

## **PART 5    STANDARDS OF CONDUCT AND ETHICS**

**STROUD DISTRICT COUNCIL CODE OF CONDUCT FOR MEMBERS**  
(Adopted by Council 17 May 2007 and coming into effect on 1 August 2007)

**PART 1**

**GENERAL PROVISIONS**

**Introduction and interpretation**

1. (1) This Code applies to **you** as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code—
  - "meeting" means any meeting of—
    - (a) the authority;
    - (b) the executive of the authority;
    - (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;
  - "member" includes a co-opted member and an appointed member.
- (5) In relation to a parish council, references to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000

**Scope**

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—
  - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of your authority, and references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority—
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### General obligations

- 3. (1) You must treat others with respect.
- (2) You must not—
  - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be—
    - (i) a complainant,
    - (ii) a witness, or
    - (iii) involved in the administration of any investigation or proceedings,
 in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
  - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

(4) You must not—

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

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

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

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

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

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

(b) prevent another person from gaining access to information to which that person is entitled by law.

(5) You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

(6) You—

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority—

(i) act in accordance with your authority's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

- (7) (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—
- (a) your authority's chief finance officer; or
  - (b) your authority's monitoring officer,
- where that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## PART 2

### INTERESTS

#### Personal Interests

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

- (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
  - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—
- (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
  - (ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
  - (iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.
- (2) In sub-paragraph (1)(b), a relevant person is—
- (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

## 9. Disclosure of personal interests

- (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority 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 commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, 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) Subject to paragraph 12(1)(b), 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.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

## **10. Prejudicial interest generally**

- (1) Subject to sub-paragraph (2), 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.
- (2) You do not have a prejudicial interest in any business of the authority where that business—
  - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
  - (c) relates to the functions of your authority in respect of—
    - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
    - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

## **11. Prejudicial interests arising in relation to overview and scrutiny committee**

You also have a prejudicial interest in any business before an overview and scrutiny committee of your 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 your authority's executive or another of your 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.

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

- (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
  - (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
 unless you have obtained a dispensation from your authority's standards committee;
  - (b) you must not exercise executive functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but

only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

### **PART 3**

#### **REGISTRATION OF MEMBERS' INTERESTS**

##### **13. Registration of members' interests**

- (1) Subject to paragraph 14, you must, within 28 days of—
  - (a) this Code being adopted by or applied to your authority; or
  - (b) your election or appointment to office (where that is later),register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.
- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

##### **14. Sensitive information**

- (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

**Article 3(1)**  
**THE GENERAL PRINCIPLES**

*Selflessness*

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

*Honesty and Integrity*

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

*Objectivity*

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.

*Personal Judgement*

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

*Respect for Others*

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

*Duty to Uphold the Law*

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

*Stewardship*

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

*Leadership*

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

## **STROUD DISTRICT COUNCIL**

### **CODE OF CONDUCT FOR LOCAL GOVERNMENT EMPLOYEES**

#### **Introduction**

The public is entitled to expect the highest standards of conduct from all employees who work for local government. The Code is produced in the light of the challenges that employees face in the new and more commercially orientated environment. This includes the introduction and extension of compulsory competitive tendering (CCT), market testing, changes in the management of the education and housing services, care in the community, management buyouts, etc.

#### **Status of the Code**

The aim of the Code is to lay down guidelines for local government employees which will help maintain and improve standards and protect employees from misunderstanding or criticism.

The Code has been approved by the local authority associations in England and Wales and the Local Government Management Board (LGMB).

#### **Who the Code is Aimed At**

The Code applies to all local government employees in England and Wales.

Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than it will others. The Code is intended to cover all employees under a contract of employment within local government, including office holders such as registrars. Activities carried out by employees acting as members of companies or voluntary organisations should be subject to the minimum standards within this Code.

#### **1. Standards**

1.1 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 councillors and fellow employees with impartiality. Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety or breach of procedure.

#### **2. Disclosure of information**

2.1 It is generally accepted that open government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The authority itself may decide to open other types of information. Employees must be aware of which information within their authority is open and which is not, and act accordingly.

2.2 Employees should 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 by an employee from a councillor which is personal to that councillor and does not belong to the authority should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required or sanctioned by the law.

### **3. Political neutrality**

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

3.2 Subject to the authority's conventions, employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality.

3.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.

### **4. Relationships**

#### **4.1 Councillors**

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

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

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

#### **4.3 Contractors**

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

4.4 Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to the appropriate Director.

## **5. Appointment and other employment matters**

- 5.1 Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. 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 have a close personal relationship outside work with him or her.
- 5.2 Similarly, employees should not be involved in decisions relating to discipline, promotion or adjustments for any other employee who is a relative, partner, etc.

## **6. Outside commitments**

- 6.1 Some employees have conditions of service which require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the authority's interests.
- 6.2 Employees should follow their authority's rules on the ownership of intellectual property or copyright created during their employment.

## **7. Personal interests**

- 7.1 Employees must declare to an appropriate Director, any non-financial interests that they consider could bring about conflict with the authority's interests.
- 7.2 Employees must declare to an appropriate manager any financial interests which conflict with the authority's interests.
- 7.3 As a further guide the national groups responsible for drafting the Code used these examples of possible areas of conflict - involvement with an organisation receiving grant aid from the Council and involvement with a pressure group or organisation which may seek to influence the Council's policies.
- 7.4 Under the Council's Local Code of Conduct for Councillors and Officers dealing with planning matters, should an Officer of the Council (or any close relative or associate) submit their own development proposal, they should take no part in its processing. Furthermore the Officer shall inform in writing both the Head of Development Services and the Council's Monitoring Officer (The Legal Services Manager) of all such proposals as soon as they are submitted.)

## **8. Equality issues**

- 8.1 All local government employees should ensure that policies relating to equality issues as agreed by the authority are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

## **9. Separation of roles during tendering**

- 9.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior

employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

- 9.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 9.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
- 9.4 Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform their Director and withdraw from the contract awarding processes.
- 9.5 Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

## **10. Corruption**

- 10.1 Employees must be aware that it is a serious criminal offence for them 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. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

## **11. Use of financial resources**

- 11.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

## **12. Hospitality**

- 12.1 When to accept hospitality is again very much a matter of judgement given the particular circumstances and it would be wrong to produce an atmosphere in which Managers refused all invitations for social involvement with persons or bodies who have, or may seek to have in the future, business dealings with the Council. Contacts established at a social level can often be helpful if pursuing the Council's interests. What is important is to avoid any suggestion of improper influence or giving others the opportunity reasonably to impute improper influence.
- 12.2 The extent of the hospitality will be a factor as to its acceptability. It may be more reasonable to join in hospitality offered to a group than to accept something unique to yourself.
- 12.3 When a particular person or body has a matter currently in issue with a local authority then common sense dictates a more restrictive approach (e.g. negotiations with an outside organisation). An important criterion in exercising your judgement is what interpretation others may reasonably put on your acceptance.
- 12.4 The following checklist of questions should help Managers and Directors to decide whether a gift or offer of hospitality should be accepted or rejected:

1. Is the donor, or event, significant in the community or in your Council's area?
2. Are you expected to attend because of your position in the community?
3. Will the event be attended by others of a similar standing in the community or in other communities?
4. What is the motivation behind the invitation?
5. Would acceptance of the invitation be, in any way, inappropriate or place you under pressure in relation to any current or future issue involving your Council?
6. Could you justify the decision to your Council, press and public?
7. Is the extent of the hospitality or the nature of the gift reasonable and appropriate?
8. How will you respond to the hospitality?
9. Are you comfortable with the decision?

### **13. Gifts**

- 13.1 The acceptance of gifts is a dangerous practice and the general rule should be to refuse tactfully all such offers from organisations or persons who do, or might, provide work, goods or services to the Council, or who need some decision from the Council (e.g. planning applications).
- 13.2 Exceptions from this general rule would include modest gifts of a promotional character (e.g. calendars, diaries, articles for office use, or a small gift during a courtesy visit to a firm).
- 13.3 Such exceptions relate only to modest gifts and an expensive gift would raise questions even if it would otherwise fall within one of the above categories. It is impossible to be more precise in dealing with what do and do not amount to acceptable gifts and this is very much a matter for the individual judgement of Managers given the particular circumstances.
- 13.4 If you are offered or receive any gifts or hospitality you should immediately complete a form (available on the intranet) and pass the completed form to your Head of Service/ Director for signature, in order that it may be entered on the register of gifts and hospitality, which is held by Democratic Services.

### **14. Sponsorship - giving and receiving**

- 14.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 14.2 Where the authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest.

Similarly, where the authority 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.

**LOCAL CODE OF CONDUCT  
FOR COUNCILLORS AND  
OFFICERS DEALING WITH  
PLANNING MATTERS**

## **1. GENERAL ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS**

- 1.1 The successful operation of the planning system relies on ensuring that Councillors and Officers involved in its operation act in a way that is not only lawful, fair and impartial but is also clearly seen to be so. The Council acknowledges that the public is entitled to expect the highest standards of conduct and probity by all persons holding public office.
- 1.2 This code of conduct was formally adopted by the Stroud District Council on the 20<sup>th</sup> April 2000 and took effect from the 25<sup>th</sup> May 2000. It seeks to demonstrate the Council's commitment to the highest possible standards of behaviour in its operation of the planning system.
- 1.3 **The overriding principle is that Councillors appointed to the Development Control Committee should not favour any individuals or groups and must represent their constituents as a body and vote in the interests of the District as a whole.** Clearly Councillors will take account of all views expressed but they should not deliberately favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 1.4 When dealing with planning matters only material planning considerations should be taken into account. Section 54(A) of the Town and Country Planning Act 1990 requires all planning applications to be determined by reference to the Development Plan, if material to the application, and any other material consideration. If the Development Plan is material to the application then the statutory position is that the application should be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 1.5 Whilst this Local Code deals primarily with planning applications the principles it endorses apply with equal vigour to consideration of the Local Plan and Development briefs, enforcement cases and all other planning matters.
- 1.6 Officers involved in the processing and determination of Planning matters must also act impartially and in accordance with the Council's Code of Conduct for Local Government Employees (pages 5.9 to 5.14). In addition those that are members of the Royal Town Planning Institute are expected to comply with the relevant sections of the Royal Town Planning Institute's Code of Professional Conduct.
- 1.7 Only Councillors and Officers of the Council who are prepared to observe this Code ought to be involved in the process of dealing with planning matters, determining planning applications and applications for listed building consent and conservation area consent.

## **2. DECLARATION AND REGISTRATION OF INTERESTS**

- 2.1 At all times Councillors should observe the following law and guidance on declaring personal and prejudicial interests:-
  - (i) The Statutory Provisions on the Disclosure of personal and prejudicial interests under the Local Government Act 2000 and guidance issued by the Standards Board and/or Standards Committee

- (ii) The Stroud District Council Code of Conduct as adopted by the Council on 17 May 2007.
- 2.2 The Register of Members' Interests is updated at least every twelve months. Councillors are sent reminders to this effect. Furthermore, where any changes occur to Members interests, whether by way of addition or deletion, the Councillor concerned should notify the changes to the Monitoring Officer as soon as they occur.
- 2.3 Guidance on what constitutes a personal or prejudicial interest is contained in the Stroud District Council Code of Conduct for Members (pages 5.6 to 5.9). The guiding rule is that a Councillor should not use his/her position to further a private, or personal interest, rather than the general public interest, or give grounds for such suspicion. If a Councillor is in any doubt about the relevance of an interest or the appropriate course of action to take in a given situation then he/she should always consult with the Monitoring Officer. Advice should be sought from the Monitoring Officer well before the day of the meeting.
- 2.4 You need to declare the existence and nature of all personal interests at all meetings where the matters being discussed affect your interests. It is advisable to err on the side of caution and declare the interest if the Councillor believes an interest does exist.
- 2.5 A prejudicial interest is one which a member of the public who knows the relevant facts would reasonably think it is so significant that it is likely to adversely affect your judgement of the public interest. Prejudicial interests should be declared and the Councillor should absent him/herself from the meeting while the matter is considered. Furthermore the Councillor should not be involved in any way at pre-committee stage.
- 2.6 If the interest is not prejudicial but is a personal interest a Councillor should declare a personal interest and the nature of that interest but may then take part in the debate and vote. The responsibility for declaring an interest lies with the individual Councillor but advice can always be obtained from the Monitoring Officer. Such advice should be sought before the day of the meeting.
- 2.8 In view of the potential for actual or perceived impropriety Councillors who have substantial property or commercial interests, or other interests which would prevent them from voting on a regular basis, should avoid serving on the Development Control Committee. (see 2.3 above).
- 2.9 Councillors and Officers should exercise caution in accepting gifts or hospitality.

Councillors need to register any gifts or hospitality worth over £25 that you receive in connection with your official duties as a member.

You do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family. However, you should always consider whether any gifts or hospitality could be seen as being connected to your role as a member. Advice can be obtained

from the Monitoring Officer and such advice should be sought in advance of accepting gifts or hospitality if you are in any doubt as to the appropriateness. As regards officers of the Council, Part 5 of the Constitution contains the Council's adopted Code of Conduct for its employees. Section 12 deals with hospitality and officers of the Council are required to follow the guidance that it contains.

In line with best practice and as recommended by the Audit Commission, Councillors and Officers are advised that any notice of gifts or hospitality should be directed to the Monitoring Officer for inclusion in the relevant Interests Register. In both cases it is expected that all declarations of gifts and hospitality will be declared within one month of receipt.

### **3. DEVELOPMENT PROPOSALS SUBMITTED BY COUNCILLORS AND OFFICERS, AND COUNCIL DEVELOPMENT**

- 3.1 Serving Councillors and Officers should never act as agents for individuals (including a company, group or body) pursuing a planning matter within the area of the District Council.
- 3.2 Notwithstanding the general requirements regarding declarations of interests if a Councillor or Officer of the Council, (or any close relative, or associate) submits their own development proposal to the Council, they should take no part in its processing. Furthermore the relevant Councillor or Officer shall inform in writing both the Head of Development Services and the Council's Monitoring Officer (the Legal Services Manager) of all such proposals as soon as they are submitted. In deciding whether any such application should be dealt with as a Committee report or under the Scheme of Delegation the Head of Development Services will have regard to the overriding issue of avoiding any suspicion of impropriety.
- 3.3 Proposals for the Council's own development (or a development involving the Council and another party) should be treated in the same way as those by private developers and in accordance with guidance given in Circular 19/92. This Circular outlines that the same administrative process, including consultation, should be carried out in relation to the Council's own planning applications, and that they should be determined against the same policy background (i.e. the Development Plan and any other material planning considerations). This paragraph also applies to private applications in respect of Council owned land (e.g. prior to a land sale being agreed or negotiated). Decisions must be made strictly on planning merits and without regard to any financial or other gain that may accrue to the Council if the development is permitted. It is important that the Council is seen to be treating such applications on an equal footing with all other applications as well as actually doing so.

### **4. LOBBYING OF AND BY COUNCILLORS, AND ATTENDANCE AT PUBLIC MEETINGS**

- 4.1 If Councillors are to undertake fully their constituency roles it is inevitable that they may, or will be, subject to lobbying on planning matters and specific planning applications. Lobbying is a normal and perfectly proper part of the political process. Local concerns need to be adequately aired. However in

the context of deciding on a planning application great care is required of Councillors in order to maintain both the Council's and the Councillor's own integrity as well as the public perception of the impartiality of the planning process. In addition a failure to follow the advice in this section may result in legal liability for the Council as a result of the Human Rights Act 1998.

- 4.2 As a result of the legal requirement to make planning decisions impartially Councillors should not consciously favour, or appear to favour, any person, company, group or locality. As a matter of general principle a Councillor who fully commits him/herself to a particular view on a planning application prior to its consideration at Committee should not take part in the formal decision making process. A previously declared view must raise the presumption that the Councillor has prejudiced his/her position, cannot objectively assess the full facts before the Committee, and is unable to contribute fully to the debate in accordance with the legal and ethical framework. Accordingly where a Councillor has publicly declared or otherwise made known a conclusive view on the planning matter or application before the meeting then he/she should not take part in the debate on, or vote on the issue.
- 4.3 Where a District Councillor (who is a member of the Committee) is also a Parish/Town Councillor there is a need for caution to be exercised in considering matters at the Parish/Town Council stage. This is because of the Councillor's additional responsibility as a member of the District Committee charged with making a decision on the planning application. It is important to bear in mind that Parish/Town Councils are consultees in the planning process and may be asked for their comments on an application at a time when not all the relevant material planning considerations have been received and the full implications of an application investigated. As a result it would normally be inappropriate to participate in the vote that decides the Parish/Town Council's comments and views on an application. Participating in such a vote could be construed as expressing a conclusive view on an application – contrary to the requirement mentioned in the preceding paragraph. A District Councillor's expertise as a member of the Committee can be put to its best use in advising and guiding the Parish/Town Council on the planning issues that arise from the application. When the application comes to be decided by the Local Planning Authority the views of the Parish/Town Council will be one of the material planning considerations to be considered and taken into account.
- 4.4 Where the Monitoring Officer believes that a Councillor has prejudiced his/her position by expressing a conclusive view on an application before its determination by the Committee, the Monitoring Officer will advise the Councillor that it would be inappropriate for him/her to take part in the debate, or vote on the application.
- 4.5 In order to avoid such action Councillors who will be involved in the determination of a planning matter should, prior to the meeting, listen to points of view about a planning proposal. Where an applicant requires planning or procedural advice the applicant should be referred to the appropriate officer. In most cases, particularly for matters which are likely to be controversial, Councillors should not indicate (or give the impression of) clear support or opposition to a proposal in a manner which suggests he/she has a closed mind to any other views or further information which may be available at the meeting at which the planning matter is discussed. In

particular Councillors should not declare their voting intention before the meeting at which a decision is to be taken. To do so without all relevant information and views would be unfair and prejudicial and may amount to maladministration. The system must be seen to be fair to all parties.

- 4.6 Accusations of partiality can be avoided if a Councillor has not openly declared before a meeting the way he/she intends to vote. Short of high profile lobbying for a particular outcome, it should be possible for a Councillor to indicate support to a particular body of opinion whilst waiting until the Development Control Committee and hearing all the evidence presented before making a final decision. This is important because of the Councillor's overriding duty to the whole local community.
- 4.7 Whilst Councillors involved in making decisions on planning matters will begin to form a view as more information and options become available, a decision can only be taken by the Committee when all available information is to hand and has been duly considered. Individual Councillors should reach their own conclusions on an application or other planning matter rather than follow the lead of another Councillor or their political group. No political group meetings should be held prior to a meeting of the Development Control Committee.
- 4.8 It follows that Councillors involved in the decision making on planning matters should not organise support or opposition to a proposal, lobby other Councillors, act as an advocate or put pressure on officer for a particular recommendation. However, other Councillors (who are not part of the decision making process) within a Ward can make representations and address the relevant Committee pursuant to the Councils Standing Orders.
- 4.9 Similarly Councillors involved in the determination of planning applications should take great care to maintain impartiality when attending public meetings in relation to planning matters. At such meetings it is preferable for no view on the merits or otherwise of a proposal to be given. If a view is expressed it should be made clear that this view will be reconsidered in the light of all the information at the Development Control meetings.
- 4.10 Where a member of the Development Control Committee finds him/herself in a lobbying situation, the Councillor should actively take steps to explain that whilst he/she can listen to what is said, it prejudices his/her impartiality to express a firm point of view or an intention to vote one way or another.
- 4.11 If a Councillor involved in determining planning matters has responded to lobbying by openly advocating a particular course of action prior to a Committee meeting, that Councillor should declare a non-pecuniary interest and not take any part in the decision making process. In this connection Members and Officers particular attention is drawn to paragraphs 4.2 and 4.3 above. It is acknowledged that this requirement may well cause practical difficulties for Councillors. There is however the compelling requirement to ensure that a planning application is processed and determined in a transparently open and fair manner.
- 4.12 Officers involved in the processing or determination of planning matters should not attend public meetings in connection with development proposals (i.e. pre-application) or submitted planning applications unless those meetings have been arranged by or with the express agreement of the Council or the

Head of Development Services has given his/her consent to the attendance. When attending such meetings extreme caution should be exercised in giving any views on the application. Officers should only provide information by way of explaining background or policy and give no view on the merits or otherwise of the proposal.

- 4.13 If Councillors consider that they have been exposed to undue or excessive lobbying or approaches, these should be reported to the Monitoring Officer, who will in turn advise the appropriate Officers.
- 4.14 Councillors serving on the Development Control Committee should attend, debate and vote on all the applications included on the Schedule unless the individual member decides that a conflict of interests necessitates his/her withdrawal from consideration of a particular item.

## **5 OFFICERS' PRE-APPLICATION DISCUSSIONS WITH APPLICANTS**

- 5.1 In any discussions on planning issues, it will always be made clear at the outset, that such discussions will not bind the Council to make a particular decision, and that any views expressed are based on the Officers provisional professional judgement but do not commit the Council to any particular decision.
- 5.2 Advice given will be consistent and based upon the Development Plan and other material considerations. Every effort will be made to ensure that there are no significant differences of interpretation of planning policies between planning officers.
- 5.3 A written note will be made of pre-application discussions where appropriate and two or more Officers will attend meetings on major planning issues. As a matter of standard good practice a follow up letter will be sent, particularly when material has been left with the Council.
- 5.4 Every effort will be made to ensure that advice is impartial.
- 5.5 To maintain impartiality it is preferable that Councillors do not take part in the officers' pre-application discussions with applicants. Should there be occasions when Councillors are involved, they will be advised by the appropriate professional officers of the Council, which will always include a senior planning officer. The involvement of Councillors in such discussions will be recorded as a written file record.

## **6. OFFICER REPORTS TO COMMITTEE**

- 6.1 Reports to Committee on planning matters must be accurate and cover all relevant points. Where a planning application is subject to a full report this will refer to the provisions of the Development Plan, all other relevant material planning considerations and, where appropriate, any relevant issues arising from the Human Rights Act 1998. Normally the report will include a full description of the site and any related planning history. It will include the substance of objections and the views of people who have been consulted.

- 6.2 All reports will have a written recommendation of action/decision, and oral reporting (other than to update an existing report) will only be used on rare occasions and carefully minuted when this does occur.
- 6.3 All reports will contain a technical appraisal which clearly justifies the stated recommendation.
- 6.4 All reasons for refusal and conditions to be attached to permissions must be clear, unambiguous and in accordance with law and policy.

**7. THE DECISION MAKING PROCESS AND DECISIONS CONTRARY TO OFFICER RECOMMENDATION AND/OR THE DEVELOPMENT PLAN**

- 7.1 In determining all types of applications submitted pursuant to the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 and The Hazardous Substances Act 1991 the Council will follow the relevant government guidance as interpreted in case law.
- 7.2 In discussing, and then determining, a planning application or other planning matter Councillors will confine themselves to the planning merits of the case and the reasons for making a final decision should be clear and convincing, and supported by planning evidence. If Councillors wish to refuse or grant an application against Officer advice or impose additional conditions on a permission, the reasons for refusal, grant or the additional conditions must be clearly stated at the time the propositions are moved at the meeting.
- 7.3 If a resolution is passed which is contrary to a recommendation of the Head of Development Services (whether for approval or refusal) a detailed Minute of the Committee's reasons will be made. Officers shall be given the opportunity to explain the implications of the contrary proposal immediately prior to the Chair's final statement and vote.
- 7.4 Planning decisions (unless delegated) are made when the Committee is in public session. It is expected that Councillors will conduct the business of the Committee in a fair and sensitive manner. The debate on a planning application will be confined to the planning merits of a development proposal. In addition Councillors and Officers will address one another during the debate in a proper manner and through the Chair.
- 7.5 If the report of the Head of Development Services recommends approval of a departure from the Development Plan, the justification for this should be included, in full, in the report.
- 7.6 Senior Legal and Planning Officers should always attend meetings of the Committee to ensure that procedures have been properly followed and planning issues properly addressed.
- 7.7 Councillors with a pecuniary or clear and substantial interest in an application should withdraw from the meeting and not speak or vote in the decision making process. If they insist on so doing the decision reached by the relevant Committee may well be challengeable as either being contrary to the rules of natural justice or the Human Rights Act 1998. Furthermore such action could result in a finding of maladministration against the Council. In

certain cases this could result in the Ombudsman personally naming the Councillor in his decision letter. In addition any Councillor, who has come to or indicated before the meeting that they had reached a conclusive view on an application or other planning matter, should not participate in the debate. Their continued involvement in determining the application or other matter would prejudice the integrity of the planning process and may well amount to maladministration. Councillors are reminded of the advice in section 4 above.

- 7.8 Where a Councillor wishes to support the Council or an appellant in respect of any appeal against a refusal of planning permission, or the issue of an Enforcement Notice that Councillor shall notify in writing (normally at least 7 days before any Inquiry or Hearing) his/her intention to the Legal Services Manager to the Council and the appellant.
- 7.9 In deciding whether to make representations in a personal or private capacity, the Councillor should consider very carefully beforehand, whether there could be any allegation of a conflict of interest as outlined in paragraphs 9, 10 and 11 of the National Code of Conduct or breach of paragraph 2 of the same Code which reminds Councillors that their over-riding duty is to the whole local community.

## **8. SITE VISITS**

- 8.1 A decision by the Committee to carry out a site visit should normally only take place where the expected benefit to the decision making process is substantial and objective decisions cannot be taken without viewing the site and adjoining properties.
- 8.2 Accordingly, a Councillor proposing a site visit should explain why a site visit is necessary and these reasons should be recorded prior to a decision being taken by the Committee on whether the requested site visit should take place.
- 8.3 At the site visit Councillors will only have representation from the invited Ward Councillor, one Parish representative, and any other representative of a relevant statutory consultee.
- 8.4 The purpose of the site visit will be to assess on site the recorded reasons for the visit, (whilst noting generally other issues that constitute material planning considerations). The report of the site visit will set out a reasoned assessment of the issue(s) that gave rise to the site visit taking place. A decision on the application will be made at the next full meeting of Committee in the light of all the information then available.

## **9. WHIPPING AND POLITICAL PRE-MEETINGS**

The Whip will not apply from any of the political groups on their respective members of the Committee while they are taking part in Development Control business. No political meetings of Development Control Committee members shall take place. Each political group shall present to the Chief Executive each municipal year a statement that demonstrates the necessary freedom of its members from the whipping process on this Committee.

## **10. COMPLAINTS AND RECORD KEEPING**

- 10.1 In order that any complaints can be fully investigated, record keeping will be complete and accurate. In particular, every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings or significant telephone conversations.
- 10.2 The same principles of good record keeping will be observed in relation to enforcement and development plan matters. Monitoring of record keeping will be undertaken on a continuous basis by officers.

MEMBER / OFFICER  
PROTOCOL

Adopted on 24 June 2004

## **MEMBER/OFFICER PROTOCOL**

### **Statement of Principles**

An achieving and valued Council has, at its heart, good Member and staff relationships. Working together, Members and staff make a great team.

The Characteristics of sound member/staff relationships are:-

- Members and staff are seen by the public, partners and others as working in harmony;
- Members and staff understand and respect their respective roles;
- Members and staff value each others' contributions;
- Members and staff behave appropriately to one another at all times; and
- Should any of these elements come into question, there is a collective will to bring matters back into harmony.

At the heart of this is respect, the right attitude and good communications.

Protocols and procedures for prescribing Member and staff relationships are only as good as the culture in which they are expected to operate. Without trust and respect between Members and staff, the Council will always lack real team work and underachieve.

This Council has codes of conduct which govern the behaviour of Members and staff. There are procedures for dealing with complaints about Members and staff. The Standards Committee helps train Members and considers complaints. There is a commitment to discuss and review relationships through the 'Working Together' seminars.

However, these will be found wanting if respect and the right attitude are lacking.

- Members must not intimidate, bully, harass or place unreasonable demands on staff;
- Staff must treat Members as colleagues who require priority attention;
- Group Leaders must ensure their group members always maintain high standards of probity and behaviour;
- Staff must understand the political context in which Members work;
- Members must not abuse their positions of authority.

The Group Leaders commit themselves and their group members to abide by these values at all times.

**MEMBER / MEMBER RELATIONS  
PROTOCOL**

Adopted 29 July 2004

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## A INTRODUCTION

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1. Given the variety and complexity of Member and Member relations the opportunity has been taken to introduce a Protocol on Member / Member Relations. This Protocol does not seek to cover everything or be prescriptive in its application. General guidance is offered on some of the issues that most commonly arise or cause concern. It is hoped, therefore, that the approach which this Protocol adopts will serve as a guide to dealing with other issues that may arise from time to time.
2. This Protocol seeks to encourage best practice and to promote greater clarity and certainty between the various relationships. If any Member is unsure about any matter, s/he should contact their Group Leader and/or the Monitoring Officer (currently the Legal Services Manager) for appropriate advice and assistance.

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## B GENERAL MEMBER / MEMBER ISSUES

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3. The opportunity is taken to **reinforce** the following points:-
  - (i) In order to ensure the business of the Council is transacted in an effective and efficient manner and with a view to ensuring that the Council is not brought into disrepute, the **key guiding principle** for Members has to be one of **“engendering mutual trust, openness, honesty, fairness, transparency and treating everyone with respect”**
  - (ii) Political Group meetings, whilst they perform an important part in the preliminaries to Council decision-making, are **not** formal decision-making bodies of the Council and, as such, are **not** empowered, even under the new constitutional arrangements, to **make** decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as **Council** decisions and it is essential that Members understand and interpret such decisions accordingly;
  - (iii) In accordance with the Constitution political group meetings should **not** be held prior to meetings of the following:-
    - ❖ Licensing and Regulation Committee
    - ❖ Development Control Committee
    - ❖ Performance and Audit Overview and Scrutiny Committee
    - ❖ Strategic Overview and Scrutiny Committee.
  - (iv) Any breach of this part of the Protocol by a Member should be brought to the attention of the relevant Group Leader or, if appropriate, the Chair of Council for consideration.

### **Legal and District Audit Considerations:**

4. Members of the Council do not, as elected members, have any special immunity from civil or criminal wrongs that they may commit against fellow Members, Officers or members of the public. Members must abide by Stroud District Council's Code of Conduct for Members and ensure they do not, for example, slander or libel another person. During the course of their normal duties for the Council, Members will, therefore, only have a qualified (not absolute) protection against prosecution or civil action. This means that in any proceedings Members would have to show that their comments were made in good faith, had justification and were not made out of malice. Anyone can bring private civil litigation proceedings against an elected member. The Audit Commission can also take legal action against an elected member and the Council, as a whole, for any breaches of the law.

### **Standards Board for England Issues:**

5. Any member of the public (including Councillors and Officers) can complain to the Standards Board for England against a Member's breach of Stroud District Council's Code of Conduct for Members. The Standards Board have produced a complaints form and guidance note which is available from the Chief Executive and/or the Monitoring Officer and is available in the reception at Ebley Mill and other Council buildings.

### **Public Relations Issues:**

6. The Council's Public Relations Officer is responsible for dealing with the press and other media organisations on behalf of the Council. It is important, therefore, that all official communication relating to the Council (but not party political or private matters) is dealt with by him, so as to ensure the proactive, effective and efficient management of the Council's public image, relations and interface.

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## **C. SPECIFIC POINTS ON MEMBER / MEMBER RELATIONS**

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- 7.1 The relationship between Members and Members is generally characterised by mutual trust, openness, fairness, transparency, respect and courtesy. These are **essential** for good local government and serve to enhance local democracy. The use of inappropriate language or behaviour and conduct of Members could result in legal action against the Council and the Member(s) concerned
- 7.2 Members must ensure that all communication between them (including written communication) does not bring the Council into disrepute, cause any embarrassment to them, or lead to the breakdown of mutual trust, respect and courtesy in Member/Member relations.

### **Equality Issues:**

8. The Council has statutory duties with regard to equality issue and, in accordance with Stroud District Council's Code of Conduct for Members, Members must also promote equality by not discriminating against others. Members shall not, therefore, by their behaviour or speech act in a discriminatory way with regard to, for example, a person's gender, race, disability, religion, ethnicity, nationality or sexual orientation.

### **Conduct or Capability Issues:**

9. Members should not raise matters relating to the conduct or capability of a Member (or of Members' collectively) at meetings held in public or before the Press in a way which is likely to bring the Council into disrepute, as responding in the same manner in public does not project a positive perception of the Council and should be avoided. If any Member feels that s/he has not been treated with the proper mutual trust, respect or courtesy, or has any concern about the conduct or capability of a fellow Member, s/he should raise the matter, in private, with the relevant Group Leader of the political group concerned.

### **Unacceptable or Inappropriate Behaviour:**

- 10.1 When attending meetings of Stroud District Council the Chair of the meeting shall ensure that Members are not questioned (whether through the nature, tone or language used), in such a manner as could be considered by a reasonable person to be hostile, offensive, derogatory, harassing, bullying, victimising, discriminatory or otherwise unacceptable or inappropriate behaviour by a Member.
- 10.2 Any allegation of unacceptable or inappropriate behaviour by a Member will be reported to the Leader of the relevant Political Group or, if appropriate, the Chair of Council for consideration.

### **Resolving Disputes**

11. In order to avoid escalation of any situation, once any possible breach has been reported to a Group Leader or the Chair of Council, or in his/her absence the Vice-Chair of Council, the situation will be investigated within ten working days. The investigation will ascertain the facts and every effort will be made to resolve the dispute between the Members concerned. Conciliation will be offered where appropriate to assist in resolving the dispute.
12. Any sanctions to be applied will be determined by the relevant Group Leader, or in the case of Members who are not part of a political group by the Chair of Council.

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## **D SANCTIONS FOR BREACH OF STROUD DISTRICT COUNCIL'S CODE OF CONDUCT FOR MEMBERS AND THIS GENERAL GUIDANCE**

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13. Complaints against any breach of Stroud District Council's Code of Conduct for Members must be referred to the Standards Board for England, which could lead, ultimately, to the disqualification of a Member

PROTOCOL FOR THE  
ATTENDANCE OF OFFICERS AND  
MEMBERS OF ONE PUBLIC  
AUTHORITY AT MEETINGS OF  
ANOTHER PUBLIC AUTHORITY

Adopted 21 May 2009

## PROTOCOL FOR THE ATTENDANCE OF OFFICERS AND MEMBERS OF ONE PUBLIC AUTHORITY AT MEETINGS OF ANOTHER PUBLIC AUTHORITY

This protocol is agreed by

Gloucestershire County Council  
Cotswold District Council  
Tewkesbury Borough Council  
Cheltenham Borough Council  
Forest of Dean District Council  
Stroud District Council  
Gloucester City Council

1. An Authority may request through its Head of Paid Service officers and/or members of another Authority to attend at a meeting or meetings of the Authority or any of its committees, subcommittees, boards, panels or other gatherings being held at its offices. The purpose of such attendance is limited to assisting that Authority in the conduct of its business including reviewing the effects of, but not scrutinising, decisions of another Authority.
2. All such requests shall be made in writing to the Head of Paid Service of the Authority, normally at least 10 working days before the date of requested attendance (although time limits in an Authority's constitution may affect this period of notice) and shall include the following information

The date, time, location and anticipated duration of the attendance requested

The name of the person(s) whose attendance is requested

If a particular person's presence is requested the reason for selecting that person

A summary of the matter in respect of which attendance is requested

All questions which reasonably can be anticipated will be put to any person(s) attending (it is accepted that answers to questions may lead to further questions)

The names of the person(s) who will be putting questions

A list of the names of all other persons expected to attend

The name and telephone number of the responsible officer as a point of contact for the person attending

3. The Head of Paid Service receiving such a request shall respond to the request within five working days stating

Whether anyone will attend

Whether attendance will be as requested or that alternative arrangements will be necessary

Whether the particular person(s) whose presence is requested will attend and/or whether in their place, or in addition, some other person will attend and who that person will be

Whether the questions specified in the request will be answered either at all or to some limited extent (in which case reasons will be given) or fully

In the event that there will be no attendance, whether and if so how and when, the questions notified will be responded to.

4. All questions shall relate to facts and not opinion although the person attending may express opinions.
5. The person(s) attending may only decline to answer any question on the grounds of competence or knowledge.
6. All reasonable expenses relating to the attendance(s) will be met by the Authority responding to the request
7. All persons attending in response to a request shall at all times be treated with the highest standards of courtesy and respect and shall not under any circumstances be bullied, harassed or abused

WHISTLE-BLOWING POLICY  
FOR  
LOCAL GOVERNMENT EMPLOYEES

Adopted on 23 February 2006

## **WHISTLE-BLOWING POLICY**

### **1. INTRODUCTION**

- 1.1 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, they may feel it is easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 The Council prides itself on having an open and honest culture and is committed to the highest possible standards of probity and accountability. In line with that commitment we encourage employees and members with serious concerns about any aspects of the Council's work to come forward and voice those concerns. Confidentiality will be maintained as far as is possible and within any requirements of the law.
- 1.3 This policy supports the Council's Anti-Fraud and Corruption Policy and makes it clear that concerns can be raised without fear of reprisals. It is intended to encourage and enable employees to raise serious concerns within the Council, irrespective of seniority, rank or status, rather than overlooking a problem or reporting the matter externally.
- 1.4 This policy operates alongside other specific whistle-blowing investigation procedures developed, for example in Benefits.

### **2. AIMS AND SCOPE OF THIS POLICY**

- 2.1 This policy aims to:
- provide avenues for you to raise concerns and receive feedback on any action taken
  - allow you to take the matter further if you are dissatisfied with the Council's response
  - reassure you that you will be protected from reprisals or victimisation for confidential reporting in good faith.
- 2.2 There are procedures in place to enable employees to lodge any grievance relating to their employment. This policy is intended to cover concerns that fall outside the scope of other procedures.
- 2.3 Concerns must be raised when employees reasonably believe that one or more of the following has occurred, is in the process of occurring or is likely to occur:
- a criminal offence
  - a failure to comply with a statutory or legal obligation
  - improper or unauthorised use of public funds or other funds
  - a miscarriage of justice
  - maladministration, misconduct or malpractice

- endangering of an individual's health and safety
- damage to the environment
- deliberate concealment of any of the above.

2.4 The overriding concern should be that it would be in the public interest for malpractice to be corrected and, if appropriate, sanctions applied.

### 3. HOW TO RAISE A CONCERN

3.1 Employees' concerns should be raised within the Council with either:

- a) your supervisor or manager
- b) your Head of Service
- c) the Audit Manager
- d) your Strategic Team Member, the Chief Executive or the Council's Monitoring Officer
- e) the external auditor (Audit Commission), who, depending on the nature of the concern, may liaise with senior officers of the Council.

For concerns in respect of professional conduct, then the above still apply.

If the concern is connected with your direct line manager/supervisor, then Human Resources can provide confidential advice as to whom the concern should be directed to.

3.2 Concerns should be raised in writing if at all possible. You will need to set out the background and history of the concern giving names, dates and places where possible, and the reason why you are particularly concerned about the situation. If you do not feel able to put your concern in writing, you can telephone or meet the appropriate officer. The appropriate officer will make notes of any conversations with you so that, if required, a proper investigation can be undertaken.

3.3 The earlier you express the concern, and the more details you have, the easier it will be to take action.

3.4 At this stage, you are not expected to prove the allegation, but you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

3.5 When raising any concerns, your rights under the Human Rights Act 1998 Article 8 (right to private family life) will be maintained.

3.6 Advice and guidance on how matters of concern may be pursued can be obtained from:

- your line manager
- Corporate Resources
- Internal Audit.

3.7 You may prefer, in order to protect yourself or to maintain your anonymity, to invite your trade union or other representative to raise the matter on your behalf. Your representative may be required to obtain additional information from you so that a proper investigation can be undertaken.

#### **4. HOW THE COUNCIL WILL RESPOND**

4.1 The action taken by the Council will depend on the nature of the concern. The matters raised may:

- be investigated internally by an appropriately skilled and experienced officer, knowledgeable in the area concerned, eg a manager, Internal Audit, Benefits Investigation team, Human Resources, Chief Executive, the Monitoring Officer, or the Standards Committee
- be referred to the police
- be referred to the external auditor or Ombudsman
- form the subject of an independent enquiry.

In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it will take. Concerns or allegations that fall within the scope of other specific procedures (for example, bullying or harassment issues) will normally be referred for consideration under those procedures.

Any initial investigations will follow the course of natural justice. The initial investigation will adhere to Articles 6 and 8 of the Human Rights Act 1998 (right to a fair hearing and right to private family life).

Some concerns may be resolved by agreed action without the need for further investigation.

4.5 Within 10 working days of a concern being received (excluding anonymous concerns), the individual with whom you raised the matter will write to you:

- acknowledging that the concern has been received
- indicating how it is proposed to deal with the matter
- giving an estimate of how long it will take to provide a final response
- telling you whether any initial enquiries have been made
- telling you whether further investigations will take place, and if not, the reason why.

4.6 The amount of contact between you and the officer(s) considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you in a discreet manner.

4.7 When any meeting with you is arranged, you have the right, if you wish, to be accompanied by a trade union representative or work colleague. The meeting can be off site, if requested.

- 4.8 The Council will take steps to minimise any difficulties you may experience as a result of raising a concern and provide any appropriate support. For instance, if you are required to give evidence in disciplinary or criminal proceedings, the Council will advise you about the procedure. Within internal proceedings, you will have the option of asking someone else to accompany you.
- 4.9 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of investigations. In addition, you will be informed as to what action has been taken to correct working practices where they have been found to be at fault by the investigation.
- 4.10 You can withdraw from the process at any stage. If you do, you or your representative must inform the person with whom you raised the initial concern and the investigating officer. You will be requested to provide a reason for your withdrawal and Human Resources will be informed.
- 4.11 Any full investigation will follow the course of natural justice and the requirements of the Human Rights Act 1998 and the Regulation of Investigatory Powers Act 2000.
- 4.12 The person(s) against whom the concern has been raised will be informed following the initial investigations if it is considered that there is an issue to be investigated further, subject to current Human Resources policies. They will be supported in an appropriate manner and will be informed of the progress of the investigation.

## **5. SAFEGUARDS**

### **Harassment or Victimisation**

- 5.1 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect you when you raise a concern in good faith.
- 5.2 This does not mean, if you are the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of confidential reporting.

### **Confidentiality**

- 5.3 The Council will respect confidentiality and all steps will be taken to ensure that confidentiality is maintained throughout the process. However, it must be appreciated that the investigation process may reveal the source of the information. Any statement made by you may be required as part of the evidence but could be submitted anonymously, if requested.

### **Anonymous Allegations**

- 5.4 This policy encourages you to put your name to your concerns. Concerns expressed anonymously are more difficult to action effectively, but they will all be considered.
- 5.5 In such circumstances, the Council will take the following factors into account when establishing the scope and depth of the investigation:

- the seriousness of the issues raised
- the credibility of the concern
- the likelihood of confirming the allegation from attributable sources and information provided.

### **Untrue Allegations**

5.6 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you.

5.7 If, however, you make malicious or vexatious allegations, disciplinary action may be taken against you.

## **6. HOW THE MATTER CAN BE TAKEN FURTHER**

6.1 This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied with the response to your concern. If you are not you must indicate this to the person who has been dealing with your concern. If you feel it is right to take the matter outside the Council, the following are possible contact points:

- the external auditor (Audit Commission)
- relevant professional bodies or regulatory organisations
- the Ombudsman
- your solicitor
- the police
- Public Concern at Work\* (0207 404 6609)
- your trade union/professional association.

\*Public Concern at Work is an independent charity that provides free advice for persons who wish to express concern about fraud and other serious malpractice.

## **7 THE RESPONSIBLE OFFICER**

7.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. The Monitoring Officer will maintain a record of concerns raised and outcomes (but in a form which does not endanger your confidentiality) and will report details, if necessary, to the Scrutiny or Standards Committees of the Council.

7.2 Other useful contacts with respect to this policy are the Audit Manager, the Head of Corporate Resources, and your trade union representative.