

**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 Court<sup>1</sup> 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.

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<sup>1</sup> 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,<sup>2</sup>).

## **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.

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<sup>2</sup> 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](mailto:jeanette.thompson@north-herts.gov.uk);

## **18. BACKGROUND PAPERS**

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