

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting:	20 th September 2012
Report of:	Borough Solicitor
Subject/Title:	Review of the Planning Protocol of Conduct and the Planning Public Speaking Protocol

1.0 Report Summary

1.1 This report advises Members of the need to review the Council's existing Planning Protocol and Planning Public Speaking Protocol following the adoption of the new Code of Conduct by Cheshire East Council in July 2012 and the amendments to the rules on pre-determination as a result of the provisions in the Localism Act 2011.

2.0 Recommendation

2.1 That, having regard to any comments made by the Strategic Planning Board on 12th September, the Committee approve the proposed amendments to the Council's Planning Protocol of Conduct and Planning Public Speaking Protocol and, subject to any further comments by the Audit and Governance Committee, recommend their adoption by Council.

2.2 Reasons for Recommendations

3.1 It is essential that the Council's existing practice and procedures are not inconsistent with any of the provisions in the new Code.

3.0 Wards Affected

4.1 All

5.0 Local Ward Members

5.1 All

6.0 Policy Implications

6.1 Strong Ethical Governance, including clear policies and protocols supporting and underpinning the Code of Conduct, are critical for the corporate governance of the Council and for public confidence in the Council's decision making processes.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

- 7.1 There are no obvious financial implications

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The Localism Act 2011 is being implemented over a phased period of time. The provisions in relation to the replacement of the current Standards regime were brought into effect from 1st July 2012. The Act requires that the Council not only adopts a Code of Conduct but has in place effective procedures to enable the investigation of any complaints or allegations that a Member has been in breach of the Code of Conduct. The Borough Council remains responsible for investigating any allegations that a Town or Parish Councillor is in breach of their adopted Code of Conduct.

9.0 Risk Management

- 9.1 The Council must have robust processes in place both from a reputational management viewpoint and to safeguard the integrity of the Council's Corporate Governance and Decision making processes as a whole.

10.0 Background and Options

- 10.1 Under the Localism Act 2011 the Council has a statutory duty to promote and maintain high standards of conduct by both its Elected Members and co-opted Members. The Council must adopt a Code of Conduct which sets out the conduct expected of Members whenever they act in their capacity as an Elected Member and must also have in place a suitable procedure at a local level to investigate complaints that a Member is in breach of the new Code of Conduct.
- 10.2 At its meeting on 19 July 2012 Full Council approved the adoption of a new Code of Conduct for Elected Members of Cheshire East Council together with a procedure relating to the investigation of complaints under the new Code.
- 10.3 The new Code of Conduct gives rise to a need to ensure that the Planning Protocols reflect it.

11.0 Planning Protocol and Planning Public Speaking Protocol

- 11.1 Members will be aware that the Council has approved a Planning Protocol which supplements the Member Code of Conduct and sets out guidance and best practice in terms of dealing with Planning issues both as a Member of the Strategic Planning Board and Northern and Southern Planning Committees and as a Ward Member. The Planning Protocol needs to be updated to bring the guidance in line with the new Code of Conduct and to incorporate the provisions in relation to pre determination

as enacted earlier in the year under the Localism Act. The Planning Public Speaking Protocol was also approved by the Council in order to regulate how those wishing to address the Planning Committees may do so. Amendments are required in order to bring it into line with the amended Planning Protocol.

11..2 The amended Planning Protocol is set out at Appendix 1 and the amended Planning Public Speaking Protocol is set out at Appendix 2. Following consideration by both the Strategic Planning Board on 12th September and the Constitution Committee at this meeting, they will be considered by the Audit and Governance Committee at its meeting on the 27th September 2012 as that Committee now has responsibility for Code of Conduct issues and any comments from the SPB and Constitution Committee will be reported to that meeting for Members' information. Members of the Northern and Southern Planning Committees have also been made aware of the process to enable them to input into the process if they wish to do so. Members are requested to recommend to Council the adoption of the amended Planning Protocol of Conduct and the Planning Public Speaking Protocol.

11.3 The main amendments set out in the Planning Protocol are as follows :

- The description of hospitality is amended in line with Code of Conduct for Members.
- Reference is made to Disclosable Pecuniary Interests and the requirement to register/declare them.
- Reference is made to Non Pecuniary Interests which although not specified in the Code of Conduct for Members should be declared.
- The amended Protocol makes it clear that if a member has a Disclosable Pecuniary Interest in a proposal they may neither take part in the debate or vote, nor exercise public speaking rights and must leave the planning meeting when the relevant item is announced.
- There is a reminder that it is a criminal offence to fail to declare or register a Disclosable Pecuniary Interest or to take part in a debate or vote where such an interest exists.
- The amended Protocol makes it clear that if a member has a Non Pecuniary Interest arising from a close association or connection then they should not take part in the debate or vote.
- The Protocol's provisions on pre determination are up dated in line with the Localism Act 2011 and request that members leave a planning meeting where they have pre determined.
- Notifications to (and responsibilities of) the Head of Planning and Housing are now to the Development Management and Building Control Manager abbreviated to DMBCM.

11.4 The main amendments to the Planning Public Speaking protocol are set out below:

- To extend public speaking to matters other than planning applications, for example variations of planning obligations.

- To remind members that they need to register their intention to speak even if they have called in an application.
- To clarify when members may or may not speak when they have declared an interest.
- To provide that visiting members may speak for three minutes and may be asked questions through the chair.

12.0 **Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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