



CHESHIRE EAST COUNCIL CONSTITUTION

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Date	Version	Author	Summary of amendments made
15.03.21	1	J Barnes BB	Update
22.03.21	2	J Barnes BB	Update s151 to CFO; check Glossary words/expressions are in the Constitution and update
23.03.21	3	D Brown CEC	
8.04.21	4	J Barnes BB	Updated following receipt of councillor comments and Constitution Committee

EDITION: April 2021

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Chapter 4

Codes and Protocols

This part of the Constitution covers the following areas:

Part	Title	Contents
1	Councillor Code of Conduct	<p>This part sets out the ways in which Councillors must conduct themselves. It covers such things as:</p> <ul style="list-style-type: none"> • General obligations • Registering and declaring interests • Pre-determination and bias
2	Officer Code of Conduct	<p>This part sets the ways in which all employees of the Council must conduct themselves. It covers such things as:</p> <ul style="list-style-type: none"> • The Values of the Council • The Council's Core Principles • The Council's Core Standards • Additional standards relevant to particular groups of employees • Guidance on compliance with the Code • Associated forms and referral points
3	Councillor / Officer Protocol	<p>This Protocol is to guide Councillors and Officers in their relations with one another in such a way as to ensure the smooth running of the Council.</p>
4	Planning Code of Conduct	<p>An additional Code of Conduct for Councillors on Planning matters</p>
5	Whistleblowing Policy	<p>Although not a formal part of the Council's Constitution, it is considered useful to provide a link to the Whistleblowing Policy in this document.</p>

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Chapter 4 – Part 1

Councillor Code of Conduct

- 1 Cheshire East Council has adopted this Code of Conduct to promote and maintain high standards of conduct and underpin public confidence in the authority and its Councillors and co-opted Members (referred to collectively in this Code as “Members”).
- 2 The Code has been adopted under the Localism Act 2011 and is based on the following core principles of public life:
 - 2.1 Selflessness
 - 2.2 Integrity
 - 2.3 Objectivity
 - 2.4 Accountability
 - 2.5 Openness
 - 2.6 Honesty
 - 2.7 Leadership
- 3 The Code sets out general obligations about the standards of conduct expected of Members and co-opted Members of the authority, together with provisions about registering and declaring interests.

General obligations

- 4 Whenever you are acting as a Member or co-opted Member of this authority you must act in accordance with the following obligations:

Selflessness

- 4.1 You must act solely in the public interest and must never use or attempt to use your position improperly to confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, friends or close associates.

Integrity

- 4.2 You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

Objectivity

- 4.3 When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
- 4.4 You should remain objective, listen to the interests of all parties appropriately and impartially and take all relevant information, including advice from the authority's officers, into consideration.
- 4.5 You should exercise independent judgement. Although you may take account of the views of others (including a political group), you should reach your own conclusions on the issues before you and act in accordance with those conclusions.

Accountability

- 4.6 You are accountable to the public for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your office, including appropriate scrutiny by local residents.

Openness

- 4.7 You must be open and transparent where possible about your decisions and actions and the decisions and actions of your authority. You should be prepared to give reasons for those decisions and actions.

Honesty

- 4.8 You must declare any personal, pecuniary and non-pecuniary interests that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests as set out in Part 2 below.
- 4.9 You must only use or authorise the use of the authority's resources in accordance with the authority's requirements. You must, when using or authorising the use of such resources, ensure that they are used for proper purposes only. Resources must not be used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity in force from time to time.

Leadership

- 4.10 You must promote and support high standards of conduct when serving as a Member of the authority, by leadership and example, championing the interests of the community.
- 4.11 You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.

Respect for Others

- 4.12 You must treat others with courtesy. You should engage with colleagues and staff in a manner that underpins mutual respect and courtesy, essential to good local government.
- 4.13 You must not:
- (i) do anything which may cause your authority to breach any equality laws
 - (ii) compromise or attempt to compromise the impartiality of anyone who works for, or on behalf of, the authority
 - (iii) bully¹ any person, including other Councillors, officers of the authority or members of the public
 - (iv) intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or 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.

Information

- 4.14 You must 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, except² where:
- (i) you have the written consent of a person authorised to give it
 - (ii) you are required by law to do so
 - (iii) the disclosure is made to a professional 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 reasonable, in the public interest; and made in good faith and in compliance with the reasonable requirements of the authority.

¹ "Bullying" may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour and includes "cyber bullying". It may happen once or be part of a pattern of behaviour. It can be contrasted with the legitimate challenges a member may make in challenging policy or scrutinising performance. You may challenge others as to why they hold their views but must take care to raise issues in the appropriate forum and in an appropriate way. Ideas and policies may be robustly criticised but individuals should not be subject to unreasonable or excessive personal attack.

² It is your responsibility to ensure that any judgement you make in relying on any exception will stand up to rigorous objective scrutiny. In the case of any doubt advice should be sought from the Monitoring Officer or an independent qualified legal advisor.

- 4.15 You must not prevent another person from gaining access to information to which that person is entitled by law.

Gifts and Hospitality

- 4.16 You must within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a Member from any person or body other than the Authority. The Monitoring Officer will place your notification on a public register of gifts and hospitality which will be made available on the Council's website.

Registering and Declaring Interests

Registering and Declaring Interests – General Requirements

- 5 You must, within 28 days of:
- 5.1 the adoption of this Code
 - 5.2 taking office as a Member
 - 5.3 becoming aware of any new interest not already registered
 - 5.4 becoming aware of any change to any interest already registered
- notify the monitoring officer in writing of any disclosable pecuniary interest, or other type of interest as defined by this Code.
- 6 If you become aware of any such interest not already registered (or the subject of pending notification) during the course of any meeting of the authority at which you are in attendance then you must disclose the interest to the meeting, take the action required by the Code depending on the nature of the interest and notify the Monitoring Officer of the interest in accordance with the provisions of this Code.

Sensitive Interests

- 7 A 'sensitive interest' is described in the Localism Act 2011 as an interest the nature of which is such that the Member and the authority's Monitoring Officer consider that disclosure of the details of the interest could lead to the Member or a person connected with the Member being subject to violence or intimidation.
- 8 Where you consider that you have a sensitive interest, and the Monitoring Officer agrees, that part of the register recording that interest will not be published or made available for public inspection. A declaration of interests must still be made at a meeting where relevant, but the sensitive information need not be disclosed.

Disclosable Pecuniary Interests

- 9 A [disclosable pecuniary interest is defined by statute](#) and is subject to change from time to time.

- 10 Unless dispensation has been granted, if you are present at any meeting of the authority and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting, you must leave the meeting while any discussion or voting on that matter takes place. You may not participate in any discussion of the matter at the meeting and you may not participate in any vote taken on the matter at the meeting.
- 11 You must not discharge or participate in the discharge of any function related to any matter in which you have a disclosable pecuniary interest.
- 12 Failure to comply with these requirements of the Code may amount to a criminal offence.

Other Interests – Personal Interests

- 13 In addition to disclosable pecuniary interests referred to above, you must also declare personal interests.
- 14 You have a personal interest in any business of the authority where the business of the authority relates to or is likely to affect 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.
- 15 You will also have a personal interest in any business of the authority where the business of the authority relates to or is likely to affect any body exercising functions of a public nature, which is directed to charitable purposes or whose principle purposes includes influencing public opinion or policy where you are a member of that body or in a position of general control or management.
- 16 The Audit and Governance Committee may, from time to time, prescribe certain bodies the membership of which amounts to a personal interest.
- 17 You will also have a personal interest in any business of the authority where a decision in relation to that business might reasonably be regarded as affecting your wellbeing or financial position or the wellbeing or financial position of a relevant person to a greater extent than the majority of other Council tax payers, ratepayers, or inhabitants of the electoral division or ward, as the case may be, affected by the decision.
- 18 For the purposes of this Code, a relevant person is:
 - 18.1 a member of your family or any person with whom you have a close association, or
 - 18.2 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, or
 - 18.3 any person or body in whom such persons have a beneficial interest and a class of securities exceeding the nominal value of £25,000 or one hundredth of the total issued share capital of that body.

- 19 Unless your personal interest also amounts to a prejudicial interest, a disclosable pecuniary interest or pre-determination, you may remain in the meeting and take part in the debate and vote.

Other Interests – Prejudicial Interests

- 20 You will have a prejudicial interest if you have a personal interest in any business of the authority and where that personal 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:
- 1.1 affects your financial position or the financial position of a relevant person or body described in paragraph 14 or 15 above, or
 - 1.2 relates to the determination of any approval, consent, licence, permission or registration in relation to you or any relevant person or body described in paragraph 14 or 15 above.
- 21 Where you have a prejudicial interest, you may not participate in any discussion of the matter at the meeting or in any vote taken on the matter at the meeting. You are also required to leave the room where the meeting is taking place during the discussion and vote. However you may attend the meeting and make representations, answer questions or give evidence provided that the public are also allowed to attend the meeting for the same purpose and you leave the meeting immediately after having done so.

Pre-Determination and Bias

- 22 Separately from considerations as to personal, prejudicial or disclosable pecuniary interests, Councillors must be mindful of falling foul of the general obligations of this code by taking part in decisions where they are biased or have pre-determined the matter in question.
- 23 Simply put, a Councillor will be biased or will have pre-determined a matter if they have approached a matter with a closed mind. That is to say, if they have made up their mind on which way they will decide a matter before all of the relevant considerations are presented and debated in the appropriate decision-making forum.
- 24 Previous actions or statements of a Councillor will not be taken by themselves as proof of predetermination. A Councillor may be predisposed to a certain point of view, however notwithstanding any predisposition, Councillors need to be careful to ensure they approach and, insofar as is possible, are seen to approach decisions with an open mind.
- 25 Particular scenarios to be mindful of are where a Councillor, in some other role, is seen to be a promoter or advocate for a proposal which later comes before them for decision. A risk arises when there has been significant personal involvement in preparing or advocating the proposal such that a Councillor may become or may be perceived by the public as being no longer able to approach the decision with an open mind.

- 26 If you feel that you have pre-determined a matter you should say so. You should not speak or vote on the proposal. You may, however, make representations on the proposal if a member of the public also has the right to do so. You are not legally obliged to withdraw from the meeting for the remainder of the debate and vote but in most circumstances doing so will counter any suggestion that you influenced the remaining Councillors by your continued presence. If you do not withdraw, as a minimum you must withdraw to the public area of the meeting room for the whole of the consideration of the matter, whether or not you are also exercising your right to speak.
- 27 If in any doubt you should seek advice from the Monitoring Officer.

Further Information

- 28 The Monitoring Officer, in consultation with the Chair of the Audit and Governance Committee, will publicise from time to time arrangements for [dealing with complaints made against Councillors](#) that their conduct has breached the requirements of this code. The Monitoring Officer will publicise from time to time a Monitoring Officer Protocol reflecting current trends in Councillor Conduct matters in order to provide guidance on how emerging or common issues will be approached.

Dispensations

- 29 The Audit and Governance Committee may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a prejudicial or disclosable pecuniary interest.
- 30 The following dispensations have been granted to all Councillors up to 28 September 2024:
- (a) Any allowance, payment or indemnity given to Councillors;
 - (b) Any Ceremonial Honours given to Councillors;
 - (c) Statutory sick pay under Part X1 of the Social Security Contributions and Benefits Act 1992 where they were in receipt of or entitled to receive such pay;
 - (d) Setting the Council Tax or a precept under the Local Government Finance Act 1992 (or any subsequent legislation);
 - (e) Setting a Local Council Tax Reduction Scheme or Local scheme for the payment of business rates (Including eligibility for rebates and reductions) for the purposes of the Local Government Finance Act 2012 (or any subsequent legislation);
 - (f) School Meals or School Transport or Travelling expenses where the Councillor is a parent/guardian of a child in full time education or a parent governor (unless the matter relates specifically to the school the child attends);

- (g) To the extent that it may amount to a prejudicial or disclosable pecuniary interest, any allowance or other remuneration received from the Council in respect of Council duties or directorships of Council owned ASDVs; and
- (h) To allow Councillors to take part and vote on Community Governance Review matters in which they have disclosable pecuniary and prejudicial interests.

Extract from the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

- The following categories are Disclosable Pecuniary Interests
- “M” denotes the relevant Elected Councillor
- The regulations apply if the disclosable pecuniary interest is yours, your spouse’s or civil partner’s or is the pecuniary interest of somebody with whom you are living as a husband or wife or as if you were civil partners

<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	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a Member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(1).

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> <ul style="list-style-type: none">(a) under which goods or services are to be provided or works are to be executed; and(b) which has not been fully discharged.
Land	<p>Any beneficial interest in land which is within the area of the relevant authority.</p>
Licences	<p>Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</p>
Corporate tenancies	<p>Any tenancy where (to M's knowledge)—</p> <ul style="list-style-type: none">(a) the landlord is the relevant authority; and(b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	<p>Any beneficial interest in securities of a body where—</p> <ul style="list-style-type: none">(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and(b) either—<ul style="list-style-type: none">(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.

Chapter 4 – Part 2

Officer Code of Conduct

1. [Core Principles](#)
2. [Core Standards](#)
3. [3. Code of Conduct](#) Standards – Guidance
4. [Associated Forms and Referral Points](#)
5. [Code of Conduct – Matrix of Regulations and Standards Relevant to Specific Directorates](#)
6. [Cheshire East Core Values “FIRST Framework”](#)

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1. Core Principles

- 1.1 The following core principles underpin the concept of public service and apply to all employees of the Council regardless of the nature of the job they do:

SELFLESSNESS

Employees should take decisions solely in the terms of the public interest. They should not do so nor use their position in order to gain financial or other material benefits for themselves, their family or their friends.

INTEGRITY

Employees should not place themselves under any financial or other obligations to outside individuals or organisations that might 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, employees should make decisions on merit.

ACCOUNTABILITY

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

OPENNESS

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

HONESTY

Employees 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.

RESPECT FOR OTHERS

Employees must treat other people with respect and not discriminate unlawfully or unfairly against any person. They must treat Councillors and other co-opted Members of the authority professionally.

TRUST

Employees must, at all times, act in accordance with the trust that the public is entitled to place on them. Employees must use any public money or service users' money entrusted to or handled by them, in a responsible and lawful manner and not make personal use of the Council resources unless properly authorised to do so.

LEADERSHIP

Employees should promote and support these principles by leadership and example.

- 1.2 The Code of Conduct principles operate within the overall framework of the Core Values. Our Values for Cheshire East are depicted by the acronym FIRST (explained further in Section 6 of this document).

2. Core Standards

- 2.1 Our residents and customers, the general public, are entitled to expect the highest Standards of Conduct from us. The aim of this Code is to tell you about the standards which are expected and to help you avoid any misunderstanding or criticism.

- **Gifts and Hospitality**
- **Sponsorship**
- **Use of Financial Resources**
- **Use of Council Facilities**
- **Intellectual Property**
- **Political Neutrality**
- **Other Employment and External Activities**
- **Financial and Non-Financial Interests**
- **Relationships**
- **Appointments and Other Employment Matters**
- **Tendering and Contracts**
- **Private Use of Firms Dealing With The Council**
- **Disclosure of Information**

- **Compliance with the Code and Confidential Reporting**

- 2.2 You should also be aware of and abide by Service specific Standards or Regulations, especially when working with vulnerable adults and children or working in a school. The rules within the Standards of Conduct, for staff in Community Services, for example, if you are offered a gift, are much stricter than those included in this standard Code of Conduct.
- 2.3 Please liaise with your Manager who should refer you to the appropriate Standards. At the end of the Code of Conduct Guidance notes, you will also find a matrix to help sign post you to other relevant Standards.

3. Code of Conduct Standards – Guidance

Gifts and Hospitality

- 3.1 If we accept gifts from people who are or may be dealing with the Council, the Council and its employees could be open to criticism. If you are declining hospitality please do so courteously and explain that the Council's rules do not allow you to accept.
- 3.2 You must refuse offers of hospitality where suggestions of improper influence is possible. Employees must be sensitive to the timing of any decisions being made between the Council and third party.
- 3.3 You should only accept hospitality where it is on a scale appropriate to the circumstances, and where it is apparent that no cause could reasonably arise for adverse criticism about the acceptance of the hospitality. Hospitality is usually acceptable when the invitation is corporate not personal.
- 3.4 Whatever gift/hospitality is provided to you, other than hospitality of nominal value only such as drink or small items of stationery, you should report the circumstances and the type of hospitality to your Head of Service. Small insignificant gifts of a value of less than £50, such as pens, diaries, calendars, mouse mats or mugs, may be accepted. However, in the case of those working in social care, no gift, however little the value, should be accepted in any circumstances.
- 3.5 It is a serious criminal offence to corruptly 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.

! If you are presented with a gift or offer of hospitality you must seek authorisation in advance, where possible, from your Head of Service, who will record every request on the relevant form. (Consider the decision checklist in section 4 of the Guidance Notes)

- 3.6 All employees are required to complete an annual declaration of interest return, even if this is to confirm that they have nothing to declare, and then to report issues as and when they occur.

Sponsorship – Giving and Receiving

- 3.7 If an organisation wants to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic rules about accepting gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 3.8 If the Council sponsors an event or service, you or anyone connected with you may not benefit from the sponsorship. Similarly, if the Council, gives financial support in the community, please ensure that impartial advice is given and that you have no conflict of interest.

! You must inform your Head of Service of any personal interest you may have and complete a declaration of interest form.

Use of Financial Resources

- 3.9 You must ensure that you use public funds entrusted to you in a responsible and lawful manner. Please try to ensure value for money to the local community and to avoid the risk of legal challenge to the Council.

! Employees must follow Standing Orders, Financial Regulations and operating procedures and advise management where they consider changes can be made to increase value for money.

Use of Council Facilities

- 3.10 At work you have access to facilities which include office equipment, computers, stores, transport etc. These facilities are provided purely for work and you must not use them for your own purposes.
- 3.11 There are certain minor exceptions to these rules - the use of telephones, fax machines and photocopiers on an incidental basis in line with our policies.

Telephones

- 3.12 Ideally, private telephone calls should not be made or received. In practice, you may need to make or receive essential calls but these should be kept to a minimum and costs reimbursed to the Council, unless it is an emergency.

Fax machines and photocopiers

- 3.13 If necessary, personal fax messages may be despatched to locations within Great Britain. Photocopies of personal documents (up to a

maximum of 10 copies at any one time) may be taken and costs reimbursed to the Council.

! Costs must be reimbursed to the relevant person using the Council's reimbursement process.

Intellectual Property

3.14 Intellectual property means creative products, for example inventions, designs, trademarks, patents, creative writings, programmes and drawings (referred to in short as 'inventions'). It will normally be the case that the ownership of all 'inventions' and the copyright of all written material created during work for the Council, belong to the Council.

! This is a complex area, further guidance must always be sought from Legal Services in any particular case.

Political Neutrality

3.15 Employees work for the Council as a whole. You must therefore work for all the Councillors and not just those of any controlling group or particular political party.

3.16 You must follow every lawful policy of the authority and must not allow your own personal or political opinions to interfere with your work.

3.17 Certain employees hold politically restricted posts (PoRPs). If your job is politically restricted, you will be notified. You are disqualified from membership of any council, other than a parish or community Council, from being an MP or canvassing on behalf of candidates.

! Employees who are politically restricted must observe the restrictions imposed. A register of PoRPs is maintained by HR.

Other Employment and External Activities

3.18 As a general rule you must not undertake any type of private work which conflicts with the Council's interests or prevents you from fulfilling the terms of your employment contract.

3.19 If you are above NJC Grade 7 or equivalent, you must obtain the consent of your Head of Service before you do private work.

3.20 Whether or not you need to obtain consent before doing private work, you must not:

3.20.1 do private work during working hours nor on the Council premises nor use Council equipment

- 3.20.2 undertake any private work which prevents you from carrying out your duties with the Council or including any requirements to do contractual overtime
- 3.20.3 undertake private work for any person, firm or company if it will involve the Council
- 3.20.4 prepare or assist with any applications, for example, planning or building, in any private capacity if you deal with these normally
- 3.20.5 access Council Services, for example, if you want to make a planning application personally, unless you declare your employment in writing, in a covering letter with your application and submit this via your line manager
- 3.20.6 undertake private work that needs approval or consent from the Council
- 3.20.7 undertake private work for any person, firm or company who have a contractual relationship with or who are commissioned by the Council for any type of work
- 3.20.8 undertake private work for another employee responsible for supervising you or whom you supervise, or for a Councillor.
- 3.21 Employees must ensure they understand and can comply with both Working Time and Health and Safety regulations before considering other employment.

! Employees must seek consent from their line manager before undertaking other work. All employees must declare an interest where a conflict may arise.

- 3.22 All employees are required to complete an annual declaration of interest return, even if this is to confirm that they have nothing to declare, and then to report issues as and when they occur.

Financial and Non-Financial Interests

- 3.23 The Local Government Act 1972, section 117, requires you to disclose any direct or indirect financial interest in any contract involving the Council. Failure to declare the interest may be a criminal offence.
- 3.24 If you have any direct or indirect interest in an organisation or company that is doing business with the Council, which you think conflicts with your job role, then you should inform your Head of Service.
- 3.25 You may have a conflict of interest even if you have no financial interest. For instance, relationships might be seen to influence judgements and give the impression of a personal motive e.g. a Council employee who is an Honorary Officer of an Association and who is

involved in dealing with an application for a grant by the Association. In such a case, again you should inform your Head of Service.

- 3.26 Employees are able to act as a Member of another council (provided they do not have a PoRP), a school governor, or member of a community organisation but must declare their interest if any potential conflict arises.
- 3.27 If, in connection with his/her employment with the Council, an employee uses his/her relationship with an organisation for his/her own or someone else's personal or financial gain, he/she will be regarded as being in breach of this Code of Conduct.
- 3.28 Employees who are members of other associations or bodies that have dealings with the Council should declare their interest, if there is any potential conflict.
- 3.29 Employees who during the course of attending a meeting believe they that may have a conflict with an item on the agenda should advise the Chair and leave the meeting for all or part of the meeting as appropriate.

! Declare an interest on the Declaration form if there is a potential conflict.

- 3.30 All employees are required to complete an annual declaration of interest return, even if this is to confirm that they have nothing to declare, and then to report issues as and when they occur.

Relationships

3.31 Councillors

- 3.31.1 Mutual respect between employees and Councillors is essential. Close personal familiarity between employees and individual Councillors can damage this relationship. You must be professional at all times and not allow your work and private interests to conflict.

3.32 The Local Community and Service Users

- 3.32.1 You should always remember your responsibilities to the Community and give efficient and impartial service to all groups and individuals within that community as defined by the policies of the Council.

3.33 Contractors

- 3.33.1 If you have a business or private relationship with external contractors or potential contractors you should tell your 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.

- 3.33.2 If you engage or supervise contractors or work with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, you should declare that relationship to the appropriate manager.

! Declare an interest on the Declaration form if there is a potential conflict and do not take part in any related tendering or contract award processes.

Appointments and Other Employment Matters

- 3.34 If you are involved in the recruitment and selection of employees, appointments should be made on the basis of merit and in accordance with our Recruitment and Selection Policy and Procedures obtainable from HR. To avoid any possible accusation of bias, you should not be involved in an appointment where you are related to an applicant, or have a close personal relationship outside work with him or her.
- 3.35 Similarly, you should not be involved in decisions about discipline, promotion or pay adjustments for any employee who is a relative, partner etc.

! Declare an interest on the Declaration form if there is a potential conflict.

Tendering and Contracts

- 3.36 During the Tendering process, if you are involved in the 'in-house' bid (except Executive Directors and, apart from when their own service is tendered, legal, financial and professional advisers) you must not at the same time be involved in certain client tasks e.g. selecting tenderers. You should seek guidance from your Head of Service as to how the tendering process is to be conducted and how the 'in-house contractor' and client responsibilities are to be discharged.
- 3.37 Employees working for 'in-house' contractors or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 3.38 If you are privy to confidential information on tenders or costs for either internal or external contractors you should not disclose that information to any unauthorised party or organisation.
- 3.39 If you are responsible for selecting contractors to tender or supply quotations, you should ensure that you are not also responsible for the receipt and opening of the tender or quotation except where the sums involved are minor.

! Refer to the appropriate Corporate Procurement rules and guidance.

Private Use of Services of Firms Dealing with the Council

- 3.40 You should be cautious when using the services of firms you know have dealings with the Council. You should ensure that the goods or services bought from such firms are at a price readily available to the general public. This is a difficult and sensitive area. Please try to avoid offending anyone and if necessary, explain the Council's policy.
- 3.41 If you think that any offer of preferential terms is designed to promote a firm's interest, you should not deal with the firm.
- 3.42 You should not use your position with the Council to obtain a discount. However, you may purchase goods at discount terms under a scheme or arrangement which applies to e.g. your trade union.

! If you require further guidance please refer to the Corporate Procurement Team.

Disclosure of Information

- 3.43 You must not:
- 3.43.1 use information about work which is confidential, for personal gain or benefit or pass it on to others who might use it in this way.
 - 3.43.2 give information to the media unless you are authorised to do so.
 - 3.43.3 disclose confidential information to someone else, unless it is a request from an approved source, e.g. HMRC, Department of Social Security and, where authorised, from bank managers or building societies. It is normal practice to ask the person requiring the information to put their request in writing use advance knowledge of a Council decision, particularly about investment decisions or proposed developments to benefit yourself or someone else.

Data Protection Act (Disclosing Information)

- 3.44 You must use personal data in accordance with the Data Protection Act and GDPR. For example, the data must be held only for specified and lawful purposes and must not be used or disclosed for any other purposes.

! If you are unsure please seek guidance from the Data Protection Officer or Communications Team, depending on the nature of the request.

Compliance with the Code

- 3.45 It is important that local government employees are exemplary in their conduct at work. Non-compliance with this Code will be dealt with in accordance with our Disciplinary Code.
- 3.46 Employees who consider other employees to be guilty of misconduct must report this to their line manager or raise it through one of the other available procedures e.g. grievance.
- 3.47 Employees must not treat employees who report (or who intend to report or are suspected of reporting) potential misconduct any less favourably than other employees.
- 3.48** If, in some instances, the employee cannot make use of the existing procedures for any reason then they should raise complaints or genuine matters of concern with the relevant person through the **Whistle Blowing Policy**.

! This code is reviewed annually. Employees should therefore ensure they regularly familiarise themselves with the Code and its Guidance Notes.

4. Associated Forms and Referral Points

- 4.1 The forms can be found on the HR website under the Code of Conduct.

Name	Action taken by	Refer to
Declaration of interest form	Employee to Head of Service	
Ext. Gifts/Hosp/Sponsorship form	Employee to Head of Service	
Reimbursement of Costs	Employee to Business Support	
Register of PoRP	N/A	HR
Whistle Blowing Policy	N/A	HR intranet

Checklist for Assessing Potential Conflict – Gifts and Hospitality

- 4.2 Employees should consider the following Checklist:
- 4.2.1 Have you obtained the prior approval of your Director?
- 4.2.2 Is the donor, or the event, significant in the community or in the Council's area?
- 4.2.3 Are you expected to attend because of your position in the Authority?
- 4.2.4 Will the event be attended by others in the Authority or in other Authorities?

- 4.2.5 Have you considered the motivation behind the invitation?
- 4.2.6 Would the acceptance of the invitation be, in any way, inappropriate or place you under pressure in relation to any current or future matter involving this Council?
- 4.2.7 Could you justify the decision to the Council, press and public?
- 4.2.8 Is the extent of the hospitality or the nature of the gift reasonable and appropriate?
- 4.2.9 How will you respond to the hospitality?

5. Code of Conduct – Matrix of Regulations and Standards Relevant to Specific Directorates

- 5.1 In determining acceptable standards, employees are asked to familiarise themselves not only with those included in the Code of Conduct but also those included in Service specific Codes, corporate policies or operational procedures used by their own Services.

! You will find an up-to-date list of those documents on the Human Resources section of the Centranet.

6. Cheshire East Core Values “FIRST Framework”

- 6.1 Values are the things in life that we consider to be important. In relation to work, values are what give purpose to our jobs; guiding our behaviours and the decisions we take. Values underpin the culture of our authority and the way we conduct ourselves at work.
- 6.2 Putting Residents First is about really listening and understanding what residents and businesses need and responding appropriately to provide the best possible Service.
- 6.3 This requires **Flexibility**, which means us all adapting quickly to changing circumstances and learning together from our experiences.
- 6.4 **Innovation** is about us being creative in our thinking and the way we approach our work and challenging convention where this no longer seems appropriate.
- 6.5 Taking personal **Responsibility** is at the heart of our values in delivering what we promise, and ensuring efficient use of resources, whether this is our people, funding, processes, information or technology.
- 6.6 **Service** ensures that we listen and respond appropriately enabling others to be empowered, independent and self-reliant.
- 6.7 Bringing this together is **Teamwork**, respecting and working well with others to collectively achieve the best outcomes for residents and communities.

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Chapter 4 – Part 3

Councillor / Officer Protocol

Introduction and Principles

- 1 The purpose of this Protocol is to guide Councillors and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- 2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.
- 3 This Protocol seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Councillors receive fair treatment, objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Councillors.
- 4 It also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Councillors and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 5 This Protocol is a local extension of the Councillors' and Employees' Codes of Conduct. Consequently, a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 6 This Protocol should be read in conjunction with the Councillors' and Officers' Codes of Conduct, the Council's Constitution and any guidance issued by the Audit and Governance Committee and/or Monitoring Officer.

Allegations of Councillor or Officer Misconduct: Responses by Councillors or Officers as appropriate

- 7 In a situation where a Councillor identifies that an Officer may have committed a breach of the Council's disciplinary rules and procedures, s/he shall draw the issue to the attention of the Chief Executive (Head of Paid Service) who will ensure that the appropriate action is taken. Thereafter the Councillor should not discuss or disclose the matter with any other person.
- 8 In respect of an Officer who believes a Councillor has breached the Councillors' Code of Conduct, they should:
 - 8.1 not offer any opinion or judgement upon that conduct to the Councillor

- 8.2 they must advise the Monitoring Officer immediately of the circumstances, facts, their belief and the rationale behind it, including supplying all and any documentation, and
 - 8.3 they should not comment further on the issue to any other Officer or Councillor without the prior consent of the Monitoring Officer.
- 9 These provisions are to protect both the Councillor and Officer, avoid Officers and Councillors from becoming unduly involved in allegations of misconduct at an inappropriate level or in inappropriate fora, and to ensure that any investigation that may need to be carried out by the Monitoring Officer or other agency, is not in any way fettered or damaged.

The Relationship: General Points

- 10 Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, the committees and subcommittees.
- 11 At the heart of the Code, and this Protocol, is the importance of mutual respect.
- 12 Councillor / Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Councillors and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.
- 13 Inappropriate relationships can be inferred from language / style. To protect both Councillors and Officers, Officers should address Councillors as "Councillor XX / Mr or Madam Mayor/Chair" save where circumstances clearly indicate that a level of informality is appropriate, e.g. a one to one between a Head of Service and their respective Committee Chair.
- 14 A Councillor should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with the objectives of this Protocol. This is a long- standing tradition in public service. An Officer has no means of responding to such criticisms in public. If a Councillor feels s/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, s/he should raise the matter with the respective Head of Service. The Head of Service will then look into the facts and report back to the Councillor.
- 15 If the Councillor continues to feel concern, then s/he should report the facts to the Director who heads the Directorate concerned, or if, after doing so, is still dissatisfied, should raise the issue with the Chief

Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint, will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.

- 16 An Officer should not raise with a Councillor matters relating to the conduct or capability of another Officer or department. Such concerns should be raised through appropriate officer reporting lines.
- 17 Where an Officer feels that s/he has not been properly treated with respect and courtesy by a Councillor, s/he should raise the matter with his/her Head of Service, Director or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Councillor concerned. In these circumstances the Head of Service, Director or Chief Executive will take appropriate action either by approaching the individual Councillor and/or group leader/whip or by referring the matter to the Monitoring Officer.

The Relationship: Officer Support to Councillors: General Points

- 18 Officers are responsible for day-to-day managerial and operational decisions within the authority and will provide support to both the Committees and individual Councillors.
- 19 Certain statutory officers – the Chief Executive, the Monitoring Officer and the Chief Finance Officer – have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Councillors.
- 20 The following key principles reflect the way in which the officer core generally relates to Councillors:
 - 20.1 all officers are employed by, and accountable to the authority as a whole
 - 20.2 support from officers is needed for all the authority's functions including Full Council, Committees, Scrutiny, individual Councillors representing their communities, etc.
 - 20.3 day-to-day managerial and operational decisions remain the responsibility of the Chief Executive and other officers
 - 20.4 the authority will seek to avoid potential conflicts of interest for officers arising from the separation of the Scrutiny role and Committees, and
 - 20.5 all officers will be provided with training and development to help them support the various Councillor roles effectively and to understand the new structures.
- 21 On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Councillor or Councillors. It must be recognised that it is the Officer, rather than the Councillor or Councillors, who takes the action and it is the Officer who is accountable for it.

- 22 It is important that all Councillors, in exercising their functions as a Councillor, take appropriate legal, financial and professional officer advice, particularly about contractual matters. In order to ensure the highest standards of conduct are maintained at all times in relation to this important area of the Council's functions, additional guidance on Best Practice for Councillor Conduct during a Procurement Exercise is laid out in Appendix.
- 23 Generally, all Councillors should consider, when invited to / attending a meeting, whether or not minutes should be taken and/or an officer should be present. It is a matter for Councillors' judgement whether this is necessary / appropriate, but factors such as whether any commitment is likely to be given on behalf of the Council and/or whether any complex financial, legal or procurement issues may be discussed will be relevant in deciding that. In such situations, Councillors are generally recommended to have an officer present and to ensure that contemporaneous minutes are taken and, where appropriate, shared with the other parties present to ensure that an accurate record is maintained. It will, however, be a case of judgement on each and every occasion as to how and when this principle is applied.
- 24 Finally, it must be remembered that Officers within a Service are accountable to their Head of Service and Director and that whilst Officers should always seek to assist a Councillor, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Head of Service or Director.

The Relationship: Officer Support: Councillors and Party Groups

- 25 It must be recognised by all Officers and Councillors that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Councillor.
- 26 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. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Councillors, treat them in a fair and even-handed manner.
- 27 The support provided by Officers can take many forms. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups
- 28 Certain points must, however, be clearly understood by all those participating in this type of process, Councillors and Officers alike. In particular:

- 28.1 officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not present at meetings or parts of meetings, when matters of party business are to be discussed
- 28.2 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
- 28.3 similarly, where Officers 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 relevant Committee or Sub-Committee when the matter in question is considered.
- 29 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Councillors. Such persons are not bound by Codes of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, Officers may not attend and/or give advice to such meetings.
- 30 Officers 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.
- 31 Whilst any Councillor may ask a relevant Head of Service, Director or the Chief Executive for written factual information about a Directorate or service, such requests must be reasonable and not seek information relating, for instance, to case work of a similar nature, e.g. Social Services, employment, etc. Requests will be met subject to any overriding legal considerations (which will be determined by the Monitoring Officer), or if the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If a Councillor requesting such information is dissatisfied by such a response, s/he should raise the matter in the first place with the relevant Director, and if still dissatisfied should raise the matter with the Chief Executive who will discuss the issue with the relevant Group Leader(s).
- 32 Requests for information about generic group employee matters such as Service structures, the overall cost of service provision for a group of employees etc. should be considered in the normal way as set out above. Heads of Service, Directors or the Chief Executive should ensure that any information supplied does not contain any personal information (within the meaning of the data Protection Act 1998) relating to individual employees such as salary, grade, Trade Union affiliation etc.

- 33 Requests for personal information about specific employees or where the group of employees is so small that individual employees personal details are likely to be revealed should only be considered where a Councillor has a demonstrable need for such detailed personal information in order to carry out the business of the Council and they could not carry out that business without the information being supplied in a redacted form. Any such request must be accompanied by the Councillors reasons for requiring the information and must be forwarded to the Head of HR for determination (following consultation with the Council's Data Protection Officer and / or Monitoring Officer as appropriate).
- 34 All information held by the Council, in whatever form, is confidential to the Council unless and until such confidentiality is waived by the Proper Officer and subject to the requirements of the Data Protection Act 1998. Officers and elected Councillors are responsible for ensuring that personal information and data is only handled and processed in accordance with the provisions of the Act and to familiarise themselves with their obligations under the Act accordingly. Officers or Councillors who require advice or assistance in relation to their duties under the Data Protection Act 1998 should take advice from the Monitoring Officer.
- 35 In relation to budget proposals:
- 35.1 the Administration shall be entitled to confidential information / discussions with Officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of Committee / Council meetings, whichever is the earlier; and
- 35.2 the opposition groups shall also be entitled to confidential information / discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee / Council meetings, whichever is the earlier.
- 36 As part of the Budget process, Officers may be called upon to give advice on budgetary proposals, wherever they may emanate from (once political confidentiality has been lifted). This is in addition to the "normal" rights that any Councillor has to seek advice "in confidence" from Officers. In addition, Officers may feel it appropriate to offer advice to individuals, groups or all Councillors. In doing so, they should be aware of the need to remain impartial. It is appropriate and indeed, in certain circumstances, necessary that as a matter of professional judgement, if a proposed course of action is imprudent, that Officers should advise the Councillors of the Authority that this is so. It would, however, be for the Officer to decide how and when to do so, subject to the general rules outlined in paragraph 33 below. This is without prejudice to issues of legality and financial administration which are covered by specific duties placed on the Chief Finance Officer and Monitoring Officer.

- 37 In view of the need to ensure that the professional integrity of Officers is not impugned, deliberately or inadvertently, the following principles will be applied (although they may be departed from by the Chief Executive, Monitoring Officer or Chief Financial Officer as and when appropriate given their specific statutory duties):
- 37.1 any advice or information provided to any Councillor(s) in writing will be marked 'strictly confidential, signed and dated by the responsible Officer
 - 37.2 occasionally, such advice / information will be provided to the Group Leaders,
 - 37.3 Group Leaders and Councillors who received such advice will treat such advice as strictly confidential to the Council and will ensure that, such advice is not further disseminated without approval of the Monitoring Officer. If such advice is further shared or disseminated within their groups, their groups understand that the advice is confidential to the Council and not to be disclosed further under any circumstances
 - 37.4 Officers will also provide, as appropriate, briefings for either Group Leaders and/or all Councillors as requested by the Group Leaders and/or determined by the Chief Executive, Chief Finance Officer and/or Monitoring Officer prior to the Budget on any particular issues or matters which those Officers, as a matter of professional judgement, consider should properly be drawn to Councillors' attention.
- 38 The over-riding obligation will be to ensure that the integrity of the administration of public affairs is maintained. The prime responsibility of Officers in the matter of any challengeable decision arises in advising Councillors before decisions are reached. It is incumbent, in these circumstances, for Councillors to be fully advised on the legal and financial consequences of any proposed course of action.
- 39 It must not be assumed by any party group or Councillor that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.
- 40 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

The Relationship: Officer Support: Committee Chairs

- 41 It is clearly important that there should be a close working relationship between Committee Chairs and Officers who support and/or interact with them. Officers and Councillors should in accordance with best practice, meet to discuss agendas and reports in advance of agendas being published.

- 42 However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Councillors and other party groups.
- 43 Whilst Committee Chairs will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a professional duty to submit a report. Similarly, a Head of Service or other senior Officer will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between a Committee Chair and a Head of Service in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.
- 44 Committee Chairs and Vice Chairs will:
- 43.1 lead the policy formation process with input and advice from Scrutiny Committees and any other persons as appropriate
 - 43.2 lead the preparation of the Council's budget
 - 43.3 take in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Full Council; and
 - 43.4 be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 45 Where functions are delegated to Officers, Committees will nevertheless remain accountable to the Council for the discharge of those functions.
- 46 Committee Chairs must satisfy themselves that they are clear what exactly they can and cannot do.
- 47 The Council has put in place mechanisms / protocols which ensure that its Committees and Sub-Committees seek advice from relevant Officers before taking a decision. This includes taking legal advice, financial advice and professional officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is doubt about vires.
- 48 Guidance has been provided for all Councillors regarding discussions with potential tenderers / contractors / sub-contractors during the course of a procurement exercise.
- 49 Councillors should always be aware of legal and financial liabilities (consulting the Monitoring Officer and Chief Finance Officer as appropriate) which will arise from their decisions. To ensure effective leadership for the Council and the communities it serves, there are

arrangements to ensure co-ordination of and sharing responsibility for decisions including those made by individuals.

- 50 Officers will continue to work for and serve the local authority as a whole.
- 51 Councillors must respect the political neutrality of the Officers. Officers must ensure that, even when they are predominantly supporting the Committee Chairs, that their political neutrality is not compromised.
- 52 In organising support for Councillors, there is a potential for tension between Directors/Senior Officers and Committee Chairs. All Councillors and Officers need to be constantly aware of the possibility of such tensions arising and both Officers and Councillors need to work together to avoid such tensions and conflicts existing or being perceived.

The Relationship: Officer Support

- 53 In relation to the actions of Councillors or Officers, this is the Chief Executive's function alone in relation to staff, and the Monitoring Officer's and Audit and Governance Committee as regards the conduct of Councillors. This means:
 - 52.1 Committee questioning should not be directed to the conduct of individuals, and should be about the sense of establishing the facts about what occurred in the making of decisions or implementing of Council policies, but without the implication of allocating criticism or blame.
- 54 Complaints by individuals (Councillors, Officers or members of the public) should be dealt with through the correct procedures. These are internal, e.g. the Corporate Complaints Procedure, and external / statutory, e.g. Local Government Ombudsman or appeal to the Courts
- 55 It would be unfair to invite someone to appear before a Panel without telling them in general terms what they will be asked, or not giving them adequate time to prepare. Committees ought to provide written questions (or indicative topics) beforehand, so that the answers can form the basis of the questioning and discussion. In addition, speakers ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the body had previously indicated.
- 56 Committees are, however, entitled to the following:
 - 56.1 the level and extent of questioning, and the depth to which Councillors may probe Officers is dependent upon the seniority of the Officers present – accordingly when calling Officers to give evidence, Councillors may wish to consider the level and nature of the Officer they wish to have before them in the light of the line of questioning they wish to follow
 - 56.2 Officers may be asked to give a professional opinion, and Officers may be asked to give alternative options. Officers may not confine themselves solely to justifying either the position of or the advice

that they gave to the Committee, although in giving options, it is to be expected that they will explain the rationale for the advice that they gave and if the advice given to the Committee reflects, in their professional opinion, the best option, to justify that

- 57 Officers are expected:
- 57.1 to maintain political impartiality at all times when commenting on policies and actions
 - 57.2 to be prepared to explain and justify advice given to Councillors, and the Council prior to decisions being taken and to justify decisions they themselves have taken under the Scheme of Delegation
 - 57.3 to ensure that an Officer of sufficient seniority appears before the relevant meeting
 - 57.4 where requested to provide information e.g. on alternative options. to provide that information in a comprehensive and timely fashion
 - 57.5 to respond to questions from Councillors in an open, constructive and helpful manner
 - 57.6 not to mislead or be economical with the truth.

Support Services to Councillors and Party Groups

- 58 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photo-copying, transport etc.) to Councillors is to assist them in discharging their role as Councillors. 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.

Councillors' Access to Information and to Council Documents

- 59 Councillors have the ability to ask for information pursuant to their legal rights to information. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Councillor. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Head of Service or another senior Officer of the Service concerned. Requests for employee related information (whether group of employees or individual employees) must be treated in accordance with paragraphs 5.8 to 5.10 above. In cases of doubt, Councillors should approach the Monitoring Officer for assistance.
- 60 As regards the legal rights of Councillors to inspect Council documents, these are covered partly by statute and partly by the common law.
- 61 Councillors will find set out in [Appendix](#) guidance on their rights to obtain information. The law in this area is complex, legislation including the

Access to Information provisions of the Local Government Act 1972, the Data Protection Act 2018, Human Rights Act 1998 as well as the Local Government Act 2000 have all had an impact. However, the Freedom of Information Act 2000 will have an even greater impact, and could potentially provide Councillors with a single route through which to obtain information in support of their work, whatever their role within the authority. The guidance note set out in [Appendix](#) maps the hierarchy of rights of Councillors to information, but should be read in combination with the contents of the Constitution, most particularly the Access to Information Procedure Rules in **Chapter 3 Part 2**~~Error! Reference source not found.~~, which cover the statutory obligations of the authority in terms of information and its relationship with the decision-making process.

- 62 Finally, any information provided by the Council to a Councillor is deemed to be information provided in confidence, is subject to the protections afforded by the Data Protection Act and GDPR and must only be used by the Councillor for the purpose for which it was provided, i.e. in connection with the proper performance of the Councillor's duties as a member of the Council. Therefore, for example, early drafts of Committee reports / briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied. This point is emphasised in Councillors' Code of Conduct.
- 63 Failure to observe this obligation or disclosure of confidential information may amount to a breach of the Code of Conduct. Failure to safeguard and protect the confidentiality of personal information within the meaning of the Data Protection Act 2018 may result in prosecution of the Authority and / or any individual Officer or Councillor by the Information Commissioner and the imposition of significant monetary penalties.

Correspondence and Advice

- 64 Councillors seeking advice from officers shall be entitled to assume that such advice is given under "Chatham House rules" in terms of disclosure to other Councillors, unless otherwise agreed with the officer(s) concerned, i.e. it is not for further disclosure.
- 65 Correspondence between an individual Councillor and an Officer should not normally be copied (by the Officer) to any other Councillor. In other words, a system of "silent or blind copies" should not be employed.
- 66 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Councillor. It may be appropriate in certain limited circumstances (e.g., representations to a Government Minister) for a letter to appear in the name of a Committee Chair or the Leader or the Leaders of all political groups represented on the Council by agreement, but this should be the exception rather than the norm. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor.

- 67 Correspondence received by Democratic Services from the public with a request that it is either copied to Councillors and/or forwarded to Councillors will, subject to any over-riding legal considerations, be forwarded / copied.
- 68 Officers responding to Councillors' queries should do so in a timely manner, and in accordance with the agreed standards for replying to letters and emails from Councillors.

Publicity and Press Releases

- 69 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Authority, explaining its objectives and policies to the electors and rate-payers. In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council's activities is to be welcomed.
- 70 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that Council decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a [Code of Recommended Practice on Local Authority Publicity](#). The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government.
- 71 Officers and Councillors will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, Officers and/or Councillors should initially seek advice from the Head of Communications who will refer the matter to the Monitoring Officer if necessary / appropriate. Particular care should be paid to any publicity used by the Council around the time of an election. Particular advice will be given on this by the Monitoring Officer.

Involvement of Ward Councillors

- 72 Whenever a public meeting is organised by the Council to consider a local issue, all the Councillors 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. More generally, Officers should consider whether other policy or briefing papers, or other topics being discussed with a Committee Chair, should be discussed with relevant Ward Members.

Conclusion

- 73 Mutual understanding, openness on these sorts of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Councillors and Officers.

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Chapter 4 – Part 4

COUNCILLORS' PLANNING CODE OF CONDUCT

BASED ON THE LAWYERS IN LOCAL GOVERNMENT MODEL

Background

The Councillors' Planning Code of Good Practice was originally prepared in response to a series of successful court challenges against local planning authorities concerning Councillors' conduct or conflicts of interests.

This 2014 update takes into account the update to the Seven Principles of Public Life (the 'Nolan principles') and commentary from the Committee on standards in public life, the changes in the approach to codes of conduct and also to predetermination introduced by the Localism Act 2011 and the guide on 'Openness and transparency on personal interests' published by the Department for Communities and Local Government in 2013.

For further reading please refer to [Probity in planning: Advice for councillors and officers making planning decisions | Local Government Association](#) .

Introduction

The aim of this Code: to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

One of the key purposes of the planning system is to regulate the development and use of land in the public interest. **Your role as a Member of the Planning Authority is** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

When the Code applies: this code applies to Councillors at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.

1. Relationship to the Councillors' Code of Conduct

- **Do** apply the rules in the Councillors' Code of Conduct first, which must always be complied with. This is both the rules on Disclosable Pecuniary Interests (DPIs) and any other interests, and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- **Do** then apply the rules in this Councillors' Planning Code, which seek to explain and supplement the Councillors' Code of Conduct and the law on decision making for the purposes of planning control. If you do not abide by this Councillors' Planning Code, you may put:
 - the Council at risk of proceedings on the legality of the related decision or maladministration; and
 - yourself at risk of being named in a report made to the Council or, if the failure is also likely to be a breach of the DPI provisions of Localism Act 2011, a complaint being made to the police to consider criminal proceedings.

2. Development Proposals and Personal Interests

- **Do** disclose the existence and nature of your interest as required by your Authority's Councillor Code of Conduct.
- **Do take into account when approaching a decision** that the Principle of Integrity is defined in terms that

*"Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships**".*

It is therefore advisable that you:

- **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a DPI or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Councillors when other members of the public would not have the same opportunity to do so.
- **Do** note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that your role as a councillor may place additional limitations on you in representing the proposal in which you have a personal interest.

- **Do** notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary interest or other personal conflict of interest and note that:
 - you should send the notification no later than submission of any planning application where you can;
 - the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers;
 - you must not get involved in the processing of the application; and
 - it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.

3. **Fettering Discretion in the Planning Process**

(natural justice, predisposition and predetermination)

- **Don't** fetter your discretion by approaching the decision with a closed mind.
- **Do** be aware that in your role as an elected Councillor you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011 that purely making a general comment, without more, is unlikely to be taken as having a closed mind.
- **Do** keep at the front of your mind that, when you come to make the decision, you
 - are entitled to have and to have expressed your own views on the matter,
 - provided that you are prepared to reconsider your position in the light of all the evidence and arguments;
 - must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice as well as the arguments from all sides;
 - are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a Councillor, in giving fair consideration to points raised;
 - are only entitled to take account material considerations and must disregard considerations irrelevant to the question and legal context at hand; and
 - are to come to a decision after giving what you feel is the right weight to those material considerations.
- **Do** be aware that you can be biased where the Council is the landowner, developer or applicant if you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or

advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)

- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a district/borough and county councillor), provided:
 - the proposal does not substantially affect the well-being or financial standing of the consultee body;
 - you make it clear to the consultee body that:
- your views are expressed on the limited information before you only;
 - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
 - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.
- **Do** explain where you do not intend to speak and vote as a member of the Committee because you may be perceived as having pre-judged the matter or alternatively you reserve the right to judge the matter elsewhere, so that this may be recorded in the minutes. (*Use the disclosure form provided for disclosing interests.*)
- **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Councillor (**where this is granted by the authority's standing orders or by the consent from the Chair and Committee**) where you have represented your views or those of local electors and fettered your discretion, but do not have a disclosable or other personal conflict of interest. Where you do:
 - advise the proper officer or Chair that you wish to speak in this capacity before commencement of the item;
 - remove yourself from the seating area for members of the Committee for the duration of that item; and
 - ensure that your actions are recorded.

4. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should not seek to arrange that meeting yourself – you should ask the Development Control Manager to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, they will ensure that the meeting is properly

recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

- **Do** otherwise:
 - follow the Authority's rules on lobbying;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - report to the Development Control Manager any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition in respect of presentations by applicants/developers:

- **Don't** attend a planning presentation without requesting an officer to be present.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee.
- **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Councillors would intend to vote at a committee.

5. Lobbying of Councillors

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to make any sort of promise to vote one way or another or such a firm point of view that it amounts to the same thing.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum value, its acceptance is declared as soon as possible, including its addition to your register of interests where relevant.
- **Do** copy or pass on any lobbying correspondence you receive to the Development Control Manager at the earliest opportunity.
- **Do** promptly refer to the Development Control Manager any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers

of gifts or hospitality), who will in turn advise the appropriate officers to follow up the matter.

- **Do** note that, unless you have a DPI or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code through:
 - listening or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Councillors or appropriate officers (making clear that you must keep an open mind when it comes to making the decision);
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion of others in your role as a Ward Councillor.

6. Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is your intention to openly campaign on the matter and will therefore step away from the Committee when it comes to make any relevant decisions.
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals (such as the Victorian Society, CPRE, Ramblers Association or a local civic society), but you should normally seek to disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal.
- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- **Don't** decide or discuss how to vote on any application at any political group meeting, or lobby any other Councillor to do so. Political Group Meetings should never dictate how Councillors should vote on a planning issue.

7. Site Visits/Inspections

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
 - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.

- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the Ward Councillor(s) who should focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
 - you feel it is essential for you to visit the site other than through attending the official site visit;
 - you have first spoken to the Development Control Manager about your intention to do so and why (which will be recorded on the file); and
 - you can ensure you will comply with these good practice rules on site visits.

8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

9. Officers

- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Development Control Manager, which may be incorporated into any committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

10. Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the Committee.
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** make decisions in accordance with the Council's Development Plan and associated documents and neighbourhood plans unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- **Do** have recorded the reasons for Committee's decision to defer any proposal.
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

11. Training

- **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- [**Do** participate in any annual review of a sample of planning decisions to ensure that Councillors' judgements have been based on proper planning considerations.]

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Chapter 4 – Part 5

Whistleblowing Policy

The Council has a [Whistleblowing Policy](#) in place.

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Chapter 5

Scheme of Councillors' Allowances

The Council has a [Scheme of Councillors' Allowances](#) in place.

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Chapter 6

Glossary

Appropriation – The transfer of land and property between purposes or functions of the Council.

ASDV – Alternative Service Delivery Vehicle.

Award Criteria – The criteria set in order to examine the merits of each Bid, Quote or Tender received. Refer to Evaluation Matrix also.

Bad Debt – A debt becomes bad if it has not been collected within 6 months. Full provision for all bad debts has to be made within the revenue account, but the debt is still pursued until it is either recovered or written off as unrecoverable.

BAFO – Best and Final Offer. This is a procedure to facilitate a final opportunity for Bidders to improve their Bids, which can include price, improvement in quality and/or a value added element.

Balances (Revenue Account) – The accumulated surplus of income over expenditure. Councillors may agree that Balances be used to reduce future Council Tax levels although a minimum level, consistent with prudence and best practice will be maintained. Amounts in excess of that required for day-to-day cash management and to finance working capital can be invested to generate income for the Council.

Best Value – Is the duty to secure continuous improvement in the way services are provided having regard to economy, efficiency and effectiveness.

Bid – A quotation or tender submitted in response to a Request for Quotation or Invitation to Tender issued by the Council.

Bidder – A contractor, supplier, provider or similar who submits a Bid.

Block Provisions – Annual capital allocations within which the value of approved schemes must be contained. Any uncommitted sum at the year-end may be carried forward, subject to agreement of the Chief Finance Officer. Any uncommitted sum which is not justified will be returned to Council balances. Equally, any overspending will be carried forward as the first call on the following year's provision.

The **Budget** – this is the financial expression of the Council's Corporate Plans in the Policy Framework and sets out the allocation of resources to Committees, services and projects, the level of contingency funding, the Council Tax base and Council Tax rate, borrowing limits and capital financing requirements.

Business Case Template – This is a proforma to be completed for all Capital schemes and all significant Revenue proposals. It will provide details on the expected outcomes falling from the proposed investment and identify how the proposal will meet corporate objectives. The template, in a form agreed by the Director of Finance & Customer Services, must include an assessment of the asset or Service consequences, risk and impact on users, and include any differential impact on particular groups or localities. The amount of detail will be proportionate to the value and level of risk.

Capital Approval – The total cost of each provision or scheme rather than the anticipated expenditure in each year. Capital programme provision may be amended by any supplementary estimates or virements.

Capital Expenditure – Expenditure on the purchase, construction or replacement of capital (fixed) assets, such as land, buildings, and major items of plant, equipment or vehicles, or expenditure which adds to the life or value of an existing fixed asset. Finance leases may be capital expenditure.

Capital Programme – The Council's plan of capital projects and spending over future years. Included in this category are the purchase of land and buildings, the erection of new buildings and works, Highway Improvement schemes and design fees (unless the scheme is aborted in which case fees will be charged to revenue), and the acquisition of vehicles and major items of equipment.

Capital Project / Scheme – These terms mean the same thing and are used interchangeably within the Procedure Rules. A project/scheme may be separately identified in the capital programme or be an item within a block provision.

Capital Receipts – Income received from the sale of capital assets and available (subject to rules in legislation or laid down by the Government or CIPFA) to finance new capital expenditure or to repay debt.

Carry-forward – An increase or reduction in a Service's new financial year budget, stemming from either an under or overspend in the previous year. All significant carry-forwards (except for Schools) need the approval of the Chief Finance Officer in consultation with the Chair of the Finance Sub-Committee upon the presentation of a Business Case.

Central Purchasing Body – An organisation (usually a contracting authority as defined in the Public Procurement Legislation) that provides centralised purchasing activities such as awarding contracts for works or the acquisition of supplies and/or services intended for use by other contracting authorities such as local authorities.

Chief Executive – The Chief Executive is the most senior officer in the Council. It is his/her role to support Councillors and to provide leadership for the Council. The Chief Executive is empowered to operate all the services of the Council and except where powers, duties and functions are delegated to a councillor decision-making body, to exercise all powers, duties and

functions of the Council, including those delegated to other officers. Every Council has to appoint one of its officers as the Head of Paid Service. The Chief Executive is also the Council's Head of Paid Service.

Chief Finance Officer – has the responsibility under section 151 Local Government Act 1972 for the proper management of the Council's financial affairs and occupies the post of Director of Finance and Customer Services.

CIPFA – the Chartered Institute of Public Finance and Accountancy;

Clear Working Days – a period of one or more working days means a period comprising one or several consecutive periods of 24 hours (excluding weekends and bank holidays) beginning and ending at midnight. A clear day excludes the date of dispatch and date of the meeting.

Commissioning Officer – An officer who is requesting and / or is in need of works, goods or services that will be commissioned/procured under the Contract Procedure Rules.

Commissioning and Procurement Board – a board of Councillors and officers established to ensure a strategic commissioning approach in the Council and that procurement of goods, services and supplies achieves value for money in delivering the Council's corporate strategy and strategic priorities. The Board has detailed Terms of Reference and its activity is overseen by the Audit and Governance Committee.

Concession – Any agreement between the Council and one or more parties (which may be procured under the Concession Contracts Regulations 2016) and which may include:

- The carrying out of works for the Council, in return for the right to exploit the works that are the subject of the contract with or without payment
- The delivery of services to the Council, in return for the right to exploit the services that are the subject of the contract with or without payment.

Confidential information – information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order, or by virtue of any enactment as defined in the Access to Information Rules in **Chapter 3 Section 2** of the Constitution.

Contingencies – Sums set aside to meet either:

- the potential costs of activities expected to occur during the year over and above those costs included in Service budgets (pay and price contingency); or
- items which are difficult to predict in terms of financial impact or timing (contingency for uncertain items).

Contract – A legally enforceable agreement to supply goods, services or works for a price. A contract is normally in writing however a contractual arrangement may be entered into orally.

Contract Manager – An Officer of the Council (or in the case of a Contract where the service/goods/works are procured on behalf of another organisation an officer of that organisation) who has day to day responsibility for overseeing the delivery of the Contract requirements by the provider and recording the performance of the provider against the performance criteria set out in the Contract.

Contractor – Any person or organisation awarded a Contract. This includes any consultant appointed by the Council to advise on any project.

Corporate Leadership Team – The officer management arrangements for the Council are overseen by a Corporate Leadership Team comprising the Chief Executive, Executive Directors for Place, People and Corporate Services, the Strategic Director of Adult Services, the Director of Children's Services, the Monitoring Officer and Chief Finance Officer. Each member of the Corporate Leadership Team is accountable to the Chief Executive for leading the Services within his or her area of responsibility and ensuring that the Services are managed in accordance with the objectives, plans, policies, programmes, budgets and processes of the Council.

Corporate Procurement Unit (CPU) /Procurement – The corporate procurement unit is the department responsible for procurement activity within the Council.

Councillors – Also known as Members, Councillors are elected to represent the 52 Wards in the Council's area. They are elected every four years. They are directly accountable to citizens for the running of the Council. They have a duty to represent all constituents in their Ward and they must make decisions in the best interests of the Borough as a whole.

CPU – Corporate Procurement Unit is the unit responsible for procurement activity within the Council.

Dynamic Purchasing System is similar to a Framework Agreement; however, the ability for providers to become party to the system and to be eligible to bid for Contracts awarded under it, remains open throughout its life.

Earmarked Reserves – These reserves represent monies set aside that can only be used for a specific use or purpose.

Electronic Tendering Portal (E-tendering Portal) – A system for the issue and receipt of electronic tenders and quotations as designated by the Executive Director (Corporate Services).

Evaluation Matrix – A document setting out the Award Criteria and weightings for a procurement process which reflect what is material to the

award of a particular Contract and its importance. This document will be updated to capture scores during the evaluation of Bids.

Evaluation Panel – A group of Officers set up to undertake the evaluation of Bids. The number of Officers and relevant disciplines required will vary for each procurement.

Executive Director (or delegated representative) – The Chief Executive or any Director of the Council to whom there has been specific delegation by the Council a Committee or in writing by the Chief Executive.

Exempt information – information that is not available for disclosure to the public as defined by Schedule 12A of the 1972 Act and the Access to Information Rules in **Chapter 3 Section 2** of the Constitution;

Fiduciary Duty – a duty placed upon officers and Councillors to utilise the Council's resources wisely and balance the interests of the persons providing the Councils money and resources (such as council tax or business rate payers) against the interests of those who would benefit from expenditure or use of resources, taking into consideration appropriate risks.

Finance Leases – Most of the risks and rewards associated with ownership are transferred to the lessee (responsibility for maintenance, insurance etc. will fall to the Council).

Financial Schemes of Delegation – Financial Schemes of Delegation are the documents that set out, for each Service, all specific financial authorisations and approval limits as delegated by the Heads of Service to Authorised Officers within their Service. Heads of Service are responsible for maintaining up to date and accurate Financial Schemes of Delegation.

Financial Year – The Council's accounting period covers the 12 months from April 1 to March 31.

Framework Agreement – Any agreement between one or more contracting authorities and one or more providers, that establishes defined terms governing contracts to be awarded during a given period for:

- the carrying out of works
- the purchase, leasing or hiring of goods or materials
- the delivery of services

Forward Plan – As defined in the Constitution, the Forward Plan is a public document which is prepared and published by the Leader of the Council, as set out in **Chapter 3 Part 2**.

Full Council – Means all 82 elected Members of the Council.

Group – two or more Councillors who notify the Head of Paid Service that they have formed a group

Head of Paid Service – See *Chief Executive*. The Officer who may report to Full Council on staffing requirements pursuant to Section 4 Local Government and Housing Act 1989.

Internal Control – A procedural system designed to manage risk to an acceptable level whereby different staff members perform different parts of a task, so that no one person is entirely responsible for processing a transaction from start to finish.

Invitation to Tender (ITT) – Refers to an invitation to providers to submit tenders for Contracts to provide goods, services or works valued at or above the Public Procurement Threshold.

Leader or (Leader of the Council) – The Leader is elected by the Full Council.

Leases – Agreements covering the hire/rental of equipment or buildings, generally for a specified period of time and at a specified rate. There are two types of leases; Finance leases and Operating Leases (see this Glossary).

Monitoring Officer – The Monitoring Officer is appointed in accordance with Section 5 of the Local Government and Housing Act 1989 and is responsible for supporting and advising the Council in relation to the lawfulness and fairness of the decision making of the Council, the Council's compliance with its legal responsibilities and requirements, matters relating to the conduct of elected Councillors and Local Government and Social Care Ombudsman complaints.

Officers – Officers are employees and office holders who support Councillors in providing advice, implementing decisions and managing the day to day delivery of Council Services.

Operating Leases – Where the risks and rewards of ownership remain with the lessor.

Option Appraisal/Business Case – This is required for all Capital schemes and all significant revenue proposals and takes the form of a Business Case Template. This will be used to assess whether the scheme is affordable and deliverable. Consequences to the Service are considered and evaluated and it will also provide a basis for monitoring and reporting progress. In the case of revenue proposals, it will also take into account the risk and impact on users.

Political balance – rules which require the Council to allocate seats on committees in accordance with the proportion of councillors from different political groups represented on the Council as a whole – unless no Councillor votes against, under the Local Government and Housing Act 1989 and Local Government (Committees and Political Groups) Regulations 1990/1553.

Politically Restricted Post (PoRP) – officers holding these posts cannot have any active political role and are prohibited from: standing for office as local councillors, MPs; canvassing on behalf of a political party or a person

who is, or seeks to be, a candidate; and speaking to the public at large or publishing any written or artistic work that could give the impression that they are advocating support for a political party.

Procurement Manager – The manager of the CPU and his/her delegated representatives unless otherwise instructed.

Procurement Officer or Procuring Officer – An Officer of the CPU who shall undertake the appropriate procurement activities to provide the Commissioning Officer with their requirements.

Project Board – A group of senior officers, led by the Senior Responsible Owner (SRO) who are accountable for the success of a Project and represent specific business, user and supplier interests. More information on the make-up and operation of a Project Board can be found in the Project Management Handbook which is published and maintained by the Authority’s Programme Management Office.

Project Gateway process – A series of control measures put in place to ensure that all projects are instigated, approved, managed and delivered effectively. The Project Gateway process is overseen by the S151 Officer and described in detail in the Project Management Handbook.

Proper Officer – An officer designated in the Proper Officer Register in **Chapter 2 Part 5** to undertake certain functions required by law.

Provision – An amount set aside by the Authority for any liabilities of uncertain amount or timing that have been incurred. The main category is estimates of liabilities or losses already incurred but whose exact amount will be determined in the future (e.g. bad debts, obsolete stock).

Prudential Borrowing Limits – The maximum amount of borrowing that the Council can enter into at any one point in time during the year. This limit is set by Council prior to the start of the year to which it relates and cannot be breached under any circumstances.

Public Procurement Legislation – Legislation which regulates the purchasing by public sector bodies and certain utility sector bodies of contracts for goods, works or services. The law is designed to open up the public procurement market to competition and to promote the free movement of goods, services and works.

Public Procurement Threshold – The financial thresholds above which the Public Contracts Regulations apply to a proposed Contract. The Thresholds are updated every two years, with the next update being in January 2022. The Thresholds are summarised below:

	Supply, Services¹ and Design Contracts	Works Contracts²	Social and Other Specific Services³
Other public sector Contracting authorities	£189,330	£4,733,252	£663,540

	(€214,000)	(€5,350,000)	(€750,000)
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¹ With the exception of the following services which have different thresholds or are exempt:

- Social and other specific services (subject to the light touch regime) Article 74
- Subsidised services contracts specified under Article 13
- Research and development services under Article 14 (specified CPV codes are exempt).

² With the exception of subsidised works contracts specified under Article 13.

³ As per Article 74. Services are listed in Annex XIV.

Revenue Account – An Account which sets out the Council’s income and expenditure for the year for non-capital spending.

Revenue Expenditure – Spending on the day-to-day running expenses of the Council. It includes expenditure on employees, premises, transport and supplies and services.

Request for Quotation – An invitation to providers to submit quotations for Contracts to provide goods, services or works valued between £25,000 and the relevant Public Procurement Threshold

Ring Fencing – Certain budgets agreed by the Chief Finance Officer are "ring-fenced". This means that under-spends on these budgets will return to balances and overspends will be met centrally. This is to reflect the fact that certain items of expenditure are either demand-led or so significantly influenced by extraneous factors that they are beyond the direct control of managers. Ring-fenced budgets include planning levies, external audit fees some public health grants and election expenses.

Schemes of Delegation – Schemes of Delegation are the documents that set out, for each Service, all authorisations and approval limits as delegated by the Heads of Service to Authorised Officers within their Service. Heads of Service are responsible for maintaining up to date and accurate Schemes of Delegation. (See also: Financial Schemes of Delegation)

Scrutiny – Scrutiny provides an opportunity for members of the Council to examine the way in which the Council provides its services, by questioning how and why decisions are made, and by making recommendations on existing and future Council policies, primarily focussed on Health and Wellbeing, Flood Risk Management and Crime and Disorder.

Section 151 Officer (Chief Finance Officer) – The financial adviser to the Council, Committees, Sub-Committees and Officers and the Authority’s ‘responsible financial officer’ under relevant legislation who is responsible for

the proper administration of the Council's financial affairs and occupies the post of Director of Finance and Customer Services.

Service Plan – A plan which outlines measurable Service aims for the year ahead, encompassing both core purpose and specific key objectives for any given year. The Plan will consider both inputs and outputs.

Social Value – The duty under the Public Services (Social Value) Act 2012 to have regard before a procurement as to how what may be commissioned or procured will improve the economic, social and environmental wellbeing of the area.

Sub-Committee – a body of Councillors who may be drawn from the parent committee and wider Council membership and may also include non-councillors as co-optees that will report on its work to the parent committee and may make recommendations for action. Advisory sub-committees may allow co-optees to vote, but rules under the Local Government and Housing Act 1989 generally prevent co-optees from voting. Advice on the status and voting rights of sub-committee members can be provided by the Monitoring Officer or the Head of Democratic Services and Governance.

Supplementary Estimate – An approved increase to a Service revenue or capital budget during the financial year, funded centrally from reserves, contingencies or external funding sources such as grants or partner contributions, developer contributions, receipts or government grant.

Statutory Officers – Means the Head of Paid Service, the Monitoring Officer the Chief Finance Officer, the Director of Adult Services, Director of Children's Services and the Director of Public Health.

Statutory Protected Officers – Means the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer.

Third Party Fund(s) – Funds provided by outside bodies or individuals in support of Council activities, establishments or clients. Can sometimes be known as trust funds.

Underspend – An underspend results when the net costs of a budget holder are lower than the net budget for the year.

Virement – A transfer of amounts from one budget heading to another within, or between, Heads of Service or changes to Capital budgets funded from within the existing Capital programme.

Verifying Officer – an Officer who will confirm that the Form of Tender is signed and that terms and conditions are agreed by all providers. They may be an Officer of the CPU or Legal Services.

Waiver – A process whereby approval may be granted to disregard some of the Procedure Rules or the requirements of competition.

Note that:

- Copies of Acts, Orders and Regulations are available at: legislation.gov.uk
- Note that any reference in this Constitution to legislation that is repealed and re-enacted is to the subsequent legislation that replaced it (in accordance with section 17 Interpretation Act 1978).

Chapter 7

List of Associated Documents

This Constitution contains references to a number of documents that are not reproduced in full within it, but which can be accessed electronically from it via hyperlinks to the necessary content.

These hyperlinked documents are listed below, together with their status³ and ownership:

Tier 1

Document	Owned by	Page
Local Ward Member Protocol ⁴	Corporate Policy Committee	
Scheme of Councillors' Allowances	Council	

Tier 2

Document	Owned by	Page
Job Description of Committee Chairs	Corporate Policy Committee	
Whistleblowing Policy	Audit and Governance Committee	
Planning Protocol of Conduct in relation to the Determination of Planning Matters	Strategic Planning Board	
Protocol on Public Speaking Rights at Strategic Planning Board and Planning Committees	Strategic Planning Board	
Mayoralty Code of Practice	Corporate Policy Committee	

³ These hyperlinked documents have been given a status, as set out below:

Tier 1 links are links which take readers to documents which are required to be part of the Constitution and will need to be updated from time to time but which are self-standing.

Tier 2 links are links which take readers to documents which support the Constitution but are not required legally to be part of it – sometimes referred to as "ancillary documents".

Tier 3 links are links which take readers to documents completely outside the Constitution and possibly outside the Council itself but where it is useful to signpost readers to a particular source.

⁴ Although not required by law, this is being treated as a Tier 1 Hyperlink.

List of Associated Documents

Tier 3

Document	Owned by	Page
Election Schedule	The Council	
List of Council Wards	The Council	
List of Councillors	The Council	
Political Composition of the Council	The Council	
Register of Members' Interests	Democratic Services	
Council Senior Management Structure	Chief Executive	
Complaint Form	Chief Executive	
Ombudsman Complaint Form	Chief Executive	
Forward Plan	Democratic Services	
Local and Regional Organisations	Chief Executive	
Specific Delegation Register	Monitoring Officer	
IDC Handbook	Monitoring Officer	
Governance, Risk and Control	Executive Director (Corporate Services)	
Financial Reporting	Executive Director (Corporate Services)	
Accountability Arrangements	Executive Director (Corporate Services)	
Complaints	Executive Director (Corporate Services)	
Ombudsman	Executive Director (Corporate Services)	
Cheshire Police and Crime Panel Terms of Reference	Cheshire Police and Crime Panel	

List of Associated Documents

Cheshire Fire Authority Terms of Reference	Cheshire Fire Authority	
Proper Officer Register	Chief Executive	
List of Local Schemes of Delegation	Monitoring Officer	
Joint Scrutiny Protocol	Corporate Scrutiny Committee	
ASDV Framework	Executive Director (Corporate Services)	
Social Value Policy	Chief Executive	
List of Dispensations	Chief Executive	
Declaration of Interests Form	Chief Executive	
External gifts / Hospitality / Sponsorship Form	Chief Executive	
Reimbursement of Costs Form	Chief Executive	
Register of Politically Restricted Postholders	Democratic Services	

Add: Roles and responsibilities of Councillors and Chairs in the committee system