorded in their personnel records.
- 6.5 Employees must never become involved in dealing with or determining any application or request they or a member of their family, relative or personal friend make to the Council, for example an application for planning permission or for council tax or housing benefit. In the event of an employee being allocated such a case, he or she should immediately declare this in writing to his/her Director.

## **7 Equality Issues**

- 7.1 Employees have an obligation to ensure that policies relating to equality issues as agreed by the Council are complied with, as well, of course, as the requirements of the law. All members of the public and other employees have a right to be treated with fairness and equity.

## **8 Separation of Roles during Tendering**

- 8.1 Employees must be clear of the separation of client and contractor roles within the Council. Senior employees with both a client and contractor responsibility must be aware of the need for accountability and openness. Regulations for competitive tendering have particular requirements for ensuring that contractor units are not involved in tender evaluation. If in doubt, employees should consult Legal Services.
- 8.2 If employees are in a contractor or client unit they must exercise fairness and impartiality when dealing with all customers, suppliers, contractors and sub-contractors.
- 8.3 If employees are privy to confidential information on tenders or costs for either internal or external contractors, they should not disclose that information to any unauthorised party or organisation.
- 8.4 Employees should ensure that no special favour is shown to work colleagues or former employees of the Council or their partners, close relative or associates, in awarding contracts.

## **9 Gifts & Hospitality**

- 9.1 It is a criminal offence for employees corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. It is for the employee to demonstrate that any such rewards have not been corruptly obtained. Corruption is fortunately a very rare event in local government but just as important is the perception that the public has of the activities of the Council. Their confidence in the integrity of employees will be shaken if there is the least suspicion that employees have been influenced by improper motives.

### **9.2 Gifts**

- 1. A gift offered to employees may be accepted if

- it is of nominal value e.g. calendars, diaries, pens etc., and
  - no ulterior motive is apparent nor is there any danger of misinterpretation by the public (for example, because the offer comes from a person or Company tendering for work).
2. Gifts outside the scope of the above guidelines should normally be politely but firmly refused, unless refusal would give offence. In such a case, the gift could be accepted and donated to charity with a suitable explanation to the person or Company concerned. Receipt of gifts in these circumstances should be reported to **D i r e c t o r s** in accordance with paragraph 9.4 below. They should always be refused if an ulterior motive is or may be apparent.
  3. Gifts offered by grateful members of the public can similarly be accepted where the value is nominal and a refusal might otherwise give offence. Some members of staff, however, regularly come into contact with the public and a frequent reoccurrence of small gifts might give the impression that they are expected or a reward for favourable treatment. In these circumstances, gifts should normally be refused. Alternatively, if refusal would give serious offence, they could be accepted and the rules mentioned above applied. Christmas gratuities traditionally associated with certain categories of employment may be accepted without the need to record details - provided that the value of the gifts is not excessive.
  4. Staff whose work is closely involved with the elderly, children or other vulnerable groups must be particularly mindful of the perception which might occur in the minds of, say, relatives if the employee is the recipient of gifts from the individual involved - however well-intentioned. Any member of staff who has reason to believe that they (or a spouse, partner, relative etc.) have been named as a beneficiary or who is asked to become an executor in any will in consequence of their employment by the Council must immediately declare this in writing to their Director.
  5. In any event, employees should refuse an offer or try to avoid situations where they are likely to be offered a gift from a person or Company engaged in negotiating a contract or other matter with the Council, or who has negotiated such a matter and where they are directly responsible for formulating recommendations to the Council or for monitoring the service received from the person or Company concerned. If the contract or other matter has been completed, and there is no obvious likelihood of a renewal, then the previous paragraphs apply.

### **9.3 Hospitality**

1. Employees should only accept offers of hospitality if there is a genuine need to impart information, represent or promote the interests of the Council in the Community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. Any hospitality accepted should be properly authorised and recorded. (See 9.4 below).

2. 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.
3. Employees should not accept gifts from contractors and outside suppliers other than as set out in 9.2(i) above.
4. 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.
5. 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 and not extravagant and where a Director gives consent in advance - being satisfied that any purchasing decisions are not compromised.
6. The following are intended as examples only:

#### **Acceptable Hospitality**

- A working lunch of a modest standard provided to allow the parties to discuss business, or following or prior to such a discussion. A useful test will often be whether the District Council would provide refreshments if the venue was reversed. If there is a series of meetings requiring hospitality, the District Council should seek to host it on an approximately alternate basis.
- An invitation to a professional society, dinner or function, e.g. a private architect's invitation to an RIBA Dinner.
- An invitation to join other company guests as district council representatives at sponsored events, cultural, sporting or other public occasions in West Sussex or neighbouring counties. Non-reciprocal company invitations to events further afield, including London, should always be notified to the Chief Executive, as should any invitations to particularly costly or exclusive occasions - which in any event should not be accepted.
- An invitation to join other company guests in a company jubilee, opening or other special occasion.

Whilst the first three points above are permissible arising out of occasional invitations, employees should bear in mind that accepting frequent invitations from the same source could well lead to criticism and render the otherwise acceptable, unacceptable. Essentially, the test must be whether the public's confidence in the integrity of the organisation would be shaken by the conduct of the employee in accepting the hospitality.

#### **Unacceptable Hospitality**

- Paid holiday or leisure travel or accommodation.
- Tickets for premium events (e.g. cricket, tennis, football and rugby matches) which are offered on a personal basis.
- Use of company flat or hotel suite or vehicles.
- Discounted services, materials, labour etc. from contractors or suppliers which are not equally available on the same basis to others not having an actual or potential business link with them. Employees may consider it appropriate to get more than one quote for private works, e.g. on their own house, if a supplier to the District Council is involved.

When a particular person or firm has a matter currently in issue with the District Council then clearly common sense dictates a more restrictive approach. An important criterion in exercising judgement is what interpretation others might reasonably put on acceptance. In case of doubt, the employee's Director should be consulted.

#### **9.4 Register for Gifts and Hospitality**

Employees must record all gifts and hospitality received and signed off by their Director, and any offered but rejected, in the Register maintained in every section. This must include all gifts and hospitality other than those described in 9.2(i) above.

9.5 In all cases, employees are advised to err on the side of caution. If they have doubts, they should seek advice from their Director. What matters above all else are the reputations of employees, the Council and local government generally.

#### **10 Use of Financial Resources**

10.1 Employees must ensure that they use public funds entrusted to them in a responsible manner, ensuring value for money to the local community and avoiding legal challenge to the Authority. If employees are in doubt about their obligations, they must seek advice.

#### **11 Sponsorship – Giving and Receiving**

11.1 Where an outside organisation wishes to sponsor or is asked to sponsor a Local Government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors (i.e. contractors who could bid for Council work).

11.2 Where the Council wish to sponsor an event or service no member of employees nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure in writing to their Head of Service of any such interest before any such benefit occurs. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that

there is no conflict of interest involved.

## **12 Employee Obligations**

- 12.1 The Code has been designed to protect and safeguard the individual position and interests of employees as much as those of the Council. Its aim is to encourage employees to inform their Head of Service confidentially on certain personal matters that could affect their duties at the Council. Failure to follow the Code could lead to embarrassing and/or difficult situations and ultimately to an investigation under the Council's disciplinary procedure.
- 12.2 Employees may, through agreed procedures and without fear of recrimination bring to the attention of the management any deficiency in the provisions of service. Normally employees would be expected to report to their Head of Service but in exceptional cases could approach the Chief Executive, Head of Finance and Governance Services, an Executive Director or the Monitoring Officer.

## **13 Recording of Declarations**

- 13.1 With the exception of entries in the hospitality registers held in departments, all written declarations by employees under the terms of this code of conduct must be copied by Directors to the Director of Corporate Services for recording on confidential central personnel records.

## 5.4 Protocol on Member/Employee Relations

### Introduction

This protocol reflects principles already established in the former National Code of Local Government Conduct.

- “23 Both councillors and officers are servants of the public, and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their terms of office last. Officers are responsible to the Council. Their job is to give advice to councillors and the Council and to carry out the Council’s work under the direction and control of the Council, their committees and sub-committees.
- 24 Mutual respect between councillors and officers is essential to good local government. Close personal familiarity between individual councillors and officers can damage this relationship and prove embarrassing to both councillors and officers.
- 25 The law and standing orders lay down rules for the appointment, discipline and dismissal of employees. You must ensure that you observe these scrupulously at all times. If you are called upon to take part in appointing an officer, the only question you should consider is which candidate would best serve the whole Council. You should not let your political or personal preferences influence your judgement ...”

### Conduct of Councillors

#### *Community Leadership*

- ▶ You should promote and support these principles by leadership and example, always acting in such a way as to preserve public confidence in the Council.

#### *Duty to uphold the law*

- ▶ You have a duty to uphold the law, and to act on all occasions in accordance with the public trust placed in you.

#### *Constituency*

- ▶ You have a duty to assist the Council to act as far as possible in the interests of the whole community that it serves. Where constituents’ interests are in conflict with those of other groups or areas, you should help to ensure that the Council is aware of them and that constituents are able to pursue their concerns, but you are not obliged to put the interests of constituents above the general interest.

#### *Selflessness*

- ▶ You should act solely in the public interest. You should never use your position as a councillor to gain for yourself, your family or your friends any financial benefits preferential treatment or other advantage, or to confer such benefits, treatment or advantage improperly on others.

#### *Integrity and Propriety*

- ▶ You should not put yourself in a position where your integrity is called into question

by any financial or other obligation. As well as avoiding actual impropriety, you should avoid any appearance of it.

### *Hospitality*

- ▶ You should record all gifts and hospitality received in connection with membership of the Council. You should not accept gifts or hospitality that might reasonably be thought to influence, or be intended to influence, your judgement, or where to do so could bring discredit upon the Council.

### *Decisions*

- ▶ Whilst you may very properly be influenced by the views of others, including your political group, it is your responsibility to decide what view to take, and how to vote, on any question which councillors have to decide.

### *Objectivity in decision-making*

- ▶ In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make decisions on merit.

### *Accountability*

- ▶ You are accountable to the electorate and the Council's wider community for your actions and your part in reaching decisions and must submit yourself to whatever scrutiny is appropriate to your office.

### *Openness*

- ▶ You should be as open as possible about all your actions and your part in reaching decisions. You should seek to ensure that reasons are given for decisions of your council and that disclosure of information is restricted only in accordance with the law.

### *Confidentiality*

- ▶ You should also ensure that confidential material, including material about individuals, is handled in accordance with the law and – having regard to the public interest – any decisions on such handling taken by the Council and is not used for private purposes.

### *Stewardship*

- ▶ You have a responsibility to play your part in ensuring that the Council uses its resources prudently and in accordance with the law.

### *Participation*

- ▶ You may take part in the consideration of questions which come before councillors unless you have a private interest of a kind which, in accordance with this Code, precludes you from participation.

### *Declarations*

- ▶ You have a duty to declare any private interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- ▶ You should make relevant declarations of interest at meetings of the Council, its committees and working groups, or any outside body to which you are appointed or nominated by the Council, during informal contacts and meetings of your political

party and in all circumstances where you are active in your role as a councillor.

### *Relations with employees*

- ▶ You should respect the role of the Council's employees and treat them in a way that engenders mutual respect at all times.

### **Councillor/employee relations**

The degree of contact at the workplace between councillors and employees will vary, but the general principles are that:

- good relations depend on mutual courtesy and respect at all times. Employees should not be criticised by councillors at Council or committee or other public meetings. Standing Orders require councillors to consider excluding the press and public before any comment is made about the conduct or capability of an employee.
- first name terms are acceptable in informal discussions and meetings.
- a degree of formality such as the use of the formal title of 'councillor' should be observed at committee and sub-committee meetings when the public or third parties are present and at other meetings with third parties or the public.
- direct access by councillors to employees at all departmental levels is encouraged. Where, however, the Senior Officer feels that direct access is causing resource or other difficulties, he/she may ask for information to be channeled through them.

Social contact between councillors and employees is acceptable but should be distinguished from personal friendships or relationships which may give rise to an appearance of partiality or issues of security in respect of confidential information.

### **Undue pressure**

A councillor should not apply undue pressure on an employee either to do anything that he/she is not empowered to do or undertake work outside normal duties or normal hours. Particular care needs to be taken in connection with the use of Council property and services. Similarly, employees must neither seek nor use undue influence on individual councillors to make a decision in their favour, nor raise personal matters to do with their job nor make claims or allegations about other employees. The District Council has formal procedures for consultation grievance and discipline.

Special factors apply to the relations between officers and councillors of the administration (i.e. the majority or ruling group). It is accepted that:

- employees have duties to all councillors of the Council, irrespective of councillors' political allegiance.
- the Administration will wish to achieve its political objectives and its vision for the district and services and projects which the District Council provides.
- employees will provide advice to the Administration on how properly to achieve those objectives.

- Senior Officers have a responsibility for considering corporate or strategic issues and for ensuring that considered advice on them is submitted to councillors before decisions are taken.
- occasionally employees will need to express a view on a professional matter which may not support the view of the majority of employees or the Administration.
- in exceptional cases the Chief Executive or other Senior Officers will help the Administration to formulate a recommendation in a report or at a meeting which is not supported by the relevant Chief Officer and that the director will have the right to have his or her advice included in the report.
- particular rules will be needed to govern the entitlement of councillors to information in the possession of employees, the entitlement of other councillors to be told of factual information which is disclosed, and concerning the protection from disclosure of advice given by employees (see 'Access to Information').

Relations between senior officers and the Cabinet and Leader/Deputy Leader will be particularly close. The holder of a portfolio is the Cabinet's spokesperson for a particular service or area of work and will be expected to promote the Council's policies in that area. In practice informal meetings between senior officers and councillors (including "pre-agenda" meetings) will formulate recommendations which reflect the Cabinet's aspirations. Officers may provide briefing notes and or advice for Cabinet Members in respect of report or questions at committee and Council meetings. Chairmen will consider the timing of items on agenda or of meetings (although occasionally officers will have to report, regardless).

This relationship however:

- must not compromise the officer's duties to all members of the Council
- must not be so close as to give the appearance of partiality (whether political or professional) on the part of the employee
- must not undermine the confidentiality of any discussions with Senior Officers or between Managers and other councillors
- must not compromise employees professional responsibility to advise councillors (if necessary in a committee report) that a particular course of action should not be pursued
- cannot abrogate employee responsibility for action taken under delegated powers. Employees may wish to consult the Cabinet Member before proceeding under delegated powers. Councillors may not force an employee to exercise a delegated power in a particular way, an employee in such a case may prefer not to exercise a delegated power and to refer the matter to committee for decision.

Occasionally serious and persistent concerns will arise about performance, to the extent that long term damage may arise in relations between individual councillors or groups of councillors and a particular employee. There are formal processes for dealing with disciplinary and capability issues on the part of the employee and for dealing with

complaints by employees about councillor conduct. It will be important, however, to attempt to remedy any situation before formal processes are used. In particular, where the issues appears sufficiently serious:

- employees are entitled to be told by councillors or the Chief Executive of the complaint against them and to have an opportunity of answering it at the earliest opportunity (and certainly before any part of the informal steps outlined below or of any formal process has begun).
- employees may raise with their Head of Service or the Chief Executive, any concerns about public criticism of them by a councillor
- employees may ask the relevant councillor(s) to see them to discuss the complaint informally (whether the complaint is about the employee or the councillor)
- if the matter remains unresolved, the Chief Executive and Leader or other senior employee of the Group concerned will meet the relevant councillor and employee to discuss the complaint informally and to agree what action or steps should be taken.

### **Employees' advice to party groups**

Officers cannot be required to attend Group meetings (because of their terms and conditions) but attendance will usually cause no difficulty. This reflects

- recognition of Party Groups in law
- recognition by the courts that politics are an integral part of local government life, and that Groups will often wish to consider issues before they "go public"

It is agreed, however, that

- Employees may only give information and advice on Council business. It would be preferable for employees not to be present when Party business is discussed
- Advice and information given at Group meetings does not absolve employees from their obligation to provide advice to the District Council as such (at the relevant committee or sub-committee), in exceptional cases where employees object professionally to the action to be taken, it will be particularly important not to rely solely on advice given at Group meetings and to ensure that advice is given at committee (and preferably in writing)
- Councillors will accept that advice given to Group/Party meetings when non-councillors are present will be tailored to meet those circumstances, because only councillors are bound by the Code of Conduct (e.g. on keeping information confidential, not using it for personal advantage, and on avoiding conflicts of interest)
- Employees' advice given to Group meetings is confidential and will not be disclosed to another Group. Factual information, however, may be sought by and disclosed to other Groups, in accordance with councillors' rights of access to information.

## **Access to information**

Generally councillors have a right of access to information under the Freedom of Information Act 2000, and if they can demonstrate a “need to know”. Councillors have a right of access to information to enable them to carry out their duties as a councillor. For example:

- Members of a committee or sub-committee will be presumed to have a right of access to information relating to business on the agenda
- Other councillors generally have the same right in relation to business on the public part of the agenda, but need to demonstrate a right of access (for example, that they wish to attend on a ward matter or on behalf of a resident) in respect of categories of “exempt” information relating to employees, occupiers of council property, applicants for grants and other services, contract and employee relations negotiations, advice from Counsel, and criminal investigations
- Where councillors can demonstrate a right of access to those categories of exempt information, they would not have a right of access to the file itself without the express consent of a Senior Officer who may seek to provide the relevant information by extracting it from the file and providing a summary
- Councillors have no right to go on a “roving commission” amongst files in the hope they may pick up information (whether relating to items of business at a committee or generally) and it is accepted that employees may ask councillors to justify their right to have access.

Councillors must also bear in mind:

- the convention within the District Council that factual information (as opposed to advice) given to a councillor should always be copied for information to the relevant Cabinet Member
- that information disclosed must never be used other than for the purposes of the councillor’s duties as a councillor, paragraph 26 of the former National Code of Local Government Conduct says

“26 As a councillor or a committee or sub-committee member, you necessarily acquire much information that has not yet been made public and is still confidential. It is a betrayal of trust to breach such confidences. You should never disclose or use confidential information for the personal advantage of yourself or of anyone known to you or to the disadvantage or the discredit of the council or anyone else”.

## **Employee relationships with Councillors (extracted from the Employee code of conduct)**

Employees are responsible to the Council through its senior managers. For some a key task is to give advice to councillors and the Council. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity with individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

- Employees must be mindful that councillors have been elected by the community to represent their interests and therefore have a special role in the Council in determining policy, setting strategic priorities and monitoring work programmes. They must be treated at all times with courtesy and respect. Although it is desirable to meet councillors in a friendly, open and sincere fashion, undue familiarity can be counter-productive and can sometimes be regarded as impolite.
- First name terms are acceptable in informal discussions and meetings as well as in writing. A degree of formality such as the use of the formal title “Councillor” should be observed at committee and sub-committee meetings when the public or third parties are present and at other meetings with third parties or the public.

### **Protocol on members’ contacts with employees**

This protocol deals with contacts employees may receive from members and the response members may expect.

If members have queries or matters to report to employees, especially in relation to ward matters:

1. Members should contact the appropriate officer, usually at case officer or team leader level. Contact details of many employees may be found in the booklet ‘Now you are a councillor: An introduction to Chichester District Council 2015’ which was issued to members immediately after the May 2015 election. More up-to-date information on employees names and responsibilities can be found in the internal telephone directory which can be accessed from the home page of the intranet via ‘Your Services – Departments’. If a member is unsure who to contact, the Democratic Services team can advise.
2. In most cases email is the appropriate mode of contact. However, for urgent, immediate enquiries members should telephone, rather than e-mail.
3. Officers who are absent for a day or more during normal working periods must use their out of office giving alternative contact details.
4. If a member receives an out of office response, they should refer their enquiry to the contact provided in the out of office response.
5. Email enquiries from members should be acknowledged within 48 hours / 2 working days. In the acknowledgement, officers should indicate how long it will take to provide a substantive response. A member who does not receive a timely response from an officer, should escalate the matter to the next level of management.

### **Councillor support services**

The District Council provides a range of support services (e.g. stationery, typing and delivery of mail) to enable councillors more effectively to carry out their duties. These may only be used on Council business. In practice it can be very difficult to distinguish party political activity from work (for example) on behalf of constituents.

The District Council has adopted therefore a number of rules in an attempt to draw the

line between acceptable and unacceptable use of Council support services.

- Council notepaper (comprising the Council logo and standard letterhead) may be used for constituency correspondence, including (exceptionally) a standard letter addressed to up to 10 residents.
- A letter to a large number of residents may be typed by Council officers on plain notepaper but will be passed to the councillor concerned for copying and distribution.
- A reply to the organiser of a petition (and up to 10 petitioners) may be typed on Council notepaper, otherwise the previous provision applies.
- Photocopying or printing of Council notepaper for private use is not permitted.
- Council employees or resources may not be used at any time for party or political work of any kind, nor the printing and dispatch of circular letters.

### **Release of information to the media**

The provision of information by the District Council to the media (or directly to the public) is governed by the Local Government Act 1986 and the Code of Practice on Local Authority Publicity and in particular;

- should be objective, factual and informative
- must not be party political or designed to affect public support for a political party

The functions of a local authority are discharged by the Council corporately. It is therefore inappropriate for public resources to be used to promote the views of individual councillors.

In the interests of public accountability, however, it may be appropriate to give publicity to the views of individual councillors when they are representing the Council as a whole, for example, when the Chairman speaks or acts as the first citizen of the whole community, or when the chairman of a committee opens a new scheme or launches a policy approved by the District Council or by a committee on the Council's behalf.

For the same reasons the District Council may issue press releases reporting statements made by individual councillors such as a report of the discussion at meetings of the District Council or committees, or quotations of comments made by leading members of the Council in response to particular events.

- Press releases should be issued via the Public Relations Manager or Senior Officers. Copies of issued press releases are circulated internally to councillors, Senior Officers and Divisional Managers as appropriate.

### **Interpretation**

The purpose of these conventions is to describe clearly the respective roles of councillors and employees and their working relationships with political groups to help ensure that the District Council provides services effectively and efficiently and also acts in a way that is responsive to local needs. It is against the background of

these objectives that the conventions should be interpreted.

## 5.4 Petition Scheme

### 1. Petitions

- 1.1 The council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the council will receive an acknowledgement from the council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition.

We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition, and it has at least 250 signatures. Where the number of signatures has not reached this level, an equality impact assessment will be undertaken to consider the feasibility of the threshold.

- 1.2 Paper petitions can be sent to:

Communications Team  
Chichester District Council  
East Pallant House  
1 East Pallant  
Chichester  
West Sussex  
PO19 1TY

- 1.3 Petitions can also be presented to a meeting of the council. These meetings take place six times per year. Dates and times can be found on our website [www.chichester.gov.uk](http://www.chichester.gov.uk).
- 1.4 If you would like to present your petition to the council, or would like your councillor or someone else to present it on your behalf, please contact the Democratic Services Manager on [democraticservices@chichester.gov.uk](mailto:democraticservices@chichester.gov.uk) or 01243 534684 at least 10 working days before the meeting and they will talk you through the process.

If your petition has received 1,000 signatures or more it will also be scheduled for a council, and if this is the case we will let you know whether this will happen at the same meeting or at a later meeting of the council.

- 1.5 We are also able to accept e-petitions, and a number of websites can provide this resource. Petition organisers should consider our guidelines below (Section 2 and 7) when choosing a provider.

### 2. What are the guidelines for submitting a petition?

- 2.1 Should you wish to submit a petition or e-petition, please inform the Communications team with the details of the petition and your contact details as petition organiser. This will enable the council to liaise with the petition organiser to discuss how any of the issues highlighted below could affect how and when their petition is responded to.

- 2.2 Petitions submitted to the council must include:

- A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take.
- The name and address and signature of any person supporting the petition.

- Any e-petition should use the Communications team as their primary contact for the council. The email address: [publicrelations@chichester.gov.uk](mailto:publicrelations@chichester.gov.uk) must be used instead of specific council officers or council members.
- In lieu of a signature, an e-petition must provide some other form of unique identification. This could be through registration on the particular website, an email address or a social media profile.

2.3 Petitions should be accompanied by contact details, including a postal address or email address for the petition organiser. This is the person we will contact to explain how we will respond to the petition.

2.4 The minimum number of signatures on a petition should be 250 for it to be considered. If a petition with less than 250 signatures relating to a small area is received, it will be open to the ward Councillor(s) to represent the interests of the community.

There may be cases where 250 signatures is an unrealistic target (where the issue relates to a specific or minority group) and in those circumstances the council will undertake an Equalities Impact Assessment before determining a response.

2.5 A petition will not be accepted where:

- it is considered to be vexatious, abusive or otherwise inappropriate;
- it refers to a planning or licensing application;
- it refers to a decision for which there is an existing right of appeal; and/or
- it is a statutory petition (for example requesting a referendum on having an elected mayor).

2.6 The information in the petition must be submitted in good faith.

The petition will not be accepted if it includes:

- potentially libelous, false or defamatory statements;
- information that may be protected by an injunction or court order;
- material that is potentially confidential, commercially sensitive, or which may cause personal distress or loss to an individual, or individuals;
- any commercial endorsement, promotion of any product, service or publication;
- the names of individual officials of public bodies, unless they are part of the senior management of those organisations;
- the names of family members of elected representatives or officials of public bodies;
- the names of individuals, or information where they may be identified, in relation to criminal accusations; and / or
- language that is offensive, intemperate, or provocative. This not only includes swear words and insults, but any language to which people reading it could reasonably take offence.

2.7 In the period immediately before an election or referendum, we may need to deal with your petition differently. If this is the case, we will explain the reasons and discuss the revised timescale that will apply.

If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

To ensure the council understands the level of local support for a petition, it reserves the right to seek to verify each signature appended to a petition. This can be significant when establishing whether a petition has obtained the requisite number of signatures to trigger specific processes.

### **3. What will the council do when it receives my petition?**

3.1 An acknowledgement will be sent to the petition organiser within ten working days of receiving the petition. It will let them know [if the petition is valid] what we plan to do with the petition and when they can expect to hear from us again.

3.2 If we can do what the petition asks for, our acknowledgement may confirm that we have taken the action requested and the petition will be closed.

If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting will take place.

If the petition needs more investigation, we will tell you the steps that we plan to take. If it is not possible for us to do what is requested within the petition, we will provide reasons for this.

3.3 The council reserves the right to reject:

- petitions that are similar to, and / or overlap with, and existing petition that has been considered in the past 12 months;
- petitions that ask for things outside the remit or powers of the council;
- statements that amount to advertisements; and
- issues for which petitions are not the appropriate channel (for example, correspondence about a personal issue).

3.4 To ensure that people know what we are doing in response to the petitions we receive, the details of all petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish correspondence relating to the petition (all personal details will be removed).

### **4. How will the council respond to petitions?**

4.1 Our response to a petition will depend on what the petition asks for and how many people have signed it. This may include one or more of the following:

- taking the action requested in the petition;
- considering the petition at a council meeting;
- holding an inquiry into the matter;
- undertaking research into the matter;
- holding a public meeting;
- holding a consultation;
- holding a meeting with petitioners;
- referring the petition for consideration by the council's Overview and Scrutiny Committee (a committee of councillors who are responsible for scrutinising the work of the council, and has the power to hold the council's decision makers to account);
- calling a referendum; and/or
- writing to the petition organiser setting out our views about the request in the petition

- 4.2 In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition.
- 4.3 If your petition is about something over which the council has no direct control (for example, the local railway or hospital), we will make representations on behalf of the community to the relevant body. The council works with a large number of local partners and, where possible, will work with these partners to respond to your petition.

If we are not able to do this for any reason (for example, if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you. You can find more information on the services for which the council is responsible at [www.chichester.gov.uk](http://www.chichester.gov.uk)

- 4.4 If your petition is about something that a different authority or agency is responsible for, we will give consideration to what the best method is for responding to it. This may mean forwarding the petition to the relevant council, but could also involve other steps. We will always notify the petition organiser of the action we have taken.

## 5. **Full council debates**

- 5.1 If a petition contains more than 1,000 signatures, it will be debated by Full Council (unless it is a petition asking for other specific action, such as calling a senior council officer to give evidence at a public meeting – see below). This means that the issue raised in the petition will be discussed at a meeting that all councillors can attend. The council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting.

If you would like to present your petition at the meeting, or would like your councillor to present it on your behalf, please contact the Democratic Services Manager at least 13 working days before the meeting and an officer will talk you through the process. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors. The debate of a petition at a council meeting should, subject to the discretion of the Chairman, not last more than 30 minutes. The council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee.

Where the issue is one on which the council executive are required to make the final decision, the council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

## 6. **Officer evidence**

- 6.1 A petition may ask for a senior council officer to give evidence at a public meeting about something the officer is responsible for as part of their job, provided it was not privileged legal advice. For example, a petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

- 6.2 If a petition contains at least 500 signatures, the relevant senior officer will give evidence at a public meeting of the council's Overview and Scrutiny Committee.

A list of the senior staff that can be called to give evidence is detailed below:

- Chief Executive – Diane Shepherd
- Director of Planning and Environment – Andrew Frost
- Director of Growth and Place – Jane Hotchkiss
- Director of Housing and Communities – Louise Rudziak
- Director of Corporate Services – John Ward

Senior staff may call upon a substitute or other senior officer depending upon the circumstances of the case.

The Overview and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition (for instance, if the named officer has changed job roles). The committee may also decide to call the relevant councillor to attend the meeting. Committee members will ask the questions at this meeting, but the petition organiser will be able to suggest questions to the Chair by contacting the Democratic Services Manager on [democraticservices@chichester.gov.uk](mailto:democraticservices@chichester.gov.uk) or 01243 534684 up to three working days before the meeting.

## 7. **E-petitions**

- 7.1 The council will consider e-petitions that have been facilitated online and conform to the guidance set out in this scheme. Please refer to Section 2.
- 7.2 The petition organiser will need to decide how long to keep the petition open for signatures. They can choose and publicise a timeframe with the relevant deadline — some websites may use a certain number of signatures as a target. We would recommend that an e-petition should remain live for no longer than three months to demonstrate the current level of local opinion. However, where a petition organiser sets a longer timeframe (or a target number of signatures that takes the petition over a three month period), we will complete an equality impact assessment to determine whether the petition is valid.
- 7.3 When an e-petition has closed for signature, it should be submitted to the Communications team. In the same way as a paper petition, the petition organiser will receive an acknowledgement within 10 working days. A petitions acknowledgement and response will be emailed to the petitions organiser.

### **How do I 'sign' an e-petition?**

- 7.4 When you 'sign' an e-petition, you will — in some instances — need to register with the relevant provider / website. This usually involves registering your name, postal address or email address. You must ensure that by signing an e-petition your name is clearly identifiable — this will ensure your validity as a signatory.

## 8. **What can I do if I feel my petition has not been dealt with properly?**

- 8.1 If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the council's Overview and Scrutiny Committee review the steps that the council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review, if the petition organiser gives a short explanation of

the reasons why the council's response is not considered to be adequate.

- 8.2 The committee will normally consider the request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting.

Should the committee determine that the petition has not been dealt with adequately, it may use any of its powers to deal with the matter. These powers include: instigating an investigation; making recommendations to the council executive; or, arranging for the matter to be considered at a meeting of Full Council.

- 8.3 Once the appeal has been considered, the petition organiser will be informed of the results within five working days. The results of the review will also be published on our website. There is no further right of appeal through the council.

## 5.6 Public Question Time

**Public Question Time** is a well-established opportunity to come along to meetings and ask questions of your elected representatives on issues of local concern. It was introduced with the aim of increasing public involvement in district council affairs as well as giving members of the public the opportunity to have a greater understanding of the way in which the council conducts its business.

### How does this work?

A total period of 15 minutes is set aside at the start of meetings of the council's main committees which are open to the public (other than meetings of the Planning Committee).

Questions can be asked by residents or non-domestic ratepayers of the district. The questions must be in writing or by email and should be kept as concise as possible. Those which take the form of a long address might not be accepted. When sending a question you must include the name and address of the questioner, a contact telephone number and date. Questions should be sent to the Democratic Services team – the contact details and address can be found at the end of this leaflet.

Each questioner will be allowed a maximum of three minutes to ask a question. When asking their question they will be asked to read out only the elements which are a question to enable the meeting to run effectively, and not to read out background information. The whole question will however have been made available to members prior to the meeting and will also be reproduced in full in the minutes of the meeting.

At the Chairman's absolute discretion a supplementary question may be permitted. Any supplementary question must relate to the original question. The Chairman may also extend the limit for each question or the total time for public questions.

Questions will be dealt with on a first come, first served basis and will be accepted up to noon on the second working day before the meeting (for example Cabinet meetings on a Tuesday require questions submitted by noon on Friday before, assuming no bank holidays). In the event that neither the questioner nor his or her representative is present at the meeting, the question will not be asked but the questioner will receive a written response within ten working days from the day of the meeting.

The meetings at which questions can be asked are:

Full Council, Cabinet, Corporate Governance and Audit Committee, Alcohol and Entertainment Licensing Committee, General Licensing Committee, Overview and Scrutiny Committee and Standards Committee.

The list of meetings shown on the website to which public question time applies is not exhaustive as there are a number of meetings which are held on an *ad hoc* basis.

Sometimes meetings are cancelled or other venues used so it is worthwhile checking with Democratic Services before attending. Details of all forthcoming public meetings are published on the council's website.

## **Different public speaking arrangements for the Planning Committee**

The Planning Committee deals with planning applications and the planning process provides the opportunity for members of the public to comment on applications prior to them being considered by the Committee. A separate Planning Committee Public Speaking Code of Practice can be found [here](#) or by contacting Democratic Services – the contact details and address can be found at the end of this leaflet.

## **Other points you need to know**

As with any system there are some exceptions. These are:

- Questions about planning applications being considered by the Planning Committee or Council will not be accepted.
- Public questions should not relate to matters personal to the questioner, his or her spouse, partner or relative.
- The facility to ask a question is not available when the committee acts like a court of law eg in considering licensing matters as those matters are addressed through individual legal processes and through the Courts.
- Questions will not be taken on matters within the various categories of exempt information shown in Schedule 12A to the Local Government Act 1972 (details of which are set out below):
  - (a) Information relating to any individual
  - (b) Information which is likely to reveal the identity of an individual
  - (c) Information relating to the financial or business affairs of any particular person (including the authority holding that information)
  - (d) Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority
  - (e) Information in respect of which a claim of legal professional privilege could be maintained in legal proceedings
  - (f) Information which reveals that the authority proposes:
    - to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
    - to make an order or direction under any enactment.
  - (g) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

## **Contact Information**

Democratic Services, Chichester District Council  
East Pallant House  
1 East Pallant  
Chichester  
West Sussex  
PO19 1TY  
Tel: 01243 534655  
Email: [democraticservices@chichester.gov.uk](mailto:democraticservices@chichester.gov.uk)



## Public Question Time

Name & Address of Questioner:

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Telephone number: \_\_\_\_\_

Email address: \_\_\_\_\_

I wish to ask the following question of the Chairman of the meeting of the

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to be held on \_\_\_\_\_

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Signed \_\_\_\_\_  
Date \_\_\_\_\_

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## 5.7 Protocol on Members' Task and Finish Groups

1. A Committee of the Council, including the Cabinet, the Overview & Scrutiny Committee and the Corporate Governance & Audit Committee, may set up a Task & Finish Group to work through a particular issue and report back to its parent committee.

In addition, an individual Cabinet Member, or the Business Routeing Panel, may convene a Task & Finish Group to consider and seek agreement on issues on which members have expressed interest or dissent.

2. The term "Task & Finish Group" will be used rather than "working party", or any other term.
3. A Task & Finish Group is not a Committee or Sub-Committee under the Local Government Act 1972. Therefore the public and press do not have a right to attend or see the agenda papers, although the Task & Finish Group may invite outside parties to contribute.
4. The Task & Finish Group should consist of at least 3 Members selected by the relevant parent committee, Cabinet Member or Business Routeing Panel, one of whom will be appointed the Chairman of the Group by the Committee or convenor of the Group.
5. When it is established, the Task & Finish Group must be set clear Terms of Reference by the parent Committee or convenor. (The terms of reference can be altered by the Committee or convenor during the lifetime of the Task & Finish Group).
6. The Task & Finish Group should have a finite life. (This should usually take around two months and normally no more than six months).
7. The Task & Finish Group Chairman will co-ordinate the activity of the Group within the Terms of Reference. There should be a formal Agenda for each meeting drawn up by the chairman, so that members of the group are clear about the purpose of the meeting. This should be sent to members no later than one week before the meeting date.
8. Agendas and notes of the meetings will normally only be circulated to members of the Task & Finish Group.
9. A Lead Officer should be appointed for the Task & Finish Group to give advice and assistance. The Lead Officer will be appointed following discussions between the Task & Finish Group Chairman and the relevant Senior Officer.

It should normally be the case, however, that the Members on the Group will support themselves. This will be especially the case for a Task & Finish Group which has not been set up by a Committee.

10. The Business Routeing Panel must be informed whenever a Task & Finish Group is established. The Panel will control the overall number of such groups, and ensure their purpose is clear and necessary, and their reporting back

arrangements are appropriate.

Members' requests to set up a Task & Finish Group via the BRP may be considered by the Members of the BRP between its meetings. This should normally be done electronically.

11. Progress Reports should be made to the parent Committee or convenor. These may be oral or in writing.
12. The Senior Leadership Team will consider and comment on the recommendations proposed by the Task & Finish Group.
13. A final report must be presented to the parent Committee or convenor, listing the recommendations.

### **Terms of reference for Members' Task and Finish Groups**

The Terms of Reference and objectives etc. of Members' Task & Finish Groups will vary depending on the subject being addressed. However, below is a suggested list of areas which the parent committee, or convenor, may wish to address when setting up the Task & Finish Group;

<b><i>Review Topic</i></b>	
<b><i>Membership (and Chairman)</i></b>	
<b><i>Aims &amp; Objectives (Outcomes to be achieved)</i></b>	
<b><i>Scope</i></b>	
<b><i>Review Period</i></b>	
<b><i>Officer support</i></b>	
<b><i>Review completion date</i></b>	
<b><i>Frequency of Meetings</i></b>	
<b><i>Training Requirements</i></b>	