

15 March 2024

Our Ref Standards Committee 27 March 2024
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To: The Chair and Members of the Standards Committee of North Hertfordshire District Council

District Councillors Ruth Brown (Chair), Ian Albert (Vice-Chair), Raj Bhakar, Clare Billing, Cathy Brownjohn, Val Bryant, Juan Cowell, Dominic Griffiths, Gerald Morris, Ralph Muncer, Sean Prendergast, Richard Thake and Alistair Willoughby.

Substitutes: Councillors James Denselow, Faye S Frost, David Levett, Nigel Mason and Amy Allen.

Parish Councillors Parish Councillor Rebecca Elliott and Parish Councillor Martin Griffin (Co-opted non-voting Members).

Independent Persons (Non Voting) Nicholas Moss OBE (Independent Person)
Peter Chapman and John Richardson (Reserve – Independent Person) – advisory roles.

NOTICE IS HEREBY GIVEN OF A

MEETING OF THE STANDARDS COMMITTEE

to be held in the

**COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES,
LETCWORTH GARDEN CITY**

On

WEDNESDAY, 27TH MARCH, 2024 AT 7.30 PM

Yours sincerely,

Jeanette Thompson
Service Director – Legal and Community

****MEMBERS PLEASE ENSURE THAT YOU DOWNLOAD ALL AGENDAS AND REPORTS VIA THE MOD.GOV APPLICATION ON YOUR TABLET BEFORE ATTENDING THE MEETING****

Agenda **Part I**

Item	Page
<p>1. APOLOGIES FOR ABSENCE Members are required to notify any substitutions by midday on the day of the meeting.</p> <p>Late substitutions will not be accepted and Members attending as a substitute without having given the due notice will not be able to take part in the meeting.</p>	
<p>2. MINUTES - 1 NOVEMBER 2023 To take as read and approve as a true record the minutes of the meeting of the Committee held on the 1 November 2023.</p>	<p>(Pages 5 - 8)</p>
<p>3. NOTIFICATION OF OTHER BUSINESS Members should notify the Chair of other business which they wish to be discussed at the end of either Part I or Part II business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency.</p> <p>The Chair will decide whether any item(s) raised will be considered.</p>	
<p>4. CHAIR'S ANNOUNCEMENTS Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the Chair of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest, wishing to exercise a 'Councillor Speaking Right', must declare this at the same time as the interest, move to the public area before speaking to the item and then must leave the room before the debate and vote.</p>	
<p>5. PUBLIC PARTICIPATION To receive petitions, comments and questions from the public.</p>	
<p>6. STANDARD MATTERS REPORT REPORT OF THE SERVICE DIRECTOR – LEGAL & COMMUNITY/ MONITORING OFFICER</p> <p>To update the Committee on standards issues.</p>	<p>(Pages 9 - 14)</p>

7. MEMBERS PLANNING CODE OF GOOD CONDUCT (Pages
REPORT OF THE SERVICE DIRECTOR – LEGAL & COMMUNITY/ 15 - 26)
MONITORING OFFICER

For the Committee to review the updated Lawyers in Local Government Members Planning Code, with a view to recommending adoption of this to Full Council, as a replacement for Section 8 Appendix 1.

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Public Document Pack Agenda Item 2

NORTH HERTFORDSHIRE DISTRICT COUNCIL

STANDARDS COMMITTEE

MEETING HELD IN THE COUNCIL CHAMBERS, DISTRICT COUNCIL OFFICES, GERONON ROAD, LETCHWORTH GARDEN CITY, SG6 3JF
ON WEDNESDAY, 1ST NOVEMBER, 2023 AT 7.30 PM

MINUTES

Present: *Councillors: Ruth Brown (Chair), Ian Albert (Vice-Chair), Val Bryant, Dominic Griffiths, Ralph Muncer, Sean Prendergast, Amy Allen, Faye Frost and David Levett.*

Parish Councillor Martin Griffin.

Nicholas Moss OBE (Independent Person) non-voting advisory role,

Peter Chapman and John Richardson (Reserve Independent Person), non-voting advisory roles.

In Attendance:

Isabelle Alajooz (Legal Commercial Team Manager and Deputy Monitoring Officer), James Lovegrove (Committee, Member and Scrutiny Manager), Jeanette Thompson (Service Director - Legal and Community) and Sjanel Wickenden (Committee, Member and Scrutiny Officer).

Also Present:

There were no members of the public present.

35 APOLOGIES FOR ABSENCE

Audio recording – 1 minute 23 seconds

Apologies for absence were received from Councillors Alistair Willoughby, Gerald Morris, Raj Bhakar, Cathy Brownjohn, Juan Cowell and Richard Thake.

Having given due notice Councillor David Levett substituted for Councillor Thake, Councillor Faye Frost substituted for Councillor Morris and Councillor Amy Allen substituted for Councillor Willoughby.

Councillor Clare Billing was absent.

36 MINUTES - 22 MARCH 2023

Audio Recording – 2 minutes 8 seconds

Councillor Ruth Brown, as Chair, proposed and Councillor Ralph Muncer seconded and, following a vote, it was:

RESOLVED: That the Minutes of the Meeting of the Committee held on 22 March 2023 be approved as a true record of the proceedings and be signed by the Chair.

37 NOTIFICATION OF OTHER BUSINESS

Audio recording – 2 minutes 49 seconds

There was no other business notified.

38 CHAIR'S ANNOUNCEMENTS

Audio recording – 2 minutes 52 seconds

- (1) The Chair advised that, in accordance with Council policy this meeting would be audio recorded.
- (2) The Chair drew attention to the item on the agenda front pages regarding Declarations of Interest and reminded Members that, in line with the Code of Conduct, any Declarations of Interest needed to be declared immediately prior to the item in question.
- (3) The Chair advised for the purpose of clarification Clause 4.8.23(a) of the Constitution does not apply to this meeting.

39 PUBLIC PARTICIPATION

Audio recording – 3 minutes 39 seconds

There was no public participation at this meeting.

40 STANDARDS MATTERS REPORT

Audio recording – 3 minutes 43 seconds

The Monitoring Officer presented the report entitled 'Standards Matters' and highlighted that:

- There had been ten complaints received so far this year, two of these complaints were open and the remaining eight had been completed.
- There was a link at 8.2 of the report to review previously completed complaints.
- The complaint handling procedure was reviewed at the March 23 meeting, no changes were currently being proposed.
- The Local Government and Social Care Ombudsman had launched a consultation of the Code of Practice under the Social Housing Regulation Act 2023 and a link to this consultation was at 8.4 of the report. The results of the consultation if relevant would be brought to the Committee in 2024.
- Virtual Code of Conduct training was provided to new District Councillors and extended to Parish Councillors, with training slides distributed.
- The training for May 2024 was being reviewed with the aim to make it more interactive and accessible.
- A review was scheduled for section 8 of the Constitution and the Planning Code of Good Conduct, however the Lawyers in Local Government were currently reviewing this matter to initiate a national model. When this matter had been revised the proposal would be considered by the Committee for adoption at Full Council.

The following Members asked questions:

- Councillor David Levett
- Councillor Ruth Brown
- Councillor Dominic Griffiths
- Councillor Ralph Muncer

In response to questions the Monitoring Officer stated that:

- If a Councillor had already undertaken safeguarding training and had a valid certificate, this could be submitted as evidence and considered for the safeguarding audit.
- Hertfordshire County Council had different parameters for their Code of Conduct, and all North Hertfordshire District Councillors were required to complete the NHDC Code of Conduct training which followed the LGA model.
- After the election in May 2024 there would be various training modules for Councillors to complete. Work was ongoing to schedule these and make them more interactive.
- If mandatory training was not completed a Councillor would initially be contacted by the Monitoring Officer, or their PA, to resolve the issue. Ultimately, failure to comply with mandatory training was a Code of Conduct breach and therefore, if it could not be resolved, action could be taken. However, this had not been required in recent years.

Councillor Ruth Brown, as Chair, proposed and Councillor Ian Albert seconded and, following a vote, it was:

RESOLVED: That the Committee noted the contents of the report and made suggestions on future actions.

REASON FOR DECISION: To ensure good governance within the Council.

The meeting closed at 7.45 pm

Chair

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TITLE OF REPORT: STANDARDS MATTERS REPORT

REPORT OF: SERVICE DIRECTOR: LEGAL & COMMUNITY / MONITORING OFFICER

COUNCIL PRIORITY: A brighter future together

1. EXECUTIVE SUMMARY

1.1 The report updates Members of the Committee on standards issues locally and nationally. It contains a summary of the complaints received since the last report was presented with as well as any other relevant issues that have arisen between Committee meetings on relevant national issues.

2. RECOMMENDATIONS

That the Committee

- 2.1. notes the content of the report and makes any suggestions on future actions.
- 2.2. delegates to the Monitoring Officer, in consultation with the Chair, Vice Chair any appropriate amendments to the Complaints Handling Procedure – following the publication of the Local Government & Social Care Ombudsman Code (as detailed in 8.3-8.5).
- 2.3. recommends that any Parish, Town and Community Councillors who have been newly elected/ or not undertaken training on the Code of Conduct during the last 12 months, undertakes Code of Conduct training, as supplied by the Council / or LGA within [2] months of their election or co-options, whichever is the later date.

Recommends to Full Council:

- 2.4. that all District Councillors should undertake post, all-out election training on the Code of Conduct within [2] months of their election (or availability of the training) whichever is the later date.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To ensure good governance within the Council.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 None.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 Group Leaders and the Standards Committee Chair is kept informed of Monitoring Officer and standards matters issues monthly, during briefing sessions. The Monitoring Officer also holds quarterly meetings with the Independent Person, Reserve Independent Persons ('IPs') and the Chair and Vice Chair of Committee. Any relevant standards matters comments from the IPs meetings are part of the regular briefings with Group Leaders.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on an Executive key decision and has therefore not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1 Within its terms of reference the Standards Committee has a function “*to promote and maintain high standards of conduct by Members and Co-Opted Members of the authority*”. The Committee will therefore receive update reports from the Monitoring Officer on matters that relate to, or assist with, areas of Member conduct.

8. RELEVANT CONSIDERATIONS

Local

North Hertfordshire complaints/ issues update

Complaints:

- 8.1 The Committee was last updated in November 2023 regarding the numbers of complaints/ summary and outcomes. During the calendar year of January 2023 – December 2023, 11 complaints/ issues been received, 1 after the last meeting. Since January 2024, 4 have been received; of those, 1 is ongoing in so far as the Council’s decision making is concerned. Those reported below, are complaints that have concluded and/ or been received since the November 2023 meeting.
- 8.2 As per normal practice a summary of the complaints and decisions are provided since the last meeting. This reporting below is compliant with the Committee on Standards in Public Life (‘CSPL’) good practice recommendations. Note, where the decision at assessment stage is informal action – the Councillors have not been named. Complaints are considered to be confidential, unless they have reached what will generally be a public stage of the Procedure (i.e. Sub-Committee hearing). The complaints are as follows:

Complaint about: Parish/ Town or District Councillor	Basic summary of complaint	Action <i>NB Independent Person/ R Independent Person involved in all stages of these complaints.</i>
9/2023 complaint against District Councillor.	Alleged lack of respect towards another District Councillor at a council meeting	DMO: did not meet threshold for breach of the Code, therefore, decision: warrants no further action.
10/2023 complaint against District Councillor ongoing.	Alleged comments and behaviour at Planning Control Committee were disrespectful towards an officer.	MO: did not meet the threshold for breach of the Code, therefore decision: warrants no further action.
11/2023 Complaint issue regarding District Councillor	Decision made and potential conflict.	MO: decision informal action. Training to be provided to Councillor within 2 months; rectification of Register of Interests. Latter complete and training arranged for April.

1/2024 Complaint against District Councillor	Treatment of Members and the way the business of the Committee was conducted.	DMO: no apparent breach of the Code, therefore decision no further action.
2/2024 Complaint against District Councillor	See 1/2024.	DMO: no apparent breach of the Code, therefore decision no further action.
3/2024 Complaint against a Parish Councillor – ongoing.	Ongoing.	MO.
4/2024 Complaint against a District Councillor – ongoing.	Alleged unsatisfactory behaviour of Councillor (and officer) at a meeting.	DMO: no further action as out of time in relation to the Councillor complaint. Officer complaint referred internally.

Complaints Handling Procedure – recommendation 2.2:

8.3 In terms of the Complaints Handling Procedure, as the Committee is aware, this was last reviewed in March 2023 and there was an intention to review and present this at this meeting. It was understood, following the November 2023 Standards Committee meeting, that there was an ongoing consultation on a joint Complaints Code launched by the Local Government and Social Care Ombudsman (LGSCO), and that officers would wait until the outcome of that - to see if any areas applied to Councillor complaints and/ or would be appropriate to incorporate during any review.

8.4 The post consultation Code has recently been published in February¹ 2024 and whilst the LGO state on their website that the Code applies from April 2024, they have also set out²:

*“The Code was launched in February 2024. Local councils are encouraged to adopt the Code as soon as they are able to do so. **We intend to start considering the Code as part of our processes from April 2026 at the earliest.** This gives local councils the opportunity to adopt the Code successfully into working practices. During the first two years we will be working with a number of pilot councils to understand the impact of the Code and provide further guidance to the sector...”*

8.5 The Committee should note that the Code and its recommendations will obviously be considered and incorporated into the Council’s overall complaints processes *if appropriate* i.e. “3 C’s” (although the Council’s Customer Services Manager has previously indicated that the Council’s Policy was already compliant with the proposed Code).

8.6 Otherwise, from preliminary consideration, the Councillor Complaints Handling Procedure, also appears to be largely consistent with the Code. However, at this stage, given the recent publication there has been insufficient time to consider how and/or to what extent any amendments can or should be applied to Councillor complaint handling. It is therefore recommended that work will continue after this meeting with the Chair, Vice Chair, Independent Person, and Reserve Independent Persons, with any appropriate amendments being incorporated and notified to the Committee. The formal recommendation 2.2 covers this point.

¹ [Local Government & Social Care Ombudsman Complaint Handling Code April 2024](#)

² [Source: LG&SCO Complaint Handling Code](#)

Councillor training & IP training – recommendation 2.3 -2.4

- 8.7 As indicated at the last Committee meeting, the formatting and approach to training is being reviewed. The aim being to provide an interactive, pre-recorded Code of Conduct session for all Councillors as part of the induction – rather than ‘live’ sessions. The Deputy Monitoring Officer will be looking at putting together a format and this will hopefully be available post-election *on Growzone for District Councillors* to complete. It is also anticipated at this time that this could be made available to local Councils via YouTube – however, this is still being assessed. The Committee should note that the Local Government Association (LGA) is also commissioning training and that this could, subject to their permission, be made available to local Councils once produced. The current LGA commissioning timetable for this, is that the materials will be returned to the LGA by the supplier by 7 June, although it is unclear when this will be made available to the wider LGA membership. For that reason internal options are being explored for District Councillors.
- 8.8 As the Committee is aware, the Council will be undergoing all out elections in May 2024, and it is therefore recommended that training is compulsory for all District Councillors and (as appropriate) for any Parish/ Town/ Community Councillors to complete within 2 months of either their election or the availability of the training, whichever is the latter. The two issues are covered in the recommendations detailed in 2.3-2.4.
- 8.9 The IPs will attend the annual IPs training in April 2024. This was a good opportunity to be updated on national issues and share good practice.

National standards matters

Planning Code of Good Conduct:

- 8.10 This is covered in a separate report.

The Future of Councillor-Officer/ Protocol for Member/ Officer Working Arrangements:

- 8.11 At the tail end of 2023, the Association for Public Service Excellence, ‘APSE’ produced an interesting analysis of the changing dynamics behind the working relationships of Councillors and Officers. APSE denoted that:

“The traditional role of political leaders setting direction and policy, with senior local government officers presenting the operational solutions to implementation, has, in many cases, transformed into much more nuanced, and on occasions, strained relationships. Whilst there remains an overriding respect for each other’s roles, the confines of resource limitations, and regulatory duties, which govern how that political vision can be turned into a legitimate reality, can test the parameters of this traditional arrangement.”

- 8.12 The value in any such report is to recognise that traditional Member/ Officer relations have and are changing. The Committee is therefore invited to consider the APSE’s report and recommendations, and whether it believes that the Council would benefit from further work in this area. This could include a review of the Protocol for Member/ Officer Working Arrangements in the light of this. The recommendations can be found at pages 6-7 of the report [[CLICK HERE](#)].
- *Firstly, political leaders should strive to communicate to officers a clear strategic direction and priorities.*
 - *Secondly, officers and members should meet regularly to discuss officer-member relations and the values and expected behaviours of each party.*

- *Thirdly, and in tandem with the recommendations above, councillors should subscribe to a 'no surprises' policy with officers informing councillors of potential challenges and 'pinch points' in any decisions.*
- *Fourthly, councils should review their inductions programmes for new members and officers, evaluating how far such programmes effectively communicate the expected values and behaviours of officer and elected member.*
- *Fifthly, authorities should also take stock of the formal and informal channels through which officers and members come into contact.*
- *Finally, local authorities should review and re-assess formal governance mechanisms, for whilst the craft or astuteness of officers and elected members is central to everyday working, it is formal governance procedures that ensure the legitimacy of decision-making and the foundations for effective relations over time.*

These are further expanded under the conclusions and recommendations on pages 21-23.

9. LEGAL IMPLICATIONS

- 9.1 The terms of reference of the Standards Committee include, at paragraph 7.5.1 of their terms of reference “to promote and maintain high standards of conduct by Members and Co- Opted Members of the authority”.

10. FINANCIAL IMPLICATIONS

- 10.1 There are no capital or revenue implications arising from the content of this report.

11. RISK IMPLICATIONS

- 11.1 Appropriate policy frameworks help to ensure good governance of the Council and therefore reduce risk of poor practice or unsafe decision making.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. There are no direct equalities implications from this report.
- 12.2 Good governance and high ethical standards of conduct ensure that local government decisions are taken in the public interest. The review of the best practice recommendations and appropriate changes will ensure that NHDC will continue demonstrate due regard to the objectives of the Public Sector Equality duty.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 The Social Value Act and “go local” policy do not apply to this report as this is not a procurement or contract.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1 There are no financial implications to this report.

15. HUMAN RESOURCE IMPLICATIONS

15.1 None other than again highlighting the ongoing resource implications for the complaints received.

16. APPENDICES

16.1 None.

17. CONTACT OFFICERS

17.1 Jeanette Thompson Service Director: Legal and Community (& Monitoring Officer): Jeanette.thompson@north-herts.gov.uk

17.2 Isabelle Alajooz, Legal Manager (& Deputy Monitoring Officer): Isabelle.alajooz@north-herts.gov.uk

18. BACKGROUND PAPERS

17.1 None other than those referred to/ linked above.

STANDARDS COMMITTEE
27 March 2024

***PART 1 – PUBLIC DOCUMENT**

TITLE OF REPORT: MEMBERS PLANNING CODE OF GOOD CONDUCT - REVIEW

REPORT OF: SERVICE DIRECTOR: LEGAL & COMMUNITY / MONITORING OFFICER

COUNCIL PRIORITY: A brighter future together

1. EXECUTIVE SUMMARY

For the Committee to review the updated Lawyers in Local Government Members Planning Code, with a view to recommending adoption of this to Full Council, as a replacement for Section 8 Appendix 1.

2. RECOMMENDATIONS

That the Committee:

- 2.1. Reviews the new model Members Planning Code of Good Practice; and
- 2.2. *Recommends to Full Council* the adoption of new Code (Appendix A to this report) as the Appendix 1 to Section 8 of the Constitution replacement, with proposed appropriate amendments.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To ensure good governance within the Council.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 To retain the current version, however, given this would need to be reviewed in any event, adoption of the updated national model, would be the preferable approach (with the proposed localised amendments).

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 Group Leaders and the Standards Committee Chair is kept informed of Monitoring Officer and standards matters issues monthly, during briefing sessions. The Monitoring Officer also holds quarterly meetings with the Independent Person, Reserve Independent Persons ('IPs') and the Chair and Vice Chair of Committee. Any relevant standards matters comments from the IPs meetings are part of the regular briefings with Group Leaders.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on an Executive key decision and has therefore not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1. The Council's current "Members Planning Code" is based on the Model Member's Planning Code produced by Lawyer in Local Government (LLG) and was adopted by the Council on 3 September 2015. As Members will see from the LLG link below, this was first produced by them in 2003. It was in response to a series of successful court challenges concerning local planning authorities and their Members' Conduct of Conduct and/or conflicts of interests. It replaced several individual and sometimes unsystematic approaches that existed in individual councils at the time. It was reviewed in 2007, and updated in 2014. In 2017 the UK Supreme Court¹ endorsed its use.
- 7.2. It was last reviewed by this Committee and then (with minor amendments) adopted in January 2020. It is incorporated as Appendix 1 to Section 8 [[CLICK HERE](#)]
- 7.3. As the LLG indicated as part of their preamble to the relaunched Code:

"The successful operation of the planning system relies on mutual trust and understanding of Member and officer roles. It also relies on the important legal principle that a decision-maker must not only ask themselves the right question, but to obtain the relevant information to enable them to answer it correctly and to be able and willing to understand it and then take it properly into account when making their decision. All of this requires Members and their officers ensuring that they act in a way which that is fair and impartial and is clearly seen to be so."

- 7.4. The Committee is therefore be asked to consider the updated Members Planning Code and recommend the adoption of this with the proposed amendments, to full Council.

8. RELEVANT CONSIDERATIONS

- 8.1. As indicated by the LLG, the Members Planning Code was produced in consultation with a number of local authorities, as well as the Local Government Ombudsman, the Local Government Association ('LGA') and various firms of solicitors and Counsel. The LLG indicated that the refreshed Members Planning Code has clarified some of the points concerning consistency and reasoning in decision making and underscores the potential impact of social media interactions upon proceedings.
- 8.2. The Council's Constitution currently includes a version of the prior LLG Members Planning Code in Appendix 1 to Section 8 (with some localised amendments as indicated above). The Council was due to review this, in any event, and conveniently the LLG has undertaken this review itself and produced the updated Members Planning Code.

¹ Dover District Council (Appellant) v CPRE Kent (Respondent) [2017] UKSC 79

8.3. The version produced, however, is for general national consumption and, it is suggested would again benefit a few localised minor amendments to reflect (*as shown as tracking on Appendix A*) and include:

- that this Council is within a tiered local government system (i.e. County, District and Local Town/ Parish/ Community Council areas), where some level of consideration of a planning application will take place,
- more specific wording on interests , to marry up the language with the LGA Code of conduct definitions.
- an expanded paragraph on Planning Enforcement – as per the current Appendix 1 Section 8 provisions, to better reflect how this applies to that element (as referred to in the introduction).
- Some minor typographical and a gender neutral reference (latter to reflect the approach adopted from January 2020 by North Herts, following the Constitutional & Governance cross party working group and then decision taken by the Council,²).

9. LEGAL IMPLICATIONS

9.1. Within its terms of reference the Standards Committee has a function “to advise the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council”. Adopting a Members Planning Code provides a more effective basis for decision making and any national model provides consistency for those involved in the process (be they applicant, resident, Member or Officer).

9.2. Section 37 Local Government Act 2000 requires the Council to have in place a Constitution and to keep that under review. The Local Government Act 2000 section 9P sets out the requirements of a local authority’s Constitution, including the requirements to prepare it and keep it up to date and the requirement to make it available for public inspection. Inclusion of updated Codes assists with meeting that legal requirement.

10. FINANCIAL IMPLICATIONS

10.1 None directly from this report.

11. RISK IMPLICATIONS

11.1. Good Risk Management supports and enhances the decision-making process, increasing the likelihood of the Council meeting its objectives and enabling it to respond quickly and effectively to change. When taking decisions, risks and opportunities must be considered. Ensuring the Council has appropriate governance arrangements in place is an important risk mitigation measure. The Council’s Constitution is a fundamental part of those governance arrangements.

² Item 61, Appendix A to the Constitutional & Governance Review 2029/20 [16 January 2020 click here](#)

12. EQUALITIES IMPLICATIONS

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2. There is no overall issue with the proposed Code. The proposed change to the removal of 'his or her' staff, to gender neutral language is consistent with the Councils approach since 2020, which was based on a cross party/ officer working Constitutional review group; and helps promote and embed equality, diversity and inclusion (and practice of empathy) towards the LGBTQI+ community with more inclusive use of language.

13. SOCIAL VALUE IMPLICATIONS

- 13.1. The Social Value Act and "go local" requirements do not apply to this report, as there is no procurement.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1. There are no known Environmental impacts or requirements that apply to this report.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 None, other than Officer time.

16. APPENDICES

- 16.1 Appendix A – new LLG Members Planning Code with tracked change amendments proposed.

17. CONTACT OFFICERS

- 17.1 Jeanette Thompson; Service Director: Legal & Community; Monitoring Officer jeanette.thompson@north-herts.gov.uk;

18. BACKGROUND PAPERS

- 18.1 Constitution Section 8 [\[CLICK HERE\]](#)

The Members Planning Code of Good Practice¹

Introduction

The aim of this code of good practice: 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 of Good Practice applies: this code applies to Members 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 their staff, and preferably well before any meeting takes place.

Deleted: his or her

Executive bullet point summary of the dos and don'ts: if unsure, seek advice

- Firstly, apply the NHDC Member Code of Conduct and then this Members Planning Code.
- Declare interests, follow procedures that apply to those interests.
- Come to meetings with an open mind and demonstrate that you are open-minded.
- Don't involve yourself in pre-application advice or negotiations.
- Refer queries on applications and procedures to Officers.
- Ensure that if you call in a proposal to go before the Committee that your reasons are clear (as per the Committee terms of reference). You should attend the Committee and speak to the item if you do this. Don't do this if you have an interest.
- Avoid meeting directly with developers/ attending presentations by them. If you need a meeting, speak to the Development and Conservation Manager to arrange, and don't go without Officer(s) being present. Avoid lobbying other Members about a proposal.
- Attend a site visit if organised by the Council. Don't enter a site other than as part of an official site visit, even if invited.
- Comply with the Council's public speaking procedures and if sitting on the Committee, don't communicate directly or participate in social media exchanges with others.
- Don't put pressure on Planning Officers to change their recommendations before a Committee.
- Come to your decision only after due consideration of all relevant information. Make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- Don't vote or take part in the discussion on a proposal at the Meeting unless you have been present to hear the entire debate, including the Officers' introduction to the matter.
- Report potential planning breaches to the Development and Conservation Manager.
- You must attend any mandatory training. Attend other specialist training if made

¹ Based on the Lawyers in Local Government 'LLG' Model January 2024

1. Relationship to the Members' Code of Conduct

- **Do** apply the rules in the Member's Code of Conduct first, which must always be complied with. This is both the rules on Disclosable Pecuniary Interests (and Other Registrable or Non-Registrable Interests as per Member's Code of Conduct) 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 Members' Planning Code, which seeks to explain and supplement the Member's Code of Conduct for the purposes of planning and development control. If you do not abide by this Members' Planning Code, you may put:
 - the Council at risk of proceedings on the legality or maladministration of the related decision; and
 - yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Localism Act 2011, a complaint being made to the police to consider criminal proceedings.
- **Do** be aware that, like the Authority's Code of Conduct, this Planning Code is a reflection and summary of the law on decision making and not a direct replication of it. If in doubt, seek the advice of your Monitoring Officer or their staff advising at the meeting.

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2. Development Proposals and Interests under the Members' Code

- **Do** disclose the existence and nature of your interest as required by the Member's Code of Conduct.
- **Do take into account when approaching a decision that** the principle of integrity is defined, by the Committee on Standards in Public Life in 2013, 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 disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal with Officers or Members 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 the Members' Code of Conduct may place additional limitations on you in representing that proposal.
 - **Do** notify the Monitoring Officer in writing where it is clear to you that you have a Disclosable Pecuniary Interest or Other Registrable and Non-Registerable interests and note that:
 - you should send the notification no later than submission of that application where you can;
 - the proposal will always be reported to the Planning Control Committee as a

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- main item and not dealt with by Officers under delegated powers;
- you must not get involved in the processing of the application (this includes pre-application discussions with Officers and Members); 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 Planning Control Committee (as there are specific legal and Code restrictions on what you will be unable to do, if at all, at a meeting under legislation and the Member's Code of Conduct, without a prior dispensation from the Monitoring Officer in writing).

3. Fettering Discretion in the Planning Process (natural justice, predisposition and Predetermination)

- **Don't** fetter your discretion and therefore your ability to participate in planning decision making at this Council by approaching the decision with a closed mind. Fettering your discretion in this way and taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias, pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- **Do** be aware that in your role as an elected Member 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 law. Your prior observations, apparent favouring or objections in respect of a particular outcome will not on their own normally suffice to make a decision unlawful and have it quashed, but you must never come to make a decision with a closed mind.
- **Do** keep at the front of your mind that, when you come to make the decision, you.
 - must keep an open mind and hear all of the evidence before you, both the Officers' presentation of the facts and their advice and the arguments from all sides.
 - are not required to cast aside views on planning policy you held when seeking election or when otherwise acting as a Member, in giving fair consideration to points raised;
 - are only entitled to take account a material consideration 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 and 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 Control Committee, 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 and County Councillor), provided:
 - the proposal does not substantially affect the wellbeing 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

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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 Planning Control 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 Planning Control Committee.

- **Do** explain that you do not intend to speak and vote as a member of the other Parish/Town/ Community or County committee because you will be perceived as having judged (**or you reserve the right to judge**) the matter elsewhere, so that this may be recorded in the minutes.

- **Do** take the opportunity to exercise your separate speaking rights as a Ward Advocate (where this is available as per the Procedure for Speaking at Planning Control Committee) where you need to represent the views of local electors, **but only where you do not have a Disclosable Pecuniary or Other Registrable or Non-Registrable Interest**. Where you do not have an Interest, and can speak:

- advise the proper Officer or Chair that you have registered you wish to speak in this capacity before commencement of the item;
- remove yourself from the seating area for members of the Planning Control Committee for the duration of that item; and
- ensure that your actions are recorded in accordance with the Committee's procedures.

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 or informal meetings with applicants, developers, or groups of objectors where you can avoid it, without the prior knowledge and approval of the Development and Conservation Manager (this includes at the pre-application stage discussions or negotiations with Officers or Members). Where you feel that a formal meeting would be useful in clarifying the issues, *you should seek to arrange that meeting yourself through a request to the Development and Conservation 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, 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 rules on lobbying;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - report to the Development and Conservation 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.

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- **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 of the planning authority.

- **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 Members 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 express an intention 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/particular interest or area 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.

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- **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, 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 and Conservation Manager at the earliest opportunity.

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- **Do** promptly refer to the Development and Conservation Manager any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.

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- **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 the matter up.

- **Do** note that, (unless you have a Disclosable Pecuniary or Other Registrable or Non-Registrable interest), you will not have fettered your discretion or breached this Planning Code through:

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- listening or receiving viewpoints from residents or other interested parties;
- making comments to residents, interested parties, other Members or appropriate Officers (making it clear in those exchanges that you must keep an open mind);
- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion of others in your role as a Ward Advocate,

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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. If you do, you will be seen to have fettered your discretion on the grounds of bias. This is also likely to be a Registrable Interest and you must act according to the Code of Conduct and this Code if that applies).

- **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 disclose that interest on the

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grounds of transparency where the organisation has made representations on a particular proposal, seek advice from the Monitoring Officer in advance of the meeting on how (if applicable) you can participate, and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate 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.
- **Do** be aware of the power of social media posts or re-posting and be careful to not to give the impression, if you are a Member or substitute Member of the Committee, that you will definitely vote in a certain way or act with a closed mind if you intend to participate in the decision making on behalf of the authority.
- **Don't** decide or discuss how to vote on any application at any sort of Political Group Meeting or lobby any other Member to do so. Political Group Meetings should never dictate how Members 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 Planning Control Committee any information gained from the site visit that you feel would benefit all Members of the Planning Control 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][Division] Member(s) whose address must 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 [relevant Development and Conservation 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.

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8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Planning Control Committee's proceedings (orally, in writing or by social media) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
- **Don't** participate in social media or exchanges by texting as a Member of the Planning Control Committee during the Committee's proceedings as this may give the impression of undue external influence and 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 and Conservation Manager, which may be incorporated into any Planning Control Committee report*).
- **Do** recognise that Officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with the Development and Conservation Manager or Service Director or those Officers who are authorised by their Service Director to deal with the proposal at a Member level.
- **Do** recognise and respect that Officers involved in the processing and determination of planning matters must act in accordance with the Council's Employee Code of Conduct and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct, and applicable law. 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 Planning Control Committee or its Members.

10. Decision Making

- **Do** ensure that, if you request a proposal to go before the Planning Control Committee that the "call in" complies with the Committee's Terms of reference,
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan 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. *Where a matter is deferred and its consideration recommences at a subsequent meeting, only Members who were present at the previous meeting will be able to participate and vote. If this renders the Planning Control Committee inquorate then the item will have to be considered*

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afresh and this would include public speaking rights being triggered again.

- **Do** have recorded the reasons for Planning Control 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. It will help to take advice from Officers when and where necessary to do this and, if there are no indications allowing you to do this in advance of the meeting, it may be helpful to request a short adjournment for these purposes. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge (at a Planning Appeal and/ or during any Court proceedings).

11. Planning Enforcement

- It is not always a criminal offence to carry out development without planning permission. However, is likely to constitute a contravention of planning laws and the Council (as Local Planning Authority) can enforce those laws. Therefore:
- Do pass on reports from local residents of suspected planning breaches or those you believe have taken place, to the Development and Conservation Manager as soon as possible, as enforcement action is time critical. These will then be investigated in line with the Corporate Enforcement Policy and Members updated when or where appropriate and enforcement matters reported regularly to the Planning Control Committee.
- Don't discuss enforcement matters with third parties – you should stress that you cannot commit the Council to any particular course of enforcement action.
- Don't recommend a preferred course of action to Officers – what action is taken, if any, must conform to the Corporate Enforcement Policy.

12. 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 Members' judgements have been based on proper planning considerations.

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