

Part 5

Codes and Protocols

1. MEMBERS CODE OF CONDUCT

Introduction

This Code applies to you as a member of this authority when you act in your role as a member and it is your responsibility to comply with the provisions of this Code.

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 action can have both positive and negative impacts on the authority.

This Code is based upon the "Nolan Principles - the seven principles of public life" which are included at Appendix 1.

Interpretation

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 subcommittees, 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 the elected Mayor, a co-opted member, an elected or appointed member.

General Obligations

1. When acting in your role as a member of the authority
 - 1.1 **Do** treat others with respect
 - 1.2 **Do not** conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by members.
 - 1.3 **Do not** bully any person
 - 1.4 **Do not** intimidate or attempt to intimidate any person who is or is likely to be:-
 - (a) a complainant
 - (b) a witness
 - (c) 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.

1.5 **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, 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 legal advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is-
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the authority; and
 - (c) you have consulted the Monitoring Officer prior to its release; or

1.6 **Do not** prevent another person from gaining access to information to which that person is entitled by law.

1.7 **Do not** conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

1.8 **Do not** improperly use knowledge gained solely as a result of your role as a member for the advancement of yourself, your friends, your family members, your employer or your business interests.

When using or authorising the use by others of the resources of the authority:

1.9 **Do** act in accordance with the authority's reasonable requirements including the requirements of the authority's Email Protocol, Mobile and Landline Communications Protocol, ICT Password Protocol and Security Protocol and the policies listed at Appendix 2, copies of which have been provided to you and which you are deemed to have read;

1.10 **Do** make sure that such resources are not used improperly for political purposes (including party political purposes); and

1.11 **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

2. Interests

As a public figure, your public role, may, at times, overlap with your personal and/or professional life and interests, however, when performing your public role as a member, **do** act solely in terms of the public interest and **do not** act in a manner to gain financial or other material benefits for yourself, your family, your friends, your employer or in relation to your business interests.

3. Disclosable Pecuniary Interests

You must:

- 3.1 comply with the statutory requirements to register, disclose and withdraw from participating in respect of any matter in which you have a disclosable pecuniary interest
- 3.2 ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any changes in respect of your disclosable pecuniary interests
- 3.3 make verbal declarations of the existence and nature of any disclosable pecuniary interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item business or as soon as the interest becomes apparent
- 3.4 “Meeting” means any meeting organised by or on behalf of the authority, including:
 - 3.41 any meeting of the Council, or a Committee or a Sub-Committee of the Council
 - 3.42 any meeting of the Executive and any Committee of the Executive
 - 3.43 in taking a decision as a Ward Councillor or as a Member of the Executive
 - 3.44 at any briefing by officers;
 - 3.45 at any site visit to do with the business of the authority

4. Other Interests

- 4.1 In addition to the requirement of Paragraph 3, if you attend a meeting at which any item of business is to be considered and you are aware that you have a “non disclosable pecuniary interest or a non-pecuniary interest” in that item, you must make a verbal declaration of the existence and nature of that interest at or before the consideration of the item or as soon as the interest becomes apparent
- 4.2 You have a “non-disclosable pecuniary interest or non-pecuniary interest” in an item of business of your authority where:
 - 4.2.1 a decision in relation to that business might reasonably be regarded as affecting the wellbeing or financial standing of you or a member of your family or a person with whom you have a close association to a greater

extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or

4.2.2 it relates to or is likely to affect any interests listed in the Table in Appendix 3 to this Code, but in respect of a member of your family (other than a "relevant person" or a person with whom you have a close association.

and that interest is not a disclosable pecuniary interest.

5. 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.

Within 28 days of this Code being adopted by the Council, or the member's election or the co-opted member's appointment (where that is later), he/she shall register all interests which fall within the category of Disclosable Pecuniary Interests.

Upon the re-election of a member or the re-appointment of a co-opted member, he/she shall within 28 days re-register any interests within the category of Disclosable Pecuniary Interests.

6. Sensitive interests

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.

7. Non participation in case of disclosable pecuniary interest

(1) Where you have a personal interest in any business of your authority you also have a pecuniary 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 4.2.1; or

(b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph.

(2) Subject to paragraph (3) and (4), where you have a pecuniary interest in any business of your authority:

- (a) You may not participate in any discussion of the matter at the meeting.
- (b) You may not participate in any vote taken on the matter at the meeting.
- (c) If the interest is not registered, you must disclose the interest to the meeting.
- (d) 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.
- (e) Leave the room where the meeting is held while any discussion or voting takes place on that matter.

(3) Where you have a pecuniary interest in any business of your authority, you may attend a meeting 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 and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

(4) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that 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.

- (5) Where, as an executive member, you may discharge a function alone, and you become aware of a 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.

8. Gifts and Hospitality

Members are required to declare to the Monitoring Officer and register any gifts and hospitality accepted in excess of £50.00 (Fifty Pounds). Members are required to declare gifts/hospitality over this amount but which were declined.

9. Disclosure and Participation

The Regulations detailing the precise nature and circumstances where a specified pecuniary interest must be disclosed are set out in Appendix 3 of this document.

Section 30 of the Localism Act 2011 provides that a member or co-opted member of a local authority and certain other authorities, on taking office, must notify the authority's monitoring officer of any disclosable pecuniary interest which that person has at the time of notification. These Regulations specify what is a pecuniary interest. Section 30(3) sets out the circumstances in which such an interest is a disclosable interest.

10. Pre determination or bias

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.

When making a decision, **Do** consider the matter with an open mind and on the contents before the meeting at which the decision is to be taken. When reaching decisions on any matter, you must have regard to any relevant advice provided to you by:-

- (a) your authority's Section 151 Officer
- (b) your authority's Monitoring Officer

Where that officer is acting pursuant to his or her statutory duties

11. Interests arising in relation to Overview and Scrutiny Committees

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 (a) above and you were present when that decision was made or action was taken,

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 you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

THE PRINCIPLES OF PUBLIC LIFE

SELFLESSNESS

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP

Holders of public office should promote and support these principles by leadership and example.

PERSONAL JUDGEMENT

Holders of public office 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

Holders of public office should promote equality by not discriminating 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

Holders of public office should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them

STEWARDSHIP

Holders of public office should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

Appendix 2

List of Policy Documents provided to Members in connection with Code of Conduct

Email Protocol
Mobile and Landline Communications Protocol
ICT Password Protocol
Security Protocol
Equality and Diversity Policy
Hate Crime Policy
Protocol of Member/Employee/Partner Relations
Corporate Values
Safeguarding Children and Vulnerable Adults

Appendix 3

SCHEDULE OF DISCLOSABLE PECUNIARY INTERESTS

The duties to register and not participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any “disclosable pecuniary interests” These provisions are enforced by criminal sanction. They come into force on 1 July 2012.

A “disclosable pecuniary interest” is an interest of yourself, your partner (which means a 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 following descriptions:

(In the extract from the Regulations below “M” means you and “relevant person” means you and your partner, as above)

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows:

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(1).</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>

Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge): (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where: (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either: (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

2. EMPLOYEES' CODE OF CONDUCT

2.01 STANDARDS

- 2.01.1 Local government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to Councillors, the elected Mayor and fellow employees with impartiality. Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the Head of Service any deficiency in the provision of service. Employees must report to the Head of Service any impropriety or breach of procedure. Where it is not possible or appropriate to discuss an issue with the Head of Service, employees should approach either the Head of Policy, Performance and Research or the appropriate Director. Where the issue relates to non-compliances with Statutory provisions, Standing Orders, Financial Regulations or normal agreed procedures, the matter will be brought to the attention of the Monitoring Officer and Head of Paid Service. The Head of Paid Service is the Managing Director and the Monitoring Officer is the Head of Corporate Administration.

2.02 DISCLOSURE OF INFORMATION

- 2.02.1 It is generally accepted that open government is best. The law requires that certain types of information must be available to members, the elected Mayor, auditors, government departments, service users and the public. The authority itself may decide to make public other types of information. Employees must be aware of which information within their authority is open and which is not, and act accordingly. No officer shall communicate to the public the proceedings of any committee meeting nor the contents of any document relating to the authority, which in either case is regarded by the authority as confidential or exempt having the meaning as described in part 4, paragraph 2.10.4 of this Constitution, unless required by law or expressly authorised to do so.
- 2.02.2 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 or the elected Mayor which is personal to that Councillor or the elected Mayor and does not belong to the Authority should not be divulged by the employee without the prior approval of that Councillor or the elected Mayor, except where such disclosure is required or sanctioned by the law. If in doubt, employees should always ask for advice from a more senior officer before disclosing any information.

2.03 POLITICAL NEUTRALITY

- 2.03.1 Employees serve the Authority as a whole. It follows they must serve all Councillors and the elected Mayor and not just those of the controlling

group, and must ensure that the individual rights of all Councillors are respected.

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

- 2.03.2 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.

2.04 RELATIONSHIPS

- 2.04.1 (a) Councillors and the elected Mayor

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

- 2.04.2 (b) 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.

- 2.04.3 (c) Contractors/Suppliers

All relationships of a business or private nature with external Contractors/Suppliers, or potential Contractors/Suppliers should be made known to the Head of Service and registered in the "Declaration of Interest Register" held by the Human Resources 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. The procedures relating to the awarding of orders and contracts are contained in the Financial Procedure Rules and Procedures for Contracts and Procurement set out in Part 4 of this Constitution.

- 2.04.4 (d) Employees who engage or supervise Contractors/Suppliers or have any other official relationship with Contractors/Suppliers and have previously had or currently have a relationship in a private or domestic capacity with Contractors/Suppliers, should declare that relationship to the Head of Service and register same on the "Declaration of Interest Register" held by the Human Resources Manager.

2.05 APPOINTMENT AND OTHER EMPLOYMENT MATTERS

- 2.05.1 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. In all cases the extent of such relationships should be disclosed to the Human Resources Manager prior to the commencement of selection procedures.
- 2.05.2 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, etc.
- 2.05.3 All appointments, remuneration, training and other employment matters shall be undertaken in accordance with the Council's Equal Opportunities policies.

2.06 OUTSIDE COMMITMENTS

- 2.06.1 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 or where public confidence in the conduct of the authority's business would be weakened. In particular, those employees remunerated on Senior Officer 1 and above shall devote their whole time service to the Council and shall not engage in any other business or take up any other employment without the express consent of the Council. Consent will be considered by the Personnel Committee on receipt of a report from the Human Resources Manager outlining the details of the application.
- 2.06.2 Employees should follow the Authority's rules on the ownership of intellectual property or copyright created during their employment. The copyright in any work produced by the employee in the course of their duty remains the property of the Council and employees should not breach this.

2.07 PERSONAL INTERESTS

- 2.07.1 Employees must declare to the Managing Director as Head of Paid Service, any non-financial interests that they consider could bring about conflict with the Authority's interests and place a record of this on the "Declaration of Interest Register" held by the Human Resources Manager.
- 2.07.2 Likewise, employees must declare to the Head of Paid Service any financial interests which could conflict with the Authority's interests and

place a record of this on the "Declaration of Interest Register" held by the Human Resources Manager.

- 2.07.3 Employees should declare to the Head of Paid Service membership of any organisation not open to the public (e.g. an organisation without formal membership, having commitment of allegiance, and/or which has secrecy about rules or membership or conduct) and place a record of this disclosure on the "Declaration of Interest Register" held by the Human Resources Manager. Employees remunerated on Senior Officer 1 level and above are required to make an entry in both the "Interest" and "Organisation" Register, even if there is nothing to declare.

2.08 EQUALITY ISSUES

- 2.08.1 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.

2.09 SEPARATION OF ROLES DURING TENDERING

- 2.09.1 Employees involved in the tendering process and dealing with Contractors should be clear on the separation of Client and Contractor roles where applicable within the Authority. Senior employees who have both a Client and Contractor responsibility must be aware of the need for accountability and openness.
- 2.09.2 Employees in Contractor or Client units must exercise fairness and impartiality when dealing with all Customers, Suppliers, other Contractors and Subcontractors.
- 2.09.3 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.
- 2.09.4 Employees contemplating a management buyout should, as soon as they have decided to actively pursue this option, inform the senior manager concerned and withdraw from the Contract awarding processes. A written record of this disclosure should be registered on the "Declaration of Interest Register" held by the Human Resources Manager.
- 2.09.5 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.

2.10 CORRUPTION

- 2.10.1 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.
- 2.10.2 Gifts of little value (under £5.00) such as a ballpoint pen or diary to be used for business purposes at work do not need to be recorded. However, any gift accepted for personal use any, loan, fee, reward or advantage must be registered in the "Hospitality and Gifts Register" held by the Human Resources Manager.

2.11 USE OF FINANCIAL RESOURCES/COUNCIL PROPERTY

Employees must ensure that they use public funds and property 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.

2.12 HOSPITALITY

- 2.12.1 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the local authority 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 Authority should be seen to be represented. Offers and acceptances of hospitality should be properly authorised by the Head of Service or Head of Paid Service as appropriate and registered in the "Hospitality and Gifts Register" held by the Human Resources Manager. Employees should not accept significant personal gifts from Contractors and outside Suppliers, although the Authority may allow employees to keep insignificant items of token value such as pens, diaries, etc.. However, when receiving authorised hospitality or gift employees should be particularly sensitive to the timing of decisions which the Authority may be taking affecting those providing the hospitality.
- 2.12.2 When hospitality or a gift has to be declined the offer should be courteously but firmly informed of the procedures and standards operating within the Authority. Hospitality and gifts declined should also be recorded in the Register.
- 2.12.3 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the Authority gives consent in advance and where the authority is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, employees should ensure that the Authority meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions. Where visits are at the expense of potential suppliers, written consent should be obtained from the employee's senior manager and an entry made on the "Register of Gifts and Hospitality" held by the Human Resources Manager, in advance of attendance.

2.13 SPONSORSHIP – GIVING AND RECEIVING

- 2.13.1 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/Suppliers or potential Contractors/Suppliers.
- 2.13.2 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 the Head of Paid Service and it being registered on the "Declaration of Interest Register" held by the Human Resources Manager. 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.

2.14 CRIMINAL CONVICTIONS

- 2.14.1 In the event of an employee being charged with a criminal offence or being cautioned in respect of a criminal offence, it shall be the duty of the employee to make this known to the Human Resources Manager without delay in order that the relevance to her/his continued employment can be determined.

2.15 DRESS

- 2.15.1 Employees are required to be smart and tidy, dressing appropriately for the work they undertake and in keeping with the general philosophy underlying Customer Care initiatives and health and safety requirements.

2.16 ALCOHOL AND OTHER STIMULANTS

- 2.16.1 Employees should not present themselves for work at any time when their performance would be impaired adversely by the consumption of alcohol or other stimulants. In the event of using prescribed medication, where this would affect the nature and performance of an employee's work, this should be brought to the attention of her/his supervisor. A policy/procedure has been jointly agreed in relation to employees suffering from workplace problems arising from alcohol and drug use (January 1991).

2.17 COURTESY

- 2.17.1 Employees are required to show courtesy and good manners to fellow employees, members, the elected Mayor and members of the public and in all circumstances treat them with dignity and respect. Aggressive behaviour, swearing, the use of foul or abusive language is offensive, inappropriate and is unacceptable. Likewise, behaviour exhibiting sexist and racist attitudes is not acceptable. Offenders will be subject to the disciplinary procedure which may result in dismissal.
- 2.17.2 Where employees receive abusive/offensive telephone calls, they should endeavour to adhere to the "Violence at Work" policy and procedure, copies of which can be obtained from the Risk and Safety Team Leader.

2.18 GENERAL

- 2.18.1 If any employee is in any doubt about the propriety of any action, he/she should consult with the Head of Service or the Human Resources

Manager. The Monitoring Officer, the Head of Paid Service and the Chief Audit Manager will be informed in appropriate cases.

- 2.18.2 The "Declaration of Interest Register", the "Register of Hospitality and Gifts" and the "Register of Membership of a Specified Organisation" for employees are held by the Human Resources Manager. The Registers will only indicate that a declaration has been made and the official notification will be held on the employee's personal file; access to declarations will therefore be restricted in the same way as other personal information.

2.19 HEAD OF PAID SERVICE

- 2.19.1 In the case of the Head of Paid Service, he/she should declare and discuss any of the issues referred to in this document with the Human Resources Manager.

3. PROTOCOL OF MEMBER/EMPLOYEE/PARTNER RELATIONS

3.01 Introduction

3.01.1 The purpose of this protocol is to guide members and employees of the Council in their relations with one another. In this protocol, the words 'Member' and 'Councillor' include elected Councillors and the elected Mayor.

3.01.2 Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It is hoped however that the approach which it adopts will serve as a guide to dealing with the issues.

3.01.3 This protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to members and employees. The shared object of these codes is to enhance and maintain the integrity of local government and they therefore demand very high standards of personal conduct.

3.01.4 Two relevant extracts from the current National Code of Local Government Conduct for Members are reproduced below:

23) Both Councillors and employees are servants of the public and they are indispensable to one another.

24) Mutual respect between Councillors and employees is essential to good local government. Close personal familiarity between individual Councillors and employees can damage this relationship and prove embarrassing to other Councillors and employees".

3.01.5 In line with the National Code's reference to "mutual respect", it is important that any dealings between members and employees should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position. As close working with key partners is becoming increasingly important in the effective delivery of public services, emphasis is made on the importance of mutual respect.

3.02 Roles and Responsibilities

Members

3.02.1 The role of the Councillor is defined by the Local Government Act 1972, the Local Government and Housing Act 1989 and by the Local Government Act 2000. In law, all Councillors are equal and have the responsibilities of trustees. For these purposes, the elected Mayor is treated as a Councillor.

3.02.2 All Councillors are required by law to:

- a) be guided by the National Code of Local Government Conduct;
- b) comply with the Council's Constitution;

- c) ensure that any facilities provided by the Council for members' use in undertaking their duties are used strictly for those duties and for no other purposes; and
- d) to comply with all relevant statutory provisions.

Note: It is the responsibility of members themselves to ensure that they have proper advice. If Members are ever in any doubt about the law, the Constitution, general propriety, conflicts of interest, etc. then the Head of Paid Service, Monitoring Officer or Chief Financial Officer should be consulted.

Employees

3.02.3 Employees are employed by, and serve, the whole Council. They advise the Council and its decision making processes, and are responsible for ensuring that the decisions of the Council, either directly or through its Executive, Regulatory Committees, Select Commissions, Area Committees or (where decision-making has been formally delegated) to employees, are effectively implemented. All are legally required to be politically neutral in the manner in which they carry out their duties, and for senior employees this is enforced through the political restrictions of the Local Government and Housing Act 1989. All are required to abide by any Codes of Conduct for Employees introduced by the Council.

3.02.4 Employees are responsible to their Line Manager, Head of Service, Corporate Director and ultimately the Head of Paid Service, who is responsible for the proper management of the Authority's staff. Some senior employees also have specific statutory responsibilities as statutory office holders as well, which may at times require them to give members unpalatable and unwelcome advice.

Respect and Courtesy

3.02.5 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between members, employees and key partners. This plays a very important part in the Council's reputation and how it is seen in public. It is very important that both members and employees remember their respective obligations to enhance the Council's reputation and avoid criticism of employees or members in public forums and situations within the Council where embarrassment might be caused.

3.02.6 If a member considers that they have not been treated with proper respect by an employee, they may raise the issue with the relevant Head of Service who will consider the matter through normal operating procedures.

3.02.7 If an employee considers that a member is in breach then the matter will be referred through the Head of Service to the Head of Paid Service who will review the matter with the elected Mayor. The matter alternatively may be dealt with under the Council's Policy and Procedure for Resolving

Workplace Harassment where appropriate and may ultimately be referred to the Appeals Panel.

Under Pressure

- 3.02.8 In their dealings with employees (especially at junior level) members need to be aware that it is easy for employees to be influenced and feel at a disadvantage. Such feelings can be intensified where members hold official and/or political office.
- 3.02.9 A member should not require an employee either to do anything that they are not empowered to do under the Council's policies and procedures or to undertake work outside normal duties or outside normal hours. In particular a member should not directly consult or instruct a junior employee to carry out any work but should consult on such matters with the relevant Corporate Director and Head of Service, designated manager or Head of Paid Service. Particular care needs to be taken in connection with the use of Council property and services.
- 3.02.10 Similarly, an employee must neither seek to use undue influence on an individual member to make a decision in their favour nor raise personal matters to do with their job nor make claims, allegations about other staff. The Council has formal procedures for consultation, grievance, discipline and a confidential reporting code.

3.03 Employee Advice to Party Groups

- 3.03.1 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Senior employees may properly be asked by the Head of Paid Service to provide information to such deliberations by party groups when appropriate. However, such attendance is at the discretion of the employee.
- 3.03.2 The input provided by such employees can take many forms, ranging from a briefing meeting with a Chair or Spokesperson prior to a meeting, to a presentation to a full party group meeting. Whilst in practice such employee support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 3.03.3 Certain points must however be clearly understood by all those participating in this type of process, members and employees alike. In particular:-
 - a) Employee support in these circumstances must not extend beyond providing information and objective advice in relation to matters of Council business. Employees should not be present at meetings, or parts of meetings, when matters of party business are to be discussed.

b) Party group meetings whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and

c) Similarly, where employees provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Executive, relevant Committee and Sub-Committee, Select Commission or Area Committee when the matter in question is considered.

3.03.4 Special care needs to be exercised whenever employees are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the National Code of Local Government Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons employees may not be able to provide the same level of information and advice as they would to a members only meeting.

3.03.5 Employees must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.

3.03.6 Any particular cases of difficulty or uncertainty in this area of employee advice to party groups should be raised with the Head of Paid Service who will discuss them with the relevant group leader(s).

3.04 Support Services to Members and Party Groups

3.04.1 The only basis on which the Council can lawfully provide services (e.g. stationery, typing, printing, photocopying, information technology, transport etc) to members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

3.05 Members' access to information and to Council Documents

3.05.1 Members are free to approach any Council Department to provide them with such information, explanation and advice (about that Department's functions) as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of their Department's activity to a request for specific information on behalf of their constituent. Such approaches should be directed to the relevant designated manager, Head of Service, Corporate Director or Head of Paid Service.

- 3.05.2 The legal rights of members to inspect Council documents are covered partly by statute and partly by the common law.
- 3.05.3 All members have a statutory right to inspect any Council documents which contain material relating to any business which is to be transacted at an Executive Meeting, Regulatory Committee, Select Commission or Area Committee. It extends not only to reports, which are, to be submitted to the meeting, but also to any specified background papers. This right does not however apply to documents relating to certain items which may appear on the confidential part of the agenda for meetings. The items in question are those which contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contracts and industrial relations negotiations, advice from Counsel and criminal investigations.
- 3.05.4 The common law right of members to inspect Council documents is much broader and is based on the principle that any member has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council. This principle is commonly known as the “need to know” principle.
- 3.05.5 The exercise of this common law right depends, therefore, upon the member’s ability to demonstrate that he/she has the necessary “need to know”. Information relating to specific individual personal details should not be available for inspection other than that agreed by the Head of Paid Service. In this respect a member has no right to examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the “need to know”. This question must, initially, be determined by the Head of Paid Service. In the event of dispute, the question falls to be determined by the Monitoring Officer.
- 3.05.6 Whilst the term “Council document” is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a member of one party group will not have a “need to know”, and therefore a right to inspect, a document which forms part of the internal workings of another party group. The Statutory National Code of Conduct restricts the disclosure of information by members which they have gained as Councillors when the information is confidential. Such information should not therefore be made available to the public nor should it be passed on to another Councillor who cannot demonstrate a “need to know”.
- 3.05.7 Finally, any Council information provided to a member must only be used by the member for the purpose for which it was provided, i.e. in connection with the proper performance of the member’s duties as a member of the Council. This point is emphasised in the National Code of Local Government Conduct in the following terms:

“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 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.”

- 3.05.8 Further and more detailed advice regarding members’ rights to inspect Council documents may be obtained from the Monitoring Officer or the Head of Paid Service.

3.06 Relationships between Employees and elected Mayor, Chairmen of Regulatory Committees, Chairmen of Select Commissions and Area Committees

- 3.06.1 The role of a Chair is only legally recognised for procedural purposes (e.g. in conducting meetings and exercising a casting vote). In practice, portfolio holders and the role of Chairmen may be recognised as the “lead member”, typically undertaking the following roles:

- a) Liaising closely with the relevant Senior employee in developing policy and service plans;
- b) Responding to the press and making public statements on behalf of the Council; and
- c) Responding to questions at Council Meetings or the relevant forum.

- 3.06.2 It is clearly important that there should be a close working relationship between the members with Special Responsibility (i.e. those in receipt of a special responsibility allowance under the Members’ Allowances Scheme) and the relevant Corporate Directors, Heads of Service and other Senior employees of any Directorate. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the employees’ ability to deal impartially with other members and other party groups.

- 3.06.3 Whilst members with Special Responsibility will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations an employee will be under a duty to submit a report and recommendations on a particular matter. Similarly an employee will always be fully responsible for the contents of any report submitted in their name. Any issues arising between such a member and employee in this area should be referred to the Head of Paid Service for resolution in conjunction with the elected Mayor.

- 3.06.4 The Council has put in place a delegation scheme, which, in particular instances, authorises named employees to take action in consultation with identified members. Whilst such action is sometimes (incorrectly) referred to as “action taken by a member”, it is the employee, rather than the member, who takes the action and it is the employee who is accountable for it. Specific delegation to individual members may also occur.

- 3.06.5 Finally, it must be remembered that employees within a Department are accountable to their managers and that whilst employees should always seek to assist any member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their manager.

3.07 Correspondence

- 3.07.1 Correspondence between an individual member and an employee should not normally be copied by the employee to any other member. Where exceptionally it is necessary to copy the correspondence to another member, this should be made clear to the original member.
- 3.07.2 Official letters on behalf of the Council should normally be sent out in the name of the appropriate employee, rather than in the name of the elected Mayor or a member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Member, but this should be the exception rather than the norm. Letters which for example create obligations or give instructions on behalf of the Council should never be sent out in the name of the elected Mayor or a member.

3.08 Involvement of Ward Councillors

- 3.08.1 Whenever an Area Committee or public meeting is organised by the Council to consider a local issue, all the members representing the Ward or Wards affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the ward members should be notified at the outset of the exercise.
- 3.08.2 Where matters of particular sensitivity arise the relevant ward member should be notified in writing.

3.09 Overall Provisions

The provisions outlined in this protocol will guide the actions of both members and employees alike. It will be appropriate to monitor and review these provisions on a continuing basis with an annual review and report to the Standards Committee.

WHISTLEBLOWING CODE

1 **INTRODUCTION**

- 1.1 This Code applies to all employees working for the Council, both full and part time, temporary and casual and it also covers agencies and contractors. Reference to employees within this Code covers all of these categories.
- 1.2 Although not covered by the Public Interest Disclosure Act, Members are also encouraged to use this Code to raise concerns to ensure a consistent protocol is applied.
- 1.3 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns or make allegations 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 it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.4 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns.
- 1.5 This Code makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. This Code is intended to encourage and enable employees to raise serious concerns or make allegations within the Council rather than overlooking a problem or 'blowing the whistle' outside. Anyone responsible for victimising an employee who uses this Code will be subject to disciplinary action.
- 1.6 This Code applies to all employees and those contractors working for the Council, for example, agencies, builders. It also covers suppliers and those providing services under a contract with the Council.
- 1.7 These procedures are in addition to the Council's Complaints Procedures, Grievance Procedure, Code of Conduct and other statutory reporting procedures applying to some departments.
- 1.8 This Code has been discussed with the relevant trade unions and has their support.

2. **The Public Interest Disclosure Act**

- 2.1 The Public Interest Disclosure Act 1998, called the "Whistleblowers Act" provides protection for employees who disclose information that might otherwise be regarded as confidential. The Act makes it clear that where the nature of such a disclosure falls into one of six categories detailed below and

the manner of the disclosure is one permitted by the Act; employees will have protection in law from detrimental action by the employer. The six categories are:-

1. a criminal offence has been, is being, or is about to be committed
2. the employer is failing to comply with legal obligations
3. a miscarriage of justice has happened or is likely to happen
4. an individual's health and safety is being jeopardised
5. the environment is, or is likely to be damaged
6. information falling into one of the above categories which has been, is being or is likely to be, deliberately concealed

2.2 An employee does not have to show that, for example, a criminal offence has been committed. He or she has to have a reasonable belief that this is the case. It will be for an employment tribunal to decide whether or not such a belief was reasonable.

2.3 The Act gives protection to employees who make disclosures to specified persons in various circumstances. Protection applies where a disclosure is made:-

- to the employer or to another responsible person provided the employee acts in good faith
- in the course of obtaining legal advice
- to a person or body prescribed by the Secretary of State, provided the employee acts in good faith and reasonably believes the information falls within the potentially protected categories and is substantially true

2.4 The Act also gives protection to employees who make "external" disclosures to persons other than listed above. Employees however will only be protected under this general category if they have previously disclosed the matter to the employer or a prescribed body or have not done so because they reasonably believe they would have been victimised or evidence would have been concealed or destroyed. They must also:-

- make the disclosure in good faith
- reasonably believe that the information, and any associated allegation, are substantially true
- not act for personal gain
- act reasonably

2.5 In deciding whether an employee has acted reasonably, all the circumstances will be taken into account but in particular:-

- the identity of the person to whom the disclosure is made
- the seriousness of the relevant offence
- whether the offence is continuing or is likely to occur in the future

- whether the disclosure is made in breach of a duty of confidentiality owed by the employer to any other person
- any action the employer or prescribed person might reasonably be expected to take as a result of a previous disclosure
- whether in making the disclosure to the employer the employee complied with any procedure approved by the employer

2.6 In disclosing “exceptionally serious” breaches, ie where the subject of the disclosure is sufficiently serious to disclose it to persons other than detailed in paragraph 2.3, the employee will be protected as long as:-

- the disclosure is made in good faith
- the employee believes that the information disclosed and any associated allegation are substantially true
- the disclosure is not made for personal gain
- the matter disclosed is of an exceptionally serious nature
- in all the circumstances it is reasonable for the employee to make the disclosure