

PART 5 - CODES

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PLANNING CODE OF CONDUCT FOR MEMBERS

Introduction

1. This Planning Code of Conduct for Members has been prepared in accordance with advice provided in the Local Government Association's "Probity in Planning – the role of Members & Officers" together with guidance contained in Audit Commission papers and Public Interest Reports. It draws on the Model Code produced by the Association of Council Secretaries and Solicitors in consultation with the District Audit Service, the Local Government Ombudsman and Standards for England. The aim of this Planning Code of Conduct for Members is to ensure that when exercising their planning judgment, both Members and officers can be seen to be open and transparent in the decision making process.
2. The role of a Member of the planning authority is to make planning decisions openly, impartially, with sound judgment and for justifiable planning reasons. The role of a Member on a Planning Committee involves a balance between representing the needs and interests of constituents and the community with the need to maintain impartial and sound decision making on what can be highly controversial proposals.
3. The Planning Code of Conduct for Members applies at all times when any Member is involved in the planning process. This includes taking part in decision making meetings of the Planning Committees and on less formal occasions, such as meetings with officers or the public and other consultative meetings. It applies equally to planning enforcement matters or site specific policy issues as it does to planning applications. The Planning Code of Conduct for Members (this Code) is both complementary and additional to the Members' Code of Conduct.
4. Members and officers should read this Code thoroughly and apply themselves to it consistently. If Members have any doubts about the application of this Code they should seek early advice, preferably well in advance of any meeting, from the Monitoring Officer or the Head of Democratic Services.

Relationship to Members' Code of Conduct

5. Members are reminded that this Code is designed primarily for Members of the Planning Committees and Members who, for whatever reason, find themselves involved in the planning process. The Code is

supplemental to the Members' Code of Conduct found at Part 5 (A) of the Council's Constitution.

6. Members should first adhere to the Members' Code of Conduct and thereafter apply this Code together when involved in the planning process. If Members do not abide by this Code they may put the Council at risk of proceedings on the legality or maladministration of the related decision; and put themselves 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 Members' Code of Conduct, a complaint being made to the Standards Committee.

Development proposals and interests

7. The Localism Act 2011 and the new Members' Code of Conduct place requirements on Members about the registration and declaration of their interests and the consequences of having such interests. These must be followed scrupulously and Members should review their interests regularly. Ultimate responsibility for declaring an interest rests individually with each Member.

Pecuniary Interests

8. A Member will have a disclosable pecuniary interest if it is one which is specified by The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and the interest is the Member's, his/her spouse's or civil partners, or is the pecuniary interest of some party with whom the Member is living with as husband or wife, or as a civil partner.

The following fall within the definition of pecuniary interests:

- Any employment, office, trade, profession or vocation carried on for profit or gain;
- 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 a Member in carrying out his/her duties as a Member, or towards the election expenses of a Member. This includes any payment or financial benefit from a Trade Union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(3);
- 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 –
 - (a) under which goods or services are to be provided or works are to be executed; and
 - (b) which has not been fully discharged;
- Any beneficial interest in land which is within the area of the relevant authority;
- Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer;

- Any tenancy where to the Member's knowledge –
 - (a) the landlord is the relevant authority; and
 - (b) the tenant is a body in which the relevant person has a beneficial interest;
 - Any beneficial interest in securities of a body where –
 - (a) that body to the Member's knowledge has a place of business or land in the area of the relevant authority; and
 - (b) either –
 - i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body or
 - ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
9. In accordance with Section 30 of the Localism Act 2011, the Member must, within 28 days of taking office as a Member, notify the Council's Monitoring Officer of any disclosable pecuniary interest.
 10. If a Member is present at a Planning Committee meeting and has a disclosable pecuniary interest in any matter to be considered at a meeting, the Member must disclose the interest to the meeting if the interest is not registered in the Council's register of interests.
 11. If the interest is not entered in the Council's register of interests and is not the subject of a pending notification, the Member must notify the Council's Monitoring Officer of the interest within 28 days of the date of the disclosure.
 12. The Member must not, unless he or she has been granted a dispensation by the Standards Committee, –
 - (a) participate, or participate further, in any discussion of the matter at the meeting, or
 - (b) participate in any vote, or further vote, taken on the matter at the meeting.
 13. If a Member, without reasonable excuse, fails to comply with the requirements set out in the above paragraphs, he/she commits a criminal offence. It is therefore imperative that if a Member is uncertain whether or not he/she has a disclosable pecuniary interest, that appropriate advice is sought from an officer in Legal / Democratic Services.
 14. Members should also consider whether they have any non-pecuniary interests in relation to a matter to be considered at a Planning Committee meeting which they should declare. For example, see paragraph 49.

General roles of Members and officers

15. Members and officers have different, but complementary roles. Both serve the public. Officers are responsible to the Council as a whole, whilst Members are responsible to both the Council and the electorate.
16. Officers advise Members and the Council. Officers carry out the daily functions of the Council's business in accordance with council, cabinet or committee decisions or under powers delegated to them pursuant to the Constitution. Officers are governed by the Officers' Code of Conduct contained at Part 5 (B) of the Constitution. In addition, planning officers, who are Members of the Royal Town Planning Institute (RTPI), are subject to a professional code of conduct and breaches may be subject to disciplinary action by the RTPI. Similarly, officers who are solicitors are subject to regulation by The Law Society.
17. Members are bound by the Members' Code of Conduct contained in Part 5 (A) of the Constitution. Breaches of the Members' Code of Conduct can result in a Member being reported to the Monitoring Officer of the Council and/or the Standards Committee.
18. Mutual trust, respect and understanding between Members and officers are the keys to achieving effective local government. A successful relationship between Members and officers can only be based upon mutual trust and understanding of each other's positions. This relationship, and the trust that underpins it, must never be abused or compromised.

Fettering discretion in the planning process

19. Section 25 of the Localism Act 2011 came into force on 15 January 2012 and this provision makes it clear that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind simply because such person had done anything directly or indirectly that indicated what view the decision-maker took, or would or might take, about the subject matter and that it was relevant to the decision required.
20. This provision applies to all local authorities in England and Wales and is still subject to the following legal principles:
 - Members must continue to declare interests whenever they arise at meetings they attend.
 - Planning Committee Members must, when making decisions, take into account all relevant material planning considerations.
 - The case law on bias remains unaffected by Section 25 and Members will therefore need to approach all decision-making with an open mind.
 - Members should take into account all relevant considerations and discount irrelevant considerations in accordance with the Wednesbury principles of reasonable decision making.

21. Given that the law on bias has remained unchanged by the Localism Act, the safest course for Planning Committee Members is to avoid making public statements ([including expressing views in for example, e-mails(as to their support for or opposition to any application which would give the impression that they had made up their minds before the formal consideration of the application at the Committee meeting.
22. If a Member has made such a statement, then they must be satisfied that they can still consider the application with an open mind and are prepared to take into account any new information or new arguments in favour of or against the proposed development before the decision is made. If they cannot be so satisfied, then they should refrain from taking any part in the decision.
23. Members should not use any political group or other meeting prior to meetings of a Planning Committee to determine how a Member or group of Members will vote on agenda items.

The party whip

24. Members cannot accept an instruction from anyone to determine an application in a particular manner; they must determine the issue on its merits. Accordingly, whilst they may accord appropriate weight to the views of other Members, whether expressed in the committee meeting or in prior discussions, they must determine the application on its merits and should not take into account any factor which they are not prepared to state in open committee. Therefore, it is inappropriate for any party group to instruct its Members to vote in a particular way on an application or to apply any sanction to any Member who votes contrary to the group's collective views.

Contact with developers, applicants and objectors

25. Members should refer those who approach them for planning, procedure or technical advice to officers.
26. Members should not agree to any formal meeting with applicants, developers or groups of objectors where it is possible to avoid it. Where a Member feels that a formal meeting would be useful in clarifying the issues relating to a planning matter, they should never seek to arrange that meeting themselves but should request the Deputy Chief Executive, Corporate Director of Planning, Environment, Education and Community Services 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 Planning Committee.

27. In dealing with approaches on planning matters Members should:
- follow the rules on lobbying¹;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - report to the Deputy Chief Executive & Corporate Director of Planning, Environment, Education and Community Services 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.
28. In addition in respect of presentations by applicants / developers Members should:
- **not** attend a planning presentation unless an officer is present and/or it has been organised by officers;
 - **ask** relevant questions for the purposes of clarifying their understanding of the proposals;
 - **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 Planning Committee;
 - **be aware** that a presentation is a form of lobbying and Members must not express any strong view or state how they or other Members might vote.

Access to planning officers

29. Officers are required to manage council services in accordance with the policy and instructions adopted by elected Members through formal Cabinet/committee decisions. Like all other officers of the Council, planning officers are appointed to serve the Council as a whole and not any political group.
30. Any Member wishing to discuss a particular planning matter with a planning officer should make an appointment with the relevant officer through formal reception arrangements (reception desk or Director/Service Head's PA). The request for such a meeting may be refused if the officer considers it may lead to a breach of any code of conduct, or prejudice the proper and effective impartial assessment of an application, or it is otherwise reasonable to refuse an appointment. Where an appointment has been refused the Member concerned may request that the matter may be reviewed by the Deputy Chief Executive & Corporate Director of Planning, Environment, Education and Community Services, whose decision shall be final.
31. The Council is expected to make a decision on all applications within statutory timescales. This is not always possible, particularly for applications that are to be considered by committee. Applications are

¹ see paragraphs 32-38 below

always included on the agenda of the first available Planning Committee after completion of the officer's report so that a decision can be taken in the shortest possible time.

32. Planning applications must be dealt with in a timely manner in accordance with statutory guidance and Members should not request officers to delay the determination or assessment of particular applications for their own personal or political convenience or following lobbying by applicants, agents/advisers or other interested parties.

Material considerations

33. The emphasis in determining applications is upon a plan led system. Section 54a of the Town & Country Planning Act, 1990 requires all planning applications to be determined by reference to the Local Development Framework (LDF), if material to the application, and any other material considerations. If the LDF is material to the application then the statutory position is that the application should be determined in accordance with the LDF unless material considerations indicate otherwise.
34. Material considerations include national planning guidance in the form of Government Circulars, Planning Policy Guidance Notes, Planning Policy Statements, Non Statutory Development Control Guidelines and case law.
35. Examples of material considerations are:-
- appearance and character of development;
 - traffic generation, highway safety and parking;
 - overshadowing, overbearing, overlooking and loss of privacy;
 - noise disturbance and other loss of amenity;
 - layout and density of buildings;
 - relevant planning policies.
36. Matters which are not material considerations include:-
- a) boundary disputes, covenants or other property rights;
 - b) personal remarks;
 - c) reduction in property values;
 - d) loss of private view.
37. The personal circumstances of an applicant for planning permission are not generally a material consideration because they do not relate to the character or use of the land. However, when considering applications which include an applicant's home or the effect of the development on neighbouring homes, Members should have regard to Article 8 Schedule 1 of the Human Rights Act, 1998 which states:-
- "1. Everyone has the right to respect for his private and family life, his home and his correspondence.*

2. *There shall be no interference by a public authority with the exercise of this right except such is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others.*
38. What constitutes a material consideration is a matter of law. The weight to be attached to the consideration is a matter of planning judgment for the decision maker having regard to the planning evidence.

Lobbying of and by Members

39. Lobbying is a normal and perfectly proper part of the political process. Members of the public, applicants or local interest groups will often seek to influence a decision through an approach to their ward Member.
40. The Nolan Committee's Third Report states:
"It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is via the local elected representatives, the Members themselves" (para 288)
41. Any Code of Conduct which fails to take account of the realities of the political/representative process will not carry credibility with experienced elected Members.
42. Lobbying can, unless care is taken, lead to the impartiality and integrity of a Member being called into question. Despite the removal of the rules concerning pre-determination, when being lobbied, Members, and particularly Members of the Planning Committees, should take care not to express an opinion which may be perceived as indicating that they have already made up their mind on a particular matter before having had the benefit of considering the evidence and arguments both for and against the proposal. Members of the Planning Committees should exclude themselves from any such discussions at the earliest opportunity.
43. In such situations, Members should refer those who approach them for planning, procedure or technical advice to officers and suggest to the lobbyists that they write to the Deputy Chief Executive & Corporate Director of Planning, Environment, Education and Community Services in order that their views can be included in the officer reports prepared for the Planning Committees or for determination under delegated powers. Even if such lobbying does not give rise to a declarable interest, Members of the Planning Committees should declare any lobbying to which they have been subject.

44. Where a Member receives information (including plans, data, correspondence etc) in respect of an application, they should pass it onto the Deputy Chief Executive & Corporate Director of Planning, Environment, Education and Community Services as soon as practicably possible so that it can be taken into account and included in the report on the application.
45. Members should ensure that it is made clear to any lobbyists that they will only be in a position to reach a final decision on any planning matter after they have heard all of the relevant arguments and looked at the relevant evidence during the sitting of the relevant Planning Committee.

Applications submitted by Members or officers

46. Proposals to their own authority by serving and former Members and officers and their close friends and relatives can easily give rise to suspicions of impropriety if not handled properly. Proposals can take the form of either planning applications or development plan proposals. This advice also relates to enforcement matters.
47. It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in a way that gives no grounds for accusations of favouritism. Accordingly a Member or an officer making an application should follow the procedures set out below:
 - (a) if a Member or an officer submit their own proposal to the Council which they serve, they should take no part in its processing or the decision making process;
 - (b) Members who act as agents/consultants for people pursuing a planning matter with the authority should take no part in its processing or the decision making process;
 - (c) the Member or officer concerned in (a) or (b) should inform the Monitoring Officer of such proposals no later than the date on which formal proposals are submitted.
48. For the sake of transparency in decision making, where any Member or officer or former Member or former officer is involved in a planning or related application to the Council, this shall be referred to the Deputy Chief Executive & Corporate Director of Planning, Environment, Education and Community Services, as soon as possible who shall decide whether or not the application should be referred to the appropriate Planning Committee, or determined in the usual way under delegated powers if the application is in accordance with development plans and all other material planning considerations. In respect of former Members or former officers this requirement shall apply for a period of four years following their departure from the Council.
49. Members of the Planning Committee must consider in accordance with the Code of Conduct for Members whether the nature of any relationship with the person (either a Member or an officer) submitting

the planning application requires that they make a declaration of interest and if necessary also withdraw from the meeting.

Applications submitted by the Council

50. Proposals for a Council's own development can also give rise to suspicions of impropriety. Whilst it is perfectly legitimate for such proposals to be submitted to and determined by the Local Planning Authority, it is vital to ensure that they are handled in a way that gives no grounds for accusations of favouritism. Accordingly, proposals for a Council's own development will be treated no differently from any other application.

Site visits

51. Members should try to attend site visits organised by the Council where possible. However, a site visit should not be requested unless Members 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.
52. Information gained from site visits should be reported back to the Planning Committee, so that all Members have the same information. The visit should be treated only as an opportunity to seek information and to observe the site. During the visit Members should ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
53. During the visit Members should not hear representations from any other party, [with the exception of the ward Member(s) whose address must focus only on site factors and site issues]. If approached by the applicant or a third party, Members should advise them that they should make representations in writing to the authority and direct them to or inform the officer present. Members should exercise caution when expressing opinions or views to anyone.
54. Members should not 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:
- the Member feels it is essential to visit the site other than through attending the official site visit; and
 - the Member has first spoken to the Deputy Chief Executive & Corporate Director of Planning, Environment, Education and Community Services about their intention to do so and why (which will be recorded on the file); and

- the Member can ensure that they will comply with these good practice rules on site visits.

Public speaking at meetings

55. The Constitution² provides for a representative of a petition with 20 or more signatures of borough residents to address a committee meeting for up to five minutes on the subject of the petition. Members of the Committee may ask questions of the petitioners for up to three minutes. Where the petition is opposing a planning application and is being reported to a Planning Committee, the applicant or their agent may address the Committee for up to five minutes in support of the application.
56. Members of the Planning Committees should not allow Members of the public or other Members of the Council to communicate with them, or act in a way which gives the perception that this is happening, during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or as a Member making representations on behalf of constituents, as this may give the appearance of bias. Members should not frame questions so as to permit additional time for an individual speech by a Member of the public.

Pre-application discussions

57. Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties and is encouraged by organisations such as the Local Government Association and the National Planning Forum. A Member should not normally be involved in discussions with a developer or agent when a planning application is imminent or has been submitted but remains to be determined. Potentially, these negotiations could be interpreted, particularly by objectors to a proposal, as part of a lobbying process.
58. Where Members need clarification about an application which may be dealt with through appropriate pre-application discussions (for example, in the case of a large scale development, where it is desirable for there to be a full understanding of the Council's planning and economic objectives), the request should be made to the Deputy Chief Executive & Corporate Director of Planning, Environment, Education and Community Services.
59. In order to avoid the potential for criticism or challenge, pre-application discussions generally should follow the guidelines below. Subsequent discussions should also be in accordance with the following guidelines:

² Committee Standing Orders Schedule B, paragraph 13

- (a) officers should make it clear from the outset that the discussion will not bind the Council to making a particular decision and that any views expressed are personal and provisional;
- (b) any advice given should be consistent and in accordance with the LDF. Officers should agree, prior to any meeting, on a consistent interpretation of LDF policies;
- (c) a contemporaneous note of the meeting should be prepared by the council officer attending wherever possible and a copy sent to all parties for their agreement;
- (d) the final version of the note of the meeting should form part of the planning file should a planning application subsequently be received and thereby be open to public inspection.

Decision making

60. In making decisions on planning matters Members should:

- ensure that, if they request a proposal to go before the Planning Committee rather than be determined through officer delegation, that their reasons are recorded and repeated in the report to the Committee;
- come to meetings with an open mind and demonstrate that they are open-minded;
- comply with section 54A of the Town and Country Planning Act 1990 and make decisions in accordance with the LDF unless material considerations indicate otherwise;
- come to their decision only after due consideration of all of the information reasonably required upon which to base a decision. If they feel there is insufficient time to digest new information or that there is simply insufficient information before them, request that further information. If necessary, defer or refuse;
- not vote or take part in the meeting's discussion on a proposal unless they have been present to hear the entire debate, including the officers' introduction to the matter;
- have recorded the reasons for the Committee's decision to defer any proposal;
- make sure that if they are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that they clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Members must be aware that they may have to justify the resulting decision by giving evidence in the event of any challenge.

Planning appeals

61. Appeals by applicants against the decisions of the Council, and which are heard by an Inspector, are open to the public and Members are able to attend. Members are encouraged to do so, as many have found

them to be a good learning experience. This part of the Code is concerned with Members who wish to participate in these appeals.

62. If Members wish to attend a public inquiry or informal hearing as ward Members they are free to do so. It is strongly recommended that they discuss their participation with the Deputy Chief Executive & Corporate Director of Planning, Environment, Education and Community Services or the Head of Planning and Enforcement to ensure that they are aware of the process and that they do not act in a manner which may expose the Council to a claim of costs.
63. A Member cannot attend an appeal on behalf of the Planning Committees. The decision of the Committee will be documented in the minutes and the case officer will present the Council's case on its planning merits in accordance with the Committee's decision. The Inspector is required to determine the appeal on its planning merits and therefore all representations should be so directed. Where the appealed decision was contrary to the officer recommendation, officers are generally able to present the Council's case in a satisfactory manner. On the rare occasions where this may not be possible, the case will be presented by a planning consultant employed by the Council.

Member training

64. Members may not participate in decision making at meetings of the Planning Committees unless they have attended the mandatory planning training sessions prescribed by the Council on probity and planning. This includes Members who are acting as a substitute for regular Members of these committees.
65. All Planning Committee Members (and substitutes) should endeavour to attend any other specialised training sessions provided, since these will be designed to extend their knowledge of planning law, regulations, procedures, codes of practice and development plans, which will assist them in carrying out their role properly and effectively.

PART 5 - CODES



INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT) USAGE POLICY FOR MEMBERS OF THE COUNCIL

Introduction

1. The use of Information and Communications Technology (ICT) is now integral to supporting the role of an elected Member of a local authority. The Council provides all Councillors with electronic facilities, which includes computer hardware and software, access to the internet and e-mail. It is therefore essential that there is clarity not only about what equipment is available and how technical support is provided but also how technical innovation is dealt with and the manner in which the equipment, which is provided out of public funds, is used. This usage policy outlines proper use of the facilities and the Members' responsibilities in using it. It should be read in conjunction with the Members' Code of Conduct and the Protocol for Member and Officer Relations which complement this policy and contain relevant guidance and requirements.

Purpose

2. The purpose of this policy is to; -
 - protect the security and integrity of the Council's computer facilities;
 - clarify the issues and give guidance about the use of the Council's equipment, including computer and telephone facilities; and
 - in doing so, protect Members who use the Council's computer facilities.

Members' Code of Conduct

3. All Members of the Council have signed a written undertaking to observe the Council's Members' Code of Conduct (the Code). A Member must comply with the Code whenever he/she is acting in an official capacity.
4. There is a particular provision within the Code which provides that a Member must, when using or authorising the use by others of the resources of the authority, ensure that such resources are not used improperly for party political purposes (particularly during the period between the publication of a Notice of Election and an election day itself) and they must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986. However, this will not apply in circumstances where Members pay for the use of the resources at a rate agreed by the Council.

Scope

5. This policy applies to all Members of the Council and applies to the use of any council communication equipment or facilities, including computer or telephone.

Definitions

6. Council equipment and facilities – This includes any items of Council communications hardware, such as computer equipment or telephones, or software such as e-mail and internet use.

CIT – Corporate Information Technology

ICT – Information and Communication Technology

Use of council resources

7. General principles for the use of Council resources are that:
 - public resources (i.e. equipment, facilities, staff time etc) may only be used in accordance with the Code;
 - You must be able to defend the use of Council resources – if you feel you cannot, you are probably misusing them;
 - There is a general *de minimis* exception – by which is meant usage which would otherwise be contrary to this document, but is so small in extent, and inconsequential in its effect, that a reasonable person, knowing all the facts, would take the view that it should not be thought of as included in what is being controlled, prohibited or otherwise included with this guidance;
 - if in doubt, refer to the Code;
 - always apply common sense – it is a good barometer of what is likely to be acceptable, and what is not;
 - always seek advice before doing something you feel may be on the margins.

Policy

8. Computer and telephone facilities are an essential and integral part of everyday working life and the Council's computer facilities are widely accessible and will increase in the future.
9. This policy is applicable to internal and external transactions using the Council's computer facilities or accessing the council's systems using other equipment either in the workplace or in any other location.
10. Members must ensure that they have the skills necessary to use Council computer systems before doing so and advice can be obtained from the Head of Democratic Services on the availability of suitable training.
11. High standards of conduct and probity are as relevant to the use of the Council computer facilities as they are to all other aspects of work and Members must conduct themselves in line with all appropriate Codes. For example, the

relevant provision of the Members Code is set out above. Unlawful or improper computer usage may expose the Council and/or the individual Member to significant legal liabilities and negative publicity and a complaint to the Standards Committee. Breach of this policy may result in referral to the relevant Party Whip with a recommendation for withdrawal of access to certain computer facilities and may lead to action in line with the Code.

12. This document details the parameters of acceptable use and deals with the following issues: -

- Access to the Council's computer systems
- Authority to express views
- Monitoring computer and telephone usage
- Confidentiality, security and accuracy of data
- Guidance on copyright, legal and contractual issues
- Network efficiency
- Personal use of the Council's computer facilities
- Inappropriate use, prohibited sites and offensive material
- Other use

(i) Access to the Council's Computer Systems

- (a) The Council will provide access to and use of various computer facilities as may be determined from time to time. Although the Council wishes to encourage Members to gain and improve their skills, personal understanding, knowledge and development is a secondary consideration.
- (b) Where a Member is not available, (e.g. due to sickness absence or leave) and access to data is required, the relevant party whip will be advised.
- (c) In cases where there is a need to investigate any potential breaches of this policy appropriate advice must be sought from the Head of Democratic Services, the Deputy Director of ICT, Highways and Business Services and the Borough Solicitor.

(ii) Authority to Express Views

Members using Council computer facilities including e-mail and the internet must act in accordance with the Code and ensure that these facilities are used in connection with council business. They must not be used for any purpose other than those directly concerned with official Council business, or the work of elected Members. 'Official Council business' means matters relating to a Member's duties as an elected councillor; as a member of the executive, a committee or scrutiny or policy overview committee, sub-committee or working party; or as a Council representative on another body or organisation. The e-mail facility provided should be used by Members to engage in correspondence relevant to their role with other Members, officers, other public bodies, their constituents, the public in general and to encourage citizens to contact them when appropriate.

(iii) Monitoring Computer and Telephone Usage

- (a) Use of the Council's computer and telephone facilities is regularly monitored to ensure that the standards within this policy are adhered to, probity maintained and potential breaches of codes identified.
- (b) Software systems are in place that monitor and / or record all usage, including every web site visited, chat, newsgroup, e-mails, and file transfers into and out of internal networks. Usage patterns will be monitored to ensure that council resources are being properly utilised.
- (c) The Council reserves the right to inspect any files stored in all areas of its network and equipment to assure compliance with this policy. This includes the local hard or removable (such as CDs or USB sticks) drives of any machine used by Members. All computer transactions and data within the Council's computer systems or obtained by accessing the Council's systems using other equipment either in the workplace, at their home or in any other location in working time or in their own time belong to the Council. The Council has the absolute right to monitor, inspect or use all transactions and data in any appropriate proceedings at any time, without notice. Personal data is not exempt.
- (d) The provisions of the Human Rights Act 1998 will be observed by the Council when monitoring computer and telephone usage.
- (e) If there are any concerns as to whether the contents of these paragraphs are not being complied with, they will be referred to the Head of Democratic Services in the first instance.

(iv) Confidentiality, Security and Accuracy of Data

- (a) The Council is legally responsible for all information stored in its computer systems or transmitted by it and for any improper, inadvertent or negligent disclosure. This principle applies even if Members store information in the computer systems which is not related to their role as Council Members. Security of data is of primary concern and security measures are in place to ensure the confidentiality of data held by the Council, including data on clients, members, staff, property and also that which could be commercially sensitive.
- (b) Members must co-operate with all security measures and arrangements, and can be held accountable for any breaches of security or confidentiality.
- (c) User IDs and passwords maintain individual accountability for computer access and must be kept secure, confidential and not inappropriately disclosed. Document passwords and read only restrictions should also be used where appropriate.
- (d) Members must not disclose passwords or give access to unauthorised users, and are responsible for changing their passwords if they suspect that an unauthorised person may be aware of their password.
- (e) All external e-mails sent will automatically include a confidentiality and disclaimer notice.
- (f) Members must take care to address e-mails and files correctly to avoid sensitive information being sent or widely distributed to inappropriate individuals or organisations.

- (g) Much of the data held by the Council on individuals is covered by Data Protection legislation. Disclosure of this information, even unintentionally, can be in breach of the Data Protection Code of Practice. Members should ensure the accuracy of data that they are responsible for storing, updating or transmitting, and must not amend or alter e-mails they receive. Files containing sensitive or confidential Council data that are transferred across the Internet must be encrypted.
- (h) Systems to protect the safety and security of the Council's networks and additional devices have been and will continue to be installed. Members must not attempt to disable, defeat or circumvent any Council security facility.
- (i) Modems can provide an intruder with access to the Council's network. Therefore any computer used for independent dial-up or leased-line connections must not be part of the Council's network, unless explicitly authorised by the Deputy Director of ICT, Highways and Business Services. Connections to the Internet using modems from network connected computers are specifically prohibited. To ensure security it may be necessary to prevent machines with sensitive data or applications from connecting to the Internet, or for certain users to be prevented from using certain facilities such as file transfers.
- (j) To prevent unauthorised use Members should not leave computers unattended for long periods when switched on and should use document passwords and screen savers for confidentiality if they leave their machine unattended for short periods. Internet connections will be automatically disconnected after a period of inactivity.
- (k) It is inappropriate to reveal confidential Council information, customer data, trade secrets, and any other material covered by existing Council security policies and procedures into public forums such as chats and newsgroups. Members releasing protected information, whether or not the release is inadvertent, may be in breach of existing data security policies and procedures and the Data Protection Act 1998.

(v) Guidance on Copyright, Legal and Contractual Issues

- (a) Members must conduct themselves honestly and appropriately when using the Council's computer facilities in line with other business dealings, copyright, software licensing rules, property rights, privacy and prerogatives of others.
- (b) Downloading and copying data and software for Members' own or work use or sending the works of others to third parties without permission can infringe copyright.
- (c) Although downloaded data from the Internet may be allowed for individual use copyright may be breached if e-mailed or if the data is incorporated into a Council document. The copyright position should always be checked and the appropriate permissions or acknowledgements sought. In the case of subscription services Members should ensure that the appropriate licences are obtained.
- (d) Downloaded software must be used only under the terms of its licence, and should be added to the appropriate inventory records. Software or files downloaded via the Internet into the Council network become the property of the Council. Members must arrange to have such software

properly licensed and registered where required. To ensure personal protection from any problems software should only be downloaded after permission has been received from the Council's Deputy Director of ICT, Highways and Business Services. Software downloaded without permission may be deleted automatically.

- (e) Members must safeguard council publications covered by copyright. The Council retains the copyright to any original material posted to any forum, newsgroup, chat or World Wide Web page by any Member in the course of their duties. To ensure personal protection from any problems Members must not upload any software licensed to the Council or data owned or licensed by the Council without explicit authorisation from the Council's Deputy Director of ICT, Highways and Business Services responsible for the software or data.
- (f) Transactions through these facilities must be treated in the same way as other transactions on the Council's headed paper.
- (g) The use of computer facilities can lead to contractual obligations in the same way as oral or other written forms of transactions. There are limitations as to whether in some cases these transactions can constitute valid legal agreements. Members should therefore ensure that they do not exceed their powers to enter into contracts or authorise expenditure. If Members are uncertain of the position, they should contact the Borough Solicitor or Head of Democratic Services for advice.
- (h) Computer records should not be relied on where there is a legal requirement for other record keeping to take place. Adequate records of computer transactions on behalf of the Council need to take place either through archiving, or other electronic or non-electronic back up methods. Where appropriate, confirmation of receipt of important e-mails should be gained which may be disclosed in litigation. If in doubt about the legal position, once again, advice from the Borough Solicitor must be sought.

(vi) Network Efficiency

- (a) Members must regularly delete or archive files no longer required or needed for immediate access.
- (b) Any file that is uploaded or downloaded must be scanned for viruses before it is run or accessed. In general this should be achieved through the use of memory resident or network virus checking software. Any files, including files received as e-mail attachments, should not be imported without first checking for viruses using approved software. If in doubt Members must consult the Council's Deputy Director of ICT, Highways and Business Services via the Helpdesk number (6556).
- (c) Unnecessary or unauthorised e-mail and Internet usage causes network and server congestion, slows other users, takes up work time, consumes supplies and ties up printers and other shared resources.
- (d) Where possible Members should schedule communications-intensive operations such as large file transfers, video downloads, mass e-mailing for off-peak times.
- (e) Video and audio streaming and downloading technologies represent significant data traffic that can cause local network congestion. Video and audio downloading should be avoided where possible.
- (f) See also Appendix A on e-mail guidelines.

(vii) Personal Use of the Council's Computer Facilities

- (a) Whilst ICT equipment supplied by the Council is intended primarily to be used for council purposes, provided there is no cost to the Council or any liability for the Council arising from its use for secondary purposes, it is a matter for each individual Councillor as to whether or not they use it for other purposes. If Councillors do use ICT equipment for other purposes, they must satisfy themselves that this secondary use is acceptable and appropriate.

Examples would be personal e-mail correspondence, researching hobbies, downloading audio files etc. If such other use goes beyond the 'de minimis' referred to in paragraph 7 then Members may authorise an appropriate deduction to be made from their basic allowance at a rate agreed by the Council.

- (b) The Council is not liable for any problems arising out of the purchase of goods or financial transactions by members on a personal basis using the Council's computer facilities.

(viii) Inappropriate Use, Prohibited Sites and Offensive Material

- (a) Members must not use computer facilities to access or send transactions that are, libellous, harassing and defamatory or cause offence to an individual and their dignity or contain offensive comments based on, for example, gender, race, age, sexuality or disability or religious belief.
- (b) False statements, or information, which adversely affects a person's, or an organisation's, reputation must not be made.
- (c) Members will be liable for any statements that are not sanctioned by the Council and which may breach equalities or indeed other legislation.
- (d) Members must not access or participate in chat rooms, newsgroups, list servers, e-mail subscription services or other new information sharing technologies unless they have the documented express permission of the Deputy Director of ICT, Highways and Business Services or nominated representative. In cases of any doubt advice must be sought from ICT.
- (e) Members must not deliberately access or deliberately carry out search procedures that result in access to inappropriate Internet sites or material. This may include pornographic, racist or other sites that are not appropriate for members of a public authority to use Council equipment or software to access. Members must not store, view, print or redistribute any inappropriate document or graphic file.
- (f) To ensure that Members are, as far as practicable, protected from inappropriate and offensive sites, software has been introduced to block access to such sites.
- (g) If a Member accidentally connects to a site that contains inappropriate or offensive material that has not been blocked, they must disconnect from that site immediately using the "Home" button on the web browser. Members must then immediately cease to use the search that produced the material.

- (h) No Member may use council facilities knowingly to download or distribute pirated software or data, entertainment software or games, or to play games against opponents over the Internet.
- (i) No Member may use the Council's computer facilities to deliberately propagate any virus, worm, Trojan horse, trap-door program code or any other harmful programs.
- (j) Members must not amend transactions received.
- (k) Members using the council computer facilities must identify themselves honestly, accurately and completely and must not impersonate any other person particularly when in chat rooms or newsgroups, or when setting up accounts on outside computer systems.

(ix) Other use

- (a) Most Councillors are elected on a party political platform and the organisation of local authorities into political groups is recognised in law.
- (b) It is legitimate to use the ICT equipment provided for activities which are pursuant to the conduct of the Council's business including the organisation of group meetings, conducting correspondence including that with political parties which arises because of a Councillor's membership of and/or role within the Council or responding to requests for information.
- (c) Members are not permitted to use any resources, including ICT resources, provided by the authority for party political purposes (see paragraph 4 above), especially in the period between the publication of a Notice of Election and the election date, known as the 'purdah' period. However, this will not apply in circumstances where Members pay for the use of the resources at a rate agreed by the authority.
Party Political uses would include:
 - advocating support for the candidacy of one candidate or political party as opposed to another during an election period,
 - soliciting support from electors
 - preparing a party newsletter for party members or for members of the public.
 - Preparing or maintaining databases of party supporters or mailing lists to be used for eliciting support for a party or candidate

Equipment

13. The following equipment is provided for home use;
- Notebook or desktop PC
 - Docking station (as appropriate)
 - 17 inch TFT monitor
 - Printer/Fax/Scanner (all in one)
 - Keyboard and mouse
 - Broadband internet connection

Similar equipment is also available for use in the Group Office computer rooms.

14. All this equipment is fully supported by the ICT Service Desk between 8.00 am and 5.30 pm which can be contacted as follows:

ICT Service Desk on 01895 556556

<mailto:ICTServiceDesk@Hillingdon.Gov.UK>

Technological changes

15. The equipment provided is designed to last for the life of the Council (i.e. for four years) and be capable of handling technological changes such as new or enhanced software that may be introduced on Council systems. However, it is recognised that the speed of technological innovation means that new hardware and software may become available which might assist Members in connection with Council business. Any request for hardware or software additional to that provided generally to Members will be determined by the Head of Democratic Services (with technical input from the Deputy Director of ICT, Highways and Business Services) after consultation with the Cabinet Member for Finance and Business Services in accordance with the following criteria:

- will it assist in the conduct of the Council's business?
- is it consistent and compatible with the Council's technical standards?
- is it relevant to a particular role carried out by Members?
- can the cost be managed within existing budget provision?

Responsibilities

16. The lead officer for Members' ICT is the Head of Democratic Services with technical advice and guidance from the Deputy Director of ICT, Highways and Business Services. The Cabinet Member for Finance and Business Services has general oversight of the operation of these guidelines.

E-Mail Guidelines for Members

- (a) E-mails enable clear communication, especially for remote sites, disparate workgroups, flexible working arrangements and interdepartmental / organisational partnerships.
- (b) E-mails should not be used as a deliberate means of avoiding personal contact where one face to face discussion can avoid an exchange of numerous e-mails.
- (c) Limit the number of copies to those that are necessary.
- (d) Do not unnecessarily broadcast information widely. Constant bombardment of individuals by irrelevant or unsolicited e-mail is time wasting.
- (e) E-mails should be checked regularly or where this is not possible arrangements should be made for them to be redirected to the appropriate Party Group offices
- (f) Reply promptly to all e-mail messages requiring a reply. Where a prompt, detailed, response is not possible, send a short e-mail acknowledging receipt and giving an estimate of when you will provide a detailed response.
- (g) Do not unnecessarily print out and store hard copies of e-mails.
- (h) Do not either write in capitals as this can be perceived as shouting, or adopt a more aggressive tone in e-mails than you would in a face to face discussion and abide by the corporate standards for written communication.
- (i) E-mail and the Internet provide an immense and unprecedented way to communicate council messages. If authorised to use them, it is important to maintain clarity, consistency and integrity of the Council's corporate image and policy.
- (j) Do not attach long files or include graphics and logos if this is not necessary.
- (k) Members must regularly delete or archive files no longer required or needed for immediate access.
- (l) Summary checklist
 - Is e-mail the best way to communicate this message?
 - Think before you write.
 - Use the spell check facility
 - Think before you print.
 - Only copy in people who you would be prepared to talk to about the subject.
 - Re-read before you send.
 - Delete or electronically file/archive e-mail as soon as it is dealt with.