

11. Rights to Attend and Speak

Any member of the council may attend any meeting of a committee, including those parts of the meeting from which the public and press are excluded. They do not have a right to vote or move a motion or amendment, but may speak with the consent of the chairman (such consent to be sought before the meeting and should not normally be withheld).

If a committee is considering an item of business in private that relates to the personal or financial affairs of an individual employee or member of the public, it may resolve to exclude from the meeting any member who is not a member of the committee. Before doing so, a member representing a member of the public should be given the opportunity to speak.

To ensure a fair and proper debate, the chairman may:

- (a) prevent any member from speaking more than once on any item, motion or amendment
- (b) require a member to cease speaking if they have spoken for more than five minutes

Members of a committee who have voting rights on that committee but are not members of the council, may propose or second motions and amendments as if they were members of the council.

12. Members' Interests

Disclosable Pecuniary Interests

A member with a Disclosable Pecuniary Interest in a matter to be considered at a meeting must, before the matter is discussed or when that interest becomes apparent:

- (a) disclose the interest
- (b) explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent; and unless they have been granted a dispensation
- (c) not participate in any discussion of, or vote taken on, the matter at the meeting
- (d) withdraw from the meeting room whenever it becomes apparent that the business is being considered
- (e) not seek improperly to influence a decision about that business

Members can only stay to speak as a member of the public (where a member of the public is permitted to speak) if the Monitoring Officer has granted the member a dispensation to do so but must leave the room as soon as they have finished speaking as a member of the public.

Personal Interests

A member shall disclose a Personal Interest at a meeting where they consider that interest to be relevant to an item of business considered at that meeting. The disclosure shall be made at the commencement of the meeting, or when the interest becomes apparent, and shall be recorded in the minutes of the meeting.

Disclosure of a Personal Interest will only affect the ability of the member to participate in discussion or vote on the relevant item if it is also a Disclosable Pecuniary Interest OR if it is so close that it could give rise to actual or apparent impartiality, bias or pre-determination (e.g. the matter directly affects themselves, a close friend or a family member). In that case, the member should exclude themselves from the meeting.

The Chairman may request that a member declare a Disclosable Pecuniary Interest or a close Personal Interest and, if appropriate, leave the meeting room, should they have reason to believe that the provisions of the Member Code of Conduct and/or this procedure rule are being breached.

Where a member with a Disclosable Pecuniary Interest or close Personal Interest in a matter under discussion (unless a dispensation has been granted) chooses to participate in the discussion and vote, the chairman will refuse to count the 'vote' of the member concerned, as it will have been cast improperly and should not be considered to be a vote at all.

Where a Disclosable Pecuniary Interest or a Personal Interest has been agreed by the Monitoring Officer as being a Sensitive Interest (one where disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation), the Member need only disclose the existence of the interest but not its nature.

13. Party Whip

Any instruction given by or on behalf of a political group to any member of that group as to how they should speak or vote on any matter, or the application or threat to apply any sanction by the group in respect of that councillor should they speak or vote in any particular manner, shall be notified to the Monitoring Officer by the group before the debate on that item commences and recorded in the minutes.

14. Questions by Members

General

At Cabinet meetings, members of the council may ask questions about budget and policy at a strategic level, and will be given an opportunity to speak on each item before the vote is taken.

In addition, a councillor may ask a question at a committee meeting, except that questions may not be asked at meetings of the Planning Committee, Appeals Committee, Licensing Committee or Appointments Committee that relate to items on the agenda for that meeting.

Notice of written questions

To guarantee a reply, members must submit their question in writing or by email to the Clerk no earlier than four weeks and no later than 48 hours (not including weekends or bank holidays) prior to the start of the meeting. Any written question received by the deadline will receive a written response.

A question may be asked at the meeting without prior notice but in these circumstances there is no guarantee that a full reply will be given at the meeting.

Scope of questions

The Monitoring Officer will reject a question if it:

- (a) is not related to policy or budget issues
- (b) is not about a matter for which the council has a responsibility, or which affects the Isle of Wight
- (c) is defamatory, frivolous or offensive
- (d) is not a question but a statement
- (e) relates to an individual or the questioner's own particular circumstances
- (f) is substantially the same as a question which has been put at a meeting of the committee in the past six months
- (g) requires the disclosure of confidential or exempt information
- (h) names or identifies individual service users, members of staff or members/staff of partner agencies
- (i) is not submitted within the requisite timeframe

Record of written questions

Democratic Services will give a unique reference number to each written question received within the required notice period and enter this number and the question in an electronic file open to public inspection. Rejected written questions will include reasons for rejection. Copies of all written questions will be circulated to members at the meeting. Following the meeting, the answer will be recorded adjacent to the question in the electronic file. Minutes of the meeting will record who asked a question, the subject matter and the reference number of the question and answer.

For the avoidance of doubt this rule does not apply to oral questions asked at the meeting.

Asking written questions at the meeting

The question shall be put to and answered by the relevant member of the committee without discussion. The answer to a member's question may be given orally or in writing.

Oral questions

In addition to the above, councillors may ask oral questions of the committee without any notice. The period allowed for these questions and answers shall be 10 minutes. The minutes of the meeting will record who asked an oral question, the subject matter, the councillor who responded and the answer.

The chairman may ask for any oral question to be submitted in writing.

Supplemental question

The councillor shall be allowed one further supplementary question provided it is relevant to the original question and does not introduce a new subject matter.

Written answers

Any written question that cannot be dealt with during member questions, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

Declined questions

If, in the view of the chairman, the question asked (either in writing or orally) is not within the remit of the meeting, they will decline to accept the question at the meeting and instruct that either a written reply be given after the meeting (and that this be recorded in the record maintained) or that the question be directed to the relevant Cabinet member or other committee outside the meeting. Where the chairman so directs for oral questions the questioner shall submit the question in writing.

15. Questions by Members of the Public

Members of the public may ask a question at all Ordinary Meetings of Full Council, Cabinet and committees. Such a question must be within the remit of the meeting, except that questions may not be asked at meetings of the Planning Committee, Appeals Committee, Licensing Committee or Appointment Committee that relate to items on the agenda for that meeting.

The total time set aside for such questions and answers at Full Council and Cabinet will be up to 15 minutes for previously submitted written questions, and a further period of up to 15 minutes for any oral questions submitted at the meeting.

For all other committees the maximum time for public questions (written and oral) will be 15 minutes.

No written question exceeding 150 words will be allowed. Questions will usually be answered by either the Leader or relevant Cabinet member, or another member as determined by the chairman.

Questions will be asked in the order that notice was received, except that the chairman may group together similar questions.

No person may submit more than one written question at any one meeting, and no more than three questions may be asked on behalf of one organisation.

To guarantee a reply at the meeting, members of the public must deliver their question in writing or by email, to Democratic Services no later than two clear working days prior to the start of the meeting. Each question must give the name and address of the questioner. Any written question received by the deadline will receive a written response.

A question may be asked at the meeting without prior notice but in these circumstances, there is no guarantee that a full reply will be given.

Scope of questions

A question may be rejected if it:

- (a) is not about a matter for which the council has a responsibility, or which affects the Isle of Wight
- (b) is defamatory, frivolous or offensive
- (c) is not a question but a statement
- (d) relates to an individual or the questioner's own particular circumstances
- (e) is substantially the same question which has been put at a meeting in the past six months
- (f) requires the disclosure of confidential or exempt information or
- (g) names or identifies individual service users, members of staff or members/staff of partner agencies
- (h) is not submitted within the requisite timeframe

Democratic Services will provide assistance and an advocacy service for members of the public wishing to submit written questions to council meetings. This service will provide objective advice on the structure and wording of questions and submit/ask the question on behalf of the member of the public should they wish it.

Record of written questions

Democratic Services will give a unique reference number to each written question received at least two clear working days prior to the start of the meeting and enter this number and the question in an

electronic file open to public inspection. Rejected written questions will include reasons for rejection. Copies of all public written questions will be circulated to members at the meeting. Following the meeting, the answer will be recorded adjacent to the question in the electronic file. Minutes of the meeting will record who asked a question, the subject matter and the reference number of both the question and answer.

For the avoidance of doubt this rule does not apply to oral questions asked at the meeting.

Asking a written question at a meeting

The chairman will invite the questioner to put the written question to the member named in the notice, in the order in which the written questions were received. If a questioner who wishes to ask a question prefers, their local councillor can ask the question on their behalf.

If the questioner is not present, then the chairman will decide whether the question should be read out and answered at the meeting.

The chairman may refuse to permit any question that in their opinion would be inappropriate for the meeting.

A person who has submitted a written question will not also be able to submit an oral question at the same meeting.

Oral questions – Full Council and Cabinet

Members of the public wishing to ask an oral question at either Full Council or Cabinet should register their intention at the reception desk in advance of the meeting. The time for registering will be 30 minutes prior to the published start of the meeting up until 10 minutes prior to that meeting commencing.

They will then be given a form to complete with their name, town/village of residence, email or home address and the topic of the question (not the question in full, unless they wish to provide this). These forms will be consecutively numbered in the order submitted.

At the expiry of the 10 minutes prior to the start of the meeting, the forms will be collected and handed to the chairman in numbered order.

Up to 15 minutes will be allotted to deal with written public questions, and then up to a further 15 minutes will be allowed for questions submitted on the day (oral questions). For oral questions, the chairman will ask those who have registered an oral question (in the numbered order that they were registered) to put their question. As the subject matter is known at that stage, the chairman should indicate which member will reply.

Once all registered oral questions have been dealt with, if time permits and at the discretion of the chairman, any further oral questions may be put to the meeting by members of the public.

Once the defined period of time allowed for questions has passed then all unanswered oral questions fall (unless chairman exercises their discretion to extend the time).

No oral question will receive a written reply, unless the member responding indicates as such.

Oral questions – other committees

If time allows, the chairman will ask in the meeting if there are any oral questions from members of the public. People asking an oral question must state their name and place of residence. The chairman may ask for any oral question to be submitted in writing.

Minutes of all meetings will record who asked a question, the subject matter, the response and the member who responded. If the member is unable to provide a response at the meeting they may provide a written response at a later date.

Supplementary question

A questioner who has put a question (either written or oral) in person may also put one supplementary question without notice to the member who has replied to their original question. A supplementary question must arise directly out of the original question or the reply. The chairman may reject a supplementary question on any of the grounds in 'Scope of questions', above.

Written answers

Any written question that cannot be dealt with during public question time, due to lack of time or because of the non-attendance of the member to whom it was addressed, will be dealt with by a written answer.

Where a reply cannot be provided at the meeting and a written response is promised, then such a response will usually be provided within three weeks, or an explanation will be given at that time as to why it is taking longer to get the response and when a final response may be ready.

16. Disturbance by Public

If a member of the public interrupts proceedings, the chairman will warn the person concerned. If they continue to interrupt, the chairman may order their removal from the meeting room.

If there is a general disturbance in any part of the meeting room open to the public, the chairman may adjourn the meeting and/or call for that part to be cleared.

17. Recording of Meetings

While a meeting is open to the public, any person attending the meeting for the purpose of reporting the proceedings in any publicly available medium, including taking of photographs and the making audio or visual recordings, will be afforded reasonable facilities for so doing in accordance with the Recording, Photography and Use of Social Media Protocol (see Part 5 Section 11).

18. Discussion of Individual Officers

No discussion shall take place in a meeting about the terms or conditions of employment or the conduct of any officer of the council unless the meeting has first considered whether to exclude the public.

19. Non-Attendance at Meetings

Any councillor who is not likely to meet the requirement in the Local Government Act 1972 to attend at least one meeting of either the council, a committee or a sub-committee in any period of six consecutive months should write to the Monitoring Officer explaining their non-attendance. The Monitoring Officer will report to Full Council, which will decide whether the councillor can remain a member of the council. Approval to continue in office must be given before the six months expires.

20. Suspension, Amendment and Interpretation of Procedure Rules

All of these rules except Sections 10 and 18 may be suspended by motion on notice or without notice if at least one half of those in attendance agree. Suspension can only be for the duration of the meeting.

At the discretion of the chairman, any motion to add to, vary or revoke these rules will, when proposed and seconded, stand adjourned without discussion to the next Ordinary Meeting of Full Council, unless such motion is submitted as part of the consideration of a written report circulated with the agenda that recommends such a change.

Subject to receiving appropriate advice from the Monitoring Officer, the ruling of the chairman as to the construction or application of any of these rules, or as to any proceedings of the meeting, shall not be challenged at any meeting.

PART 4C - PETITION SCHEME

1. Petitions

1.1 The council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the council that meet the requirements below will receive an acknowledgement from the council within 10 working days of receipt, setting out what the council plans to do with the petition. Something will be treated as a petition if it is identified as being a petition, or if it seems to the council that it is intended to be a petition.

1.2 There are three types of petitions:

- (a) Petitions of 2,500 or more signatories (to which sections 4 to 10 of this scheme applies)
- (b) Petitions of fewer than 2,500 signatories (see section 2)
- (c) Petitions made in relation to planning, licensing or other statutory provisions (see section 3).

1.3 The council's response to a petition will depend on what it asks for and how many people have signed it, but may include one or more of the following:

- (a) taking the action requested in the petition
- (b) considering the petition at a council meeting (the consideration of the petition may be deferred to a subsequent meeting if the council considers that it requires further information)
- (c) holding an inquiry into the matter
- (d) commissioning research into the matter
- (e) holding a public meeting
- (f) holding a meeting with petitioners
- (g) referring the petition for consideration by the council's scrutiny committee
- (h) writing to the petition organiser setting out our views about the request in the petition

1.4 In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

1.5 If a petition is about something which is the responsibility of another authority, the petition organiser will be asked whether they would like the petition to be redirected to that other authority. Where a petition relates to a matter over which the council has no responsibility, control or influence, the petition will be returned to the petition organiser with an explanation for that decision.

2. Petitions of fewer than 2,500 named persons

2.1 Petitions containing fewer than 2,500 named persons should be given or sent direct to the relevant Cabinet member who will deal with the request contained within the petition as they consider appropriate.

2.2 Details of the relevant Cabinet member and how to contact them can be found here:

[Cabinet posts - Modern Council \(moderngov.co.uk\)](http://moderngov.co.uk)

2.3 The petition must contain the name and address of the petition organiser and the Cabinet member shall inform the petition organiser what they intend to do with the petition. This can include:

- (a) Noting its contents
- (b) Agreeing some form of action
- (c) Meeting with some or all of the petitioners to discuss the matter
- (d) Taking its contents into account when making any subsequent decisions.

2.4 If there is no named petition organiser than the first-named on the petition will be deemed to be the petition organiser.

3. Petitions made in relation to planning, licensing or other statutory provisions

3.1 Petitions that are made under enactments are excluded from this scheme. Other exclusions are where the petition applies to a planning or licensing application, is a statutory petition (for example, requesting a referendum on having an elected mayor), or is on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, or other procedures apply.

4. Petitions of 2,500 or more named persons

4.1 The rest of this scheme relates to petitions containing 2,500 or more named persons.

4.2 Petitions of 2,500 or more named persons should be sent in hard copy to:

Democratic Services
Isle of Wight Council
County Hall
Newport
PO30 1UD

or by email to democratic.services@iow.gov.uk

4.3 Petitions may be presented to a meeting of the council either in person by a petitioner organiser or by a councillor on their behalf.

5. Guidelines for submitting a petition

5.1 Petitions submitted to the council must include:

- (a) a clear and concise statement covering the subject of the petition
- (b) a statement clearly setting out what action the petitioners wish the council to take, including whether the petitioners are seeking a debate at Full Council or an officer to give evidence at a scrutiny committee
- (c) the names of all persons supporting the petition and preferably their postcode
- (d) the contact details, including an address, of the petition organiser (the person who will be contacted to explain how the council will respond to the petition). If the petition does not identify a petition organiser, the first signatory on the petition will be treated as the petition organiser.

5.2 Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted.

5.3 If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, the petition organiser will be provided with the reasons. Paragraphs 7.2 and 7.3 provide further explanation.

5.4 In the period immediately before an election or referendum, the council may need to deal with petitions differently if they relate to a potentially controversial matter. If this is the case, reasons will be provided to the petition organiser and a revised timescale agreed.

6. **Signing a petition**

6.1 A petition can be signed by a person of any age.

6.2 A person may only sign a petition once. The list of persons on the petition will be subject to sample checks by officers and any duplicate or inappropriate names will be removed.

7. **What the council does when it receives a petition**

7.1 An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what the council plans to do with the petition and when they can expect to receive further contact.

7.2 The Proper Officer will agree with the petitioner, in consultation with the chairman, the wording of the motion to be put to Full Council for members to debate and vote on, which should reflect the wording used in the petition.

7.3 The council will not take action on any petition which it considers to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in any acknowledgement. For example, a petition may be rejected if the Monitoring Officer considers that it:

- (a) contains intemperate, inflammatory, abusive or provocative language
- (b) is defamatory, frivolous, vexatious, discriminatory or otherwise offensive
- (c) contains false statements
- (d) does not relate to a subject matter which is within the direct control of the council, e.g. request to lobby central government
- (e) is too similar to another petition submitted within the past six months
- (f) discloses confidential or exempt information, including information protected by a court order or government department
- (g) discloses material that is commercially sensitive
- (h) names individuals, or provides information where they may be easily identified, e.g. individual officers of public bodies, or makes criminal accusations
- (i) contains advertising statements
- (j) refers to an issue which is currently the subject of a formal council complaint, local ombudsman complaint or any legal proceedings

7.4 When considering whether a petition is vexatious, the council will use as a starting point the guidance under the Freedom of Information Act 2000, which states: *“Deciding whether a Freedom of Information request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause.”*

7.5 Details of all the petitions submitted to the council will be published on its website. Whenever possible, all correspondence relating to the petition will also be published (all personal details will be removed, including petitioners' addresses).

7.6 When a petition is received that relates to a local matter (particularly affecting specific electoral divisions), a copy of the petition will be sent to each relevant councillor at the same time as acknowledging receipt of the petition to the petition organiser.

8. **Full Council debates**

8.1 If a petition contains 2,500 or more named persons, it will be debated by the Full Council unless it is a petition asking a senior council officer to give evidence at a public meeting or if it is on a subject matter that the council is currently consulting on. If there is a current consultation on the same subject matter, then the petition will be referred to the relevant Cabinet member to consider as part of the consultation. If the petition does proceed to Full Council debate, then this means that the issue raised in the petition will be discussed at a meeting which all councillors can attend.

8.2 The council will endeavour to consider the petition at its next meeting, if the meeting is due to take place no less than seven working days ahead and there is sufficient time on the agenda to consider the petition. A petition will not be debated at a Full Council meeting at which there is a related report. However, where there are fewer than seven working days until the meeting, consideration will take place at the meeting following that. Petitions will not be considered at the annual meeting of Full Council or at Extraordinary Meetings of Full Council, which are not convened to consider the subject matter of petitions.

8.3 The petition organiser will be given three minutes to present the petition at the meeting and the Leader will then be given three minutes to reply. The petition will then be discussed by councillors for a maximum of 15 minutes. The Leader will then be invited to sum up for no more than two minutes. The council will then vote on the motion as agreed with the petitioner. There shall be no right by petitioner or members to amend the motion.

8.4 The petition organiser will receive written confirmation of the council's decision. This confirmation will also be published on our website.

9. **Evidence to Corporate Scrutiny Committee**

9.1 A petition may ask a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, a petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected councillors to enable them to make a particular decision.

9.2 If a petition contains at least 2,500 named signatories, the relevant senior officer will give evidence at a public meeting of the council's Corporate Scrutiny Committee. The senior officers who can be called to give evidence are Directors or their nominees.

9.3 At the meeting, the petition organiser will be invited to address the committee for a maximum of five minutes on the issue and, where the petition relates to a division matter, the relevant councillor will also then be invited to comment on the petition for up to three minutes. The relevant officer will then be required to report to the committee in relation to the subject matter of the petition.

10. **What can I do if I feel my petition has not been dealt with properly?**

- (a) The petition organiser has the right to request that the Corporate Scrutiny Committee review the steps that the council has taken in response to their petition if they feel that the council has not dealt with their petition properly. Requests for such a review should be made to the Monitoring Officer within 20 working days of being notified of the

council's decision on the petition. The petition organiser must give a short explanation of the reasons why the council's response is not considered to be adequate.

- 10.2 The committee will endeavour to consider a request at its next meeting, if the meeting is due to take place no less than seven working days ahead. However, where there are fewer than seven working days until the meeting, consideration will take place at the meeting following that.
- 10.3 Should the committee determine the council has not dealt with a petition adequately, it may
- (a) instigate an investigation
 - (b) make recommendations to the Cabinet
 - (c) arrange for the matter to be considered at a meeting of the Full Council
- 10.4 Once the appeal has been considered, the petition organiser will be informed of the results within five working days. The results of the review will also be published on the council's website.
11. **Information and advice**
- (a) The council accepts petitions in hard copy or online (e-petitions). There are many online websites that offer support or guidance on creating e-petitions, e.g. <http://www.change.org/en-GB>.

PART 4D - OFFICER EMPLOYMENT RULES

1. Appointment of Officers

- 1.1 The council may appoint such officers as it thinks necessary for the proper discharge of such of its (or another authority's) functions as falls or is agreed to be discharged by it⁶.
- 1.2 Every appointment of a person to a paid office or employment by the council must be made on merit⁷.
- 1.3 There are regulations establishing various mandatory standing orders (procedure rules) giving effect to obligations or restrictions on delegation of authority to bring these principles into effect. These rules are set out below⁸.

2. Statutory Chief Officers, Chief Officers, Deputy Chief Officers and Other Officers

2.1 Local government employment rules differentiate between categories of officers, including:

- (a) Statutory Chief Officers
- (b) Governance Statutory Chief Officers
- (c) Chief Officers
- (d) Deputy Chief Officers and
- (e) other statutory officers
- (f) proper officers

2.2 Statutory Chief Officers are:

- (a) Head of Paid Service (LGHA 1989, s.4)
- (b) Monitoring Officer (LGHA 1989, s.5)
- (c) Chief Finance Officer (LGA 1972, s.151)
- (d) Director of Children's Services (Children Act 2004, s.18)
- (e) Director of Adult Social Services (Local Authority Social Services Act 1970, s.6(A1))
- (f) Director of Public Health (National Health Service Act 2006, s.73A(1))

2.3 Governance Statutory Chief Officers are the first three in the above list. They have additional statutory employment protection due to the nature of their roles, including the involvement of an independent third-party in any proposed disciplinary investigation⁹.

2.4 Non-Statutory Chief Officers¹⁰ are:

- (a) a person for whom the Head of Paid Service is directly responsible
- (b) a person who reports directly or is directly accountable to the Head of Paid Service

⁶ [Local Government Act 1972, s 112](#)

⁷ [Local Government and Housing Act 1989, s 7](#)

⁸ [Local Authorities \(Standing Orders\) Regulation 1993, SI 1993/202](#)

[Local Authorities \(Standing Orders\) \(England\) Regulations 2001, SI 2001/3384](#)

⁹ [Local Authorities \(Standing Orders\) \(England\) Regulations 2001](#) as amended by the [Local Authorities \(Standing Orders\) \(England\) \(Amendment\) Regulations 2015](#)

[SI 2001/3384, reg 6](#)

[Local Government Act 2000, s 9FB](#)

¹⁰ [Local Government and Housing Act 1989, s.2\(7\)](#)

- (c) any person who reports directly or is directly accountable to the local authority itself or any committee or sub-committee of the authority; but
- (d) excludes any person whose duties are solely secretarial or clerical or are otherwise in the nature of support services.

2.5 Deputy Chief Officers are people who report directly or are directly accountable to one or more of the statutory or non-statutory chief officers, subject to the same exclusion concerning administrative and support staff¹¹.

2.6 Other Statutory and Proper Officers

2.7 Proper Officers are officers appointed by the council to discharge particular statutory functions but are not necessarily chief officer posts in their own right (see Part 3 Section 12).

3. Who Makes the Decision?

3.1 Where Executive arrangements are in place, the appointment of staff, including their dismissal and the terms and conditions upon which they are appointed, is a Non-Executive function. This means that these decisions are either taken by Full Council itself, a committee or an officer, although there are a number of exceptions to this, as outlined below¹².

4. Role of Councillors

4.1 The appointment or dismissal of the Head of Paid Service may only be made by a meeting of the Full Council, which may either be direct or as confirmation of a recommendation from a committee or sub-committee of the council¹³.

4.2 Full Council has delegated authority to the Appointments and Employment Committee in respect of Governance Statutory Chief Officers and Directors (see Part 3 Section 6).

4.3 Delegated authority is granted to the Chief Executive as Head of Paid Service for the appointment, dismissal, determining any capability issue and taking any disciplinary action taken in respect of all other staff positions. Appeals against dismissal can be made to councillors.

4.4 Unlike the Head of Paid Service, there is no statutory requirement for Full Council to approve appointment of statutory posts, but this is common practice in respect of the Monitoring Officer and Chief Finance Officer posts across many authorities, including the Isle of Wight, and is a requirement in this Constitution (see Part 3 Section 6). Dismissal of the Monitoring Officer and Chief Finance Officer may by law only be made by a meeting of Full Council, which may either be direct or as a confirmation of a recommendation from a committee or sub-committee of the council (see 10.6 below).

Involvement of the Leader and Cabinet

4.5 The Leader and Cabinet are involved in decisions to appoint or dismiss Governance Statutory Chief Officers and Directors in two distinct ways:

¹¹ [Local Government and Housing Act 1989, s 2\(8\)](#)

¹² [Local Authorities \(Functions and Responsibilities\) \(England\) Regulations 2000, SI 2000/2853, Sch 1, para 37 LGA 1972, s 101](#)

¹³ [SI 2001/3384, Sch 1, para 4](#)

- (a) where a committee or a sub-committee of the council is discharging, on behalf of the authority, the function of appointment or dismissal, at least one member of the Cabinet must be a member of that committee or sub-committee
- (b) before an offer of appointment or notice of dismissal is issued, Cabinet members must be informed of the prospective decision and the Leader may make representations concerning their 'material and well founded' objection to the decision maker¹⁴

5. Role of Head of Paid Service

5.1 The Head of Paid Service undertakes three distinct roles in this process:

- (a) decision maker on posts other than Governance Statutory Chief Officers and Directors (and the responsible officer concerning the grant and supervision of exemptions from political restriction)¹⁵
- (b) principal advisor on staffing matters to the council and/or the appropriate committee or sub-committee (except where there would be a conflict of interest in respect of their own pay and conditions of service)
- (c) responsible for issuing a formal 'section 4' report¹⁶, informing the council of proposals concerning:
 - (i) the manner in which the discharge by the authority of its different functions is co-ordinated
 - (ii) the number and grades of staff required by the authority for the discharge of its functions
 - (iii) the organisation of the authority's staff; and
 - (iv) the appointment and proper management of the authority's staff

5.2 Subject to Rules 6 and 13, the functions of appointment and dismissal of, and taking disciplinary action against, an officer of the council must be discharged, on behalf of the authority, by the Head of Paid Service, or by an officer nominated by them and not by members of the council.

5.3 The Head of Paid Service has authorised all Directors to carry out on their behalf the functions of appointment and dismissal of, and taking disciplinary action against, officers.

6. Rule 5 shall not apply to the appointment or dismissal of, or disciplinary action against:

- (a) the Head of Paid Service
- (b) the Monitoring Officer
- (c) the Chief Finance Officer
- (d) Directors
- (e) Political Assistants¹⁷
- (f) the consideration of grievance and disciplinary appeals relating to Governance Statutory Chief Officers and Directors in cases of dismissals that arise out of disciplinary or capability proceedings

¹⁴ [SI 2001/3384, Sch 1, Pts I, II](#), paras 5, 6

¹⁵ [LGHA 1989, s 3](#)

¹⁶ [LGHA 1989, s 4](#)

¹⁷ [LGHA 1989, s.9](#)

7. Recruitment and Appointment of Officers

7.1 Declarations

- (a) The council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are related to an existing councillor or officer of the council, or of the partner of such persons.
- (b) No candidate so related shall be appointed without the authority of the relevant chief officer.

7.2 Seeking support for appointment

- (a) Subject to paragraph (c) below, the council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the council.
- (b) Subject to paragraph (c) below, no councillor will seek to support any person for appointment with the council.
- (c) Nothing in this Rule will prevent a councillor from giving a written reference for a candidate for submission in connection with an application for appointment.

8. Recruitment of Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers

8.1 Where the council proposes to appoint a Statutory Chief Officer, a Non-Statutory Chief Officer, or a Deputy Chief Officer, and it is not proposed that the appointment will be made exclusively from among their existing officers, the council will:

- (a) Draw up a statement specifying:
 - (i) the duties of the post
 - (ii) any qualifications or qualities required
- (b) Arrange for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it
- (c) Arrange for a copy of the statement mentioned in Rule 8.1(a) to be sent to any person on request

8.2 Where a post has been advertised as provided in Rule 8.1(b), the council shall:

- (a) interview all qualified applicants for the post, or
- (b) select a short list of such qualified applicants and interview those included on the short list

8.3 Where no suitably qualified person has applied, the post may be re-advertised in accordance with Rule 8.1(b).

8.4 When a Statutory Chief Officer (other than a Governance Statutory Chief Officer), a Non-Statutory Chief Officer, or a Deputy Chief Officer ceases to hold that post or is likely to be absent for any length of time, the Head of Paid Service, after consultation with the Leader, may appoint someone to act temporarily in that capacity and determine the salary to be paid. Similarly, the Head of Paid Service may, after consultation with the Leader, appoint an interim senior manager to undertake a specific role that does not currently exist in the Establishment and determine the rate of remuneration.

9. Appointment or Dismissal of Governance Statutory Chief Officers and Directors

9.1 No offer of an appointment or notice of dismissal may be made to a Governance Statutory Chief Officer or a Director until:

- (a) the Council, the Appointments and Employment Committee (or other responsible body or officer) has notified the Monitoring Officer of the name of the person to be offered the appointment or given notice of dismissal and any other particulars the committee considers relevant
- (b) that information has been sent by the Monitoring Officer to the Leader and all members of the Cabinet with a date and time by which any objection to the making of the offer or issuing of the notice can be made by the Leader
- (c) the Monitoring Officer has confirmed that the date and time for objection by the Leader has elapsed and either:
 - (i) in the case of a Governance Statutory Chief Officer, Full Council has confirmed the appointment or dismissal after consideration of any such objection and resolving that it is not material or not well-founded or
 - (ii) in all other cases, no such objection has been made or the Appointments Committee has considered any such objection and has resolved that the objection is not material or not well-founded

10. **Dismissal of a Governance Statutory Chief Officer**

10.1 No dismissal may be taken in respect of a Governance Statutory Chief Officer other than in accordance with the following procedure:

10.2 The council will appoint the Investigating and Disciplinary Committee who will determine if a full investigation is required and if so will appoint an independent investigator. The Investigatory and Disciplinary Committee will determine what action, if any, is required. If the Committee makes a recommendation to Full Council for dismissal, such recommendation shall be first considered by an Independent Panel.

10.3 The council will appoint the Independent Panel for the purposes of advising the council on matters relating to the dismissal of a Governance Statutory Chief Officer.

10.4 The council will appoint to the Independent Panel three independent persons appointed under section 28 of the Localism Act 2011 who have accepted an invitation in accordance with the following priority order:

- (a) an independent person who has been appointed by the council and who is a local government elector;
- (b) any other independent person who has been appointed by the council;
- (c) an independent person who has been appointed by another authority or authorities.

10.5 Before the taking of a vote at the relevant meeting on whether or not to approve a dismissal, Full Council must take into account, in particular:

- (a) any advice, views or recommendations of the Independent Panel
- (b) the conclusions of any investigation into the proposed dismissal and
- (c) any representations from the relevant officer

10.6 Full Council will abide by the recommendations of the Independent Panel unless there are exceptional reasons to justify departing from them.

10.7 A Governance Statutory Chief Officer may only be dismissed on the vote of two-thirds of all the members of Full Council, i.e. not just those present and voting.

10.8 All suspended officers shall be on full pay during the investigation of the alleged misconduct, which must be completed no later than two months after the suspension takes effect.

11. Appeals

- 11.1 If any decision to dismiss an officer is taken by Full Council, it is not possible to provide an internal appeal process against the dismissal. Instead, the officer may appeal to an appeals panel formed from a neighbouring local authority under sharing arrangement in accordance with s.101 Local Government Act 1972.
- 11.2 Any other appeal by an officer must be lodged with the Head of Paid Service within 10 working days of written confirmation to the officer of the dismissal or disciplinary action and must include a written statement of the grounds on which the appeal is made.
- 11.3 Appeal hearings shall be considered by the Appointments and Employment Sub-Committee in the case of all employees (except Governance Statutory Officers appealing against action short of dismissal in which case it shall be the Appeals Committee) and shall not include members involved in the decision to dismiss or take disciplinary action.

12. Appointment and Dismissal of the Director of Public Health

- 12.1 In circumstances where the council wishes to appoint a Director of Public Health (rather than operate a shared service with another appointing authority), the Head of Paid Service or their nominee shall:
- (a) liaise with the Faculty of Public Health regarding the production or updating of the statement specifying:
 - (i) the duties of the post; and
 - (ii) all necessary areas of professional and technical competence
 - (b) arrange for the post to be externally advertised to bring it to the attention of suitably qualified persons (unless applicants are to be sought only from among the council's existing staff);
 - (c) share the statement with the Public Health England Regional Director, on behalf of the Secretary of State for Health;
 - (d) arrange for the statement in paragraph (a) above to be sent to any person on request.
- 12.2 The Head of Paid Service or their nominee shall arrange for an Advisory Appointments Committee to be established to undertake the selection and appointment process for the Director of Public Health. In so doing, the advice and recommendations of Public Health England on the membership of the Advisory Appointments Committee, including the assessor, shall be sought. It is for the council to decide whether both a medical assessor and non-medical assessor are required.
- 12.3 The Advisory Appointments Committee will be chaired by the Cabinet Member on the Health & Wellbeing Board and will include:
- (a) the Head of Paid Service or their nominee
 - (b) an external professional assessor (appointed following consultation with the Faculty of Public Health and agreed by Public Health England)
 - (c) a senior NHS representative
 - (d) the Public Health England Regional Director, or another senior professionally qualified member of Public Health England acting on their behalf.
- 12.4 The overall balance of the Advisory Appointments Committee is required to have a local and professional majority, although assessors must be geographically distant and normally from outside the Isle of Wight.

- 12.5 In all cases, either all qualified applicants or a selected shortlist will be interviewed by members of the Advisory Appointments Committee with the Head of Paid Service (or other chief officer as determined by the committee) acting as adviser to the Advisory Appointments Committee.
- 12.6 Where no suitably qualified person has applied, the post may be re-advertised.
- 12.7 No offer of appointment for the Director of Public Health may be made until approval has been received from the Secretary of State for Health.
- 12.8 Following approval from the Secretary of State for Health on the Advisory Appointments Committee's selection decision, no offer of an appointment to the Director of Public Health post may be made until:
- (a) the Proper Officer has recorded the name of the person to be offered the appointment and any other particulars the Advisory Appointments Committee considers relevant to the appointment;
 - (b) that information has been sent by the Proper Officer to the Leader and all members of the Cabinet with a date and time by which any objection to the making of the offer can be made by the Leader;
 - (c) the Proper Officer has confirmed that the date and time for objection by the Leader has elapsed no such objection has been made or the Advisory Appointments Committee has considered any such objection and has resolved or decided that the objection is not material or not well-founded.
- 12.9 Consultation with the Secretary of State for Health is required prior to the dismissal of the Director of Public Health

PART 5 - CODES AND PROTOCOLS

1. Protocol for Councillors Rights to Information

In principle, councillors have, in addition to the ordinary rights of access to information enjoyed by the general public, the right to access any information held by the council of which they are a member. This right of access may not extend to publishing or otherwise making public such information and, indeed, councillors may be asked to sign a confidentiality undertaking before being provided with certain information.

The statutory position

[Section 100F Local Government Act 1972](#) (as amended) (the Act) provides that any document, which is in the possession or under the control of a principal council, and contains material relating to any business to be transacted at a meeting of the council or a committee or sub-committee of the council, shall be open to inspection by any member of the council.

This does not require the document to be open to inspection if it appears to the Proper Officer that it discloses exempt information under [Schedule 12A](#) of the Act. However, under the [Local Government \(Access to Information\) \(Variation\) Order 2006](#), the document will still be open to inspection by members if it contains the following:

- (a) Information relating to the financial or business affairs of any particular person (including the authority holding that information), except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
- (b) Information which reveals that the authority proposes:
 - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (ii) to make an order or direction under any enactment.

[The Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\)\(England\) Regulations 2012](#) (the Regulations) apply to local authorities in England that operate executive arrangements under [Part 1A Local Government Act 2000](#), as amended by s.21 and Schedule 2 of the Localism Act 2011. The Regulations:

- (a) clarify and extend the circumstances in which executive decisions are public. There is a presumption that a meeting will be open to the public unless the nature of the business being transacted would result in confidential information being disclosed
- (b) make provision for the publicity that must be given before a Key Decision is taken by the Executive and for the inclusion of prescribed information in a written statement of the Executive decision
- (c) set out additional rights of members generally, and members of overview and scrutiny committees in particular, to access documents; and general provisions relating to information that is exempt from disclosure (including advice from a political adviser)

All Members

Regulation 16 contains rights for any member to access documents that:

- (a) are in the possession or under the control of the Executive; and
- (b) contain material relating to any business to be transacted at a public meeting.

Any such document must be available for inspection for at least five clear days before the meeting, except that:

- (a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available in relation to that item, must be available for inspection when the item is added to the agenda.

Any document which:

- (a) is in the possession or under the control of the Executive and
- (b) contains material relating to:
 - (i) any business transacted at a private meeting;
 - (ii) any decision made by an individual member in accordance with executive arrangements; or
 - (iii) any decision made by an officer in accordance with executive arrangements

must be available for inspection by any member when the meeting concludes or, where an Executive decision is made by an individual member or an officer, immediately after the decision is made. Any such document must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made.

Neither of these provisions applies if it discloses exempt information. However, the document will still be open to inspection if it contains:

- (a) Information relating to the financial or business affairs of any person (including the authority holding that information), except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract, or
- (b) Information which reveals that the authority proposes:
 - (i) to give a notice under which requirements are imposed on a person; or
 - (ii) to make an order or direction

All agendas, reports and other documents and proceedings of committees and sub-committees shall be treated as confidential and shall not be disclosed unless and until they become public in the ordinary course of the council's business.

Overview and Scrutiny Members

Regulation 17 provides additional rights of access for members of overview and scrutiny committees who are entitled to a copy of any document that:

- (a) is in the possession or under the control of the Executive; and
- (b) contains material relating to:
 - (i) any business that has been transacted at a meeting of a decision-making body of the authority;
 - (ii) any decision that has been made by an individual member of the Executive; or
 - (iii) any decision that has been made by an officer in accordance with Executive arrangements.

The Executive must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after it receives the request.

No member of an overview and scrutiny committee is entitled to a copy:

- (a) of any document or part of a document that contains exempt or confidential information unless that information is relevant to:
 - (i) an action or decision that the member is reviewing or scrutinising; or
 - (ii) any review contained in any programme of work of such a committee or sub-committee of such a committee; or
- (b) of a document or part of a document containing advice provided by a political adviser or assistant.

Where the Executive determines to refuse such a request it must provide the overview and scrutiny committee with a written statement setting out its reasons for that decision.

FOIA and EIA

Local councillors can, like a member of the general public, also resort to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. The Information Commissioner's Office provides two very helpful publications; first, the [Guide to Freedom of Information](#) and second, the [Guide to the Environmental Information](#). In addition, there is detailed guidance on the exemptions that may be applicable.

Local authority accounts

The [Local Audit and Accountability Act 2014](#), and the [Accounts and Audit Regulations 2015](#) provide a right to inspect, question and make objections to the council's auditor, take copies of statements of accounts and auditors' reports. These rights are explained fully in the [National Audit Office guidance](#), but are restricted to prevent access to documents containing personal information about staff.

In addition, [s.228\(3\) of the Act](#) provides that "The accounts of a local authority and of any proper officer of a local authority shall be open to the inspection of any member of the authority, and any such member may make a copy of or extract from the accounts".

The common law 'need to know'

Under common law principles, all members have the right to access information held by their authority where it is reasonably necessary to enable them to properly perform their duties as a councillor.

However, if the member's motive for seeing documents is indirect, improper or ulterior, this may be raised as a bar to their entitlement. Members are not, therefore, allowed to go on a 'fishing expedition' through their council's documents.

If a councillor is a member of a particular committee or sub-committee, then they have the right to inspect documents relating to the business of that committee or sub-committee. If not a member of that committee or sub-committee, the councillor would have to show good cause why sight of them is necessary to perform their duties.

2. Access to Information Rules

1. Scope

These rules apply to all meetings of the Full Council, Cabinet, Scrutiny committees, Regulatory committees and any sub-committees panels or boards thereof (together called meetings). Decisions taken by individual Cabinet members will not take place in a meeting.

2. Additional rights to information

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. Rights to attend meetings

Members of the public may attend all meetings subject to the exceptions in these rules.

4. Notices of meeting

The council will give at least five clear days' notice of any meeting by posting details of the meeting at County Hall, Newport and on the council's website. Where exceptionally this period of notice cannot be given, notice will be given as soon as the meeting is convened.

5. Key Decisions

At least 28 clear days before a Key Decision is made, the Forward Plan must contain the following information:

- (a) That a key decision is to be made on behalf of the council;
- (b) The matter in respect of which the decision is to be made;
- (c) Where the decision maker is an individual, that individual's name, position and, where the decision maker is a decision-making body, its name and list of members;
- (d) The date on which, or the period within which, the decision is to be made;
- (e) A list of the documents the decision-maker is likely to consider, including what other documents may be submitted to the decision-maker;
- (f) The address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) That other documents relevant to those matters may be submitted to the decision maker;
- (h) The procedure for requesting details of documents;
- (i) Whether the public are likely to be excluded from the meeting at which the matter is to be discussed, or whether papers relating to the matter may be excluded from publication;

Except in cases of urgency (see Part 3 Section 17), where the publication of the intention to make a Key Decision is impracticable, that decision may only be made:

- (a) where the clerk has informed the chairman of the relevant Scrutiny committee or, in their absence, each member of the relevant Scrutiny committee by notice in writing, of the matter about which the decision is to be made and setting out the reasons why publication is impracticable;
- (b) where the clerk has made available for inspection and published on the website a copy of the notice given under (a); and
- (c) after five clear days have elapsed following the day on which the clerk made available the notice referred to under (b).

If a Scrutiny committee considers that a decision taken should have been treated as a Key Decision but was not, it may require the Leader to report to the council within a specified reasonable time, giving details of the decision, the reasons for it, who made it and why it was not considered to be a Key Decision.

In accordance with Regulation 19 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the Leader will submit an annual report to Full Council containing particulars of all Key Decisions taken as urgent since the last annual report.

6. Exclusion of press and public to meetings

Where a meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless it is necessary for one of the reasons specified below for the meeting to go into private session.

The press and public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information would be disclosed; and must be excluded where it is likely that confidential information would be disclosed. This includes exclusion of any means by which a person may report using methods which can be carried out without that person's presence.

Confidential information means information given to the council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by court order.

Exempt information means information falling within the following categories, determined by reference to the description in Schedule 12A to the Local Government Act 1972:

- (a) Information relating to any individual.
- (b) Information which is likely to reveal the identity of an individual.
- (c) Information relating to the financial or business affairs of any particular person (including the authority holding that information), unless it is required that the information be registered under the Companies, Friendly Societies, Industrial and Provident Societies, Building Societies or Charities Acts.
- (d) Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority of a Minister of the Crown and employees of, or office holders under, the authority.
- (e) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- (f) Information which reveals that the authority proposes:
 - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (ii) to make an order or direction under any enactment.
- (g) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Information that falls within (a)-(g) above is exempt information only if the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Information is not exempt if it relates to proposed development for which the Local Planning Authority can grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

7. Private meetings

At least 28 clear days before a private meeting, e.g. where one or more of the reports on the agenda includes exempt or confidential information, a notice of the intention to hold part or all of the meeting in private must be included in the Forward Plan published on the council's website and be available for inspection.

The notice must state the reasons for the meeting to be held in private and advise that any representations about why the meeting should be open to the public must be received by 10 clear days before the meeting (so these can be considered by the Monitoring Officer and responded to).

At least 5 clear days before a private meeting, a further notice of the intention to hold part or all of the meeting in private must be included in the agenda published on the council's website and be available for inspection.

The notice must:

- (a) state the reasons for the meeting to be held in private
- (b) provide details of any representations received about why the meeting should be open to the public
- (c) include a statement of the council's response to any such representations

Where the whole or any part of a report for a public meeting, or as part of a Cabinet member decision, is not available for inspection by the public:

- (a) every copy of the whole report or the part of the report, as the case may be, must be marked "not for publication"; and
- (b) there must be stated on every copy of the whole or the part of the report:
 - (i) that it contains confidential or exempt information;
 - (ii) by reference to the categories in Schedule 12A to the Local Government Act 1972, the description of exempt information by virtue of which the decision-making body discharging the function is likely to exclude the public during the item to which the report relates.

8. Urgent decisions in private meetings

Where the date by which a private meeting must be held makes compliance with the notice periods above impracticable, the meeting may only be held in private where agreement has been obtained in writing from the chairman of the Corporate Scrutiny Committee or, in their absence, the Chairman of the Council or, in their absence, the Vice-Chairman of the Council, that the meeting is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after such agreement has been obtained, a further notice must be published on the agenda on the website and be available for inspection, setting out the reasons why the meeting is urgent and cannot reasonably be deferred;

If the matter is confidential or exempt from publication, then the item will not be made available to the public. However, the clerk will be required to ensure that a separate public report and minute is produced containing all information that is not confidential or exempt from publication.

If an item is later added to the agenda, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the report author shall make each such report available to the public as soon as the report is completed.

In the case of items or reports that fail to meet the deadline of five clear days, the report will only be included on the agenda where the Chief Executive is satisfied that:

- (a) the item/report is genuinely urgent and cannot wait until a later meeting; and
- (b) the report author will be responsible for including those reasons in the report.

9. Access to agenda and reports before the meeting

The council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting, or if a meeting is convened at less than five clear days' notice as soon as it is convened. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection from the time the item was added to the agenda.

Except during any part of a meeting during which the public are excluded, the council will make available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and of the reports for the meeting.

10. Supply of copies

The council will supply copies of any agenda and reports and background papers that are open to public inspection to any person, electronically (wherever possible) or, on payment of a charge for copying and postage, in hard copy.

11. Access to minutes/decision record after the meeting

The council will retain and make available copies of the following for six years after a meeting, or the taking of a decision:

- (a) the minutes of the meeting and/or records of decisions taken, together with reasons, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record
- (c) the agenda for the meeting and
- (d) reports relating to items when the meeting was open to the public

12. Background papers

The report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based
- (b) have been relied on to a material extent in preparing the report
- (c) do not include published works or those which disclose exempt or confidential information

The council will make background papers available for public inspection for four years after the date of the meeting.

13. Summary of public's rights

A written summary of the public's rights to attend public meetings and to inspect and copy public documents must be kept at and available to the public at County Hall, Newport.

14. Exclusion of access by the press and public to reports

If the Proper Officer thinks fit, the council may exclude access by the press and public to reports which in their opinion relate to items during which, in accordance with rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

3. Protocol for Recording and Publishing Officer Decisions

1. Background

1.1 This protocol sets out the procedural framework to decision making and establishes a system to document decisions taken by officers under delegated authority.

2. Types of officer decisions

2.1 An 'Executive decision' is one made in connection with the discharge of a function which is the responsibility of the Leader and Cabinet and which has been delegated to officers.

2.2 A 'Non-Executive decision' is one made in connection with the discharge of a function that is the responsibility of Full Council and its committees and which has been delegated to officers.

2.3 The significance of decisions taken under delegated powers will vary, and officers authorised to make delegated decisions will need to exercise judgment in determining whether decisions are significant enough to require formal recording and publishing in accordance with paragraph 2.7 below.

2.4 Although administrative and operational decisions are not required to be formally reported, they must be recorded within the service area so as to provide an audit trail as referred to in paragraph 5.

2.5 Key Decisions, Material Decisions, Significant Decisions and Urgent Decisions are defined below:

Key Decisions are executive decisions that are likely to result in spending or savings that are 'significant':

- in relation to the budget for the service or function in question or
- in terms of the effect on communities living or working in two or more electoral divisions

Material Decisions are executive decisions (other than purely operational or administrative in nature) taken by officers under powers delegated by a specific resolution of the Cabinet/Cabinet member or under the Scheme of Delegation:

- That are contentious, controversial or politically sensitive; or
- Where there is likely to be a strong public interest; or
- Where there is significant variance in expenditure outside the agreed scope or budget for a project or issue; or
- Raise new issues of policy

Significant Decisions are non-executive decisions (other than purely operational or administrative in nature) taken by officers under powers delegated by a specific resolution of Full Council, a committee or under the Scheme of Delegation and having wide public impact/interest; where the effect of the decision:

- is to grant a permission or licence
- affects the legal rights of an individual
- is to award a contract or incur expenditure which 'materially' affects the authority's financial position

Urgent Decisions are decisions made in circumstances where:

- a decision is required by statute or otherwise within a specified timescale; or

- any delay likely to be caused by not making the decision would seriously prejudice the council's or the public's interests; or
- any delay likely to be caused by not making the decision would be likely to expose the council, its councillors or the public to a significant level of risk, loss, damage or disadvantage

2.6 Officers do not have authority to make Key Decisions except where:

- they are specifically authorised by the Leader, Cabinet, Full Council or Committee; or
- the Chief Executive or (in their absence) the Deputy Chief Executive is acting under urgency powers.

2.7 The following types of officer decision must be formally recorded and published subject to the exceptions set out:

Type of Officer Decision	Exception	Publication
<p>Key Decisions</p> <p>Executive decisions that are likely to result in spending or savings that are 'significant':</p> <ul style="list-style-type: none"> • in relation to the budget for the service or function in question or • in terms of the effect on communities living or working in two or more electoral divisions 	<p>Officers are only to take Key Decisions where:</p> <ul style="list-style-type: none"> (i) specifically authorised by the Leader or Cabinet; or (ii) where the Chief Executive or (in their absence) the Deputy Chief Executive is acting under urgency powers. 	<p>As soon as reasonably practicable after an officer has made a Key, Material or Significant decision, they must produce a written statement, available for inspection at County Hall and published on the council's website, that includes details of:</p>
<p>Material Decisions</p> <p>Executive decisions under powers delegated by a specific resolution of the Cabinet/Cabinet member or under the Scheme of Delegation:</p> <ul style="list-style-type: none"> • That are contentious, controversial or politically sensitive; or • Where there is likely to be a strong public interest; or • Where there is significant variance in expenditure outside the agreed scope or budget for a project or issue; or • That raise new issues of policy. 	<p>Does not apply:</p> <ul style="list-style-type: none"> (i) To routine operational, organisational or administrative decisions; (ii) Where the expenditure or saving has already been approved by Cabinet or Cabinet Member and the decision has been published; (iii) Confidential or Exempt Information; or (iv) Where the expenditure or saving is already recorded and published under separate statutory requirements. 	<ul style="list-style-type: none"> • the decision and the date it was made; • the reasons for it; • any alternative options considered and rejected; • any conflicts of interests declared by any Cabinet member consulted by the officer and any dispensations granted by the Chief Executive in respect of any declared conflict;
<p>Significant Decisions</p> <p>Non-Executive decisions under powers delegated by a specific resolution of Full Council, a committee or under the Scheme of Delegation and having wide public impact/ interest; where the effect of the decision:</p> <ul style="list-style-type: none"> • is to grant a permission or licence • affects the legal rights of an individual 	<p>Does not apply:</p> <ul style="list-style-type: none"> (i) To routine operational, organisational or administrative decisions; (ii) Confidential or Exempt information; (iii) Where the date, details of and reasons for the decision are already required to be produced under a statutory requirement; (iv) If only the rights of an individual or business are affected, unless 	<ul style="list-style-type: none"> • the report considered by the decision-maker; • any background documents disclosing facts or matters on which the decision was based and which were relied on to a material extent in making the decision.

<ul style="list-style-type: none"> • is to award a contract or incur expenditure which ‘materially’ affects the authority’s financial position 	<p>there is a wider public impact/ interest in the action.</p>	<p>The decision record must be kept for inspection for 6 years and the background papers for 4 years.</p>
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3. **The process**

- 3.1 Before taking any decision, the authorised officer must consider the principles of decision making set out in Part 3 Section 1 of the Constitution.
- 3.2 Details of all proposed Key Decisions must be published at least 28 clear days before the decision is made (unless the general exceptions procedure or special urgency procedure is applicable) via the Forward Plan, which sets out matters to be considered over the following four months and is continually updated. The Forward Plan also includes non-executive decisions due to be taken by Full Council.
- 3.3 Where an officer makes an urgent Key Decision (see 2.6 above) they must comply with the legal requirements set out in the Access to Information rules (see Part 5 Section 2).

4. **Call-In**

- 4.1 Key Decisions made by officers are subject to call-in by Scrutiny Committees and cannot be implemented until either the call-in period has expired or the Scrutiny Committee has made a decision regarding the call-in. The call-in procedure is set out in the Overview and Scrutiny Procedure Rules within the Constitution.
- 4.2 Although the formal Call-In process only applies to officer Key Decisions, Scrutiny Committees can call an officer to account over any decision made.

5. **Recording and publishing the decision**

- 5.1 The officer decisions for publication (listed in 2.7 above) are recorded in the same manner as Cabinet/Cabinet Member decisions. The officer must provide Democratic Services with a completed Officer Decision Record (available on the Council’s intranet site) within two clear days of the date of taking the decision. Any such forms must be copied to the relevant Director. The Decision Record will be accompanied by any relevant background papers and, where appropriate (for example, in respect of a controversial or complex matter) a full report (based on the Cabinet report template).
- 5.2 Democratic Services will maintain a record of all decisions referred to in paragraphs 5.1, including any report upon which each decision was made and background papers. Subject to any exemption from publication, they will ensure that this decision is available for public inspection via the website or at County Hall or by post if requested and on receipt of payment for copying and postage.
- 5.3 A written record must be available for public inspection for at least 6 years and the background papers for at least 4 years.

6. **Consultation with councillors**

- 6.1 Decisions by officers following delegation from Cabinet

Officers to whom specific decision-making powers have been delegated following a Cabinet decision subject to consultation with Cabinet members, will ensure that such consultation takes place prior to making the decision.

6.2 Other decisions delegated to officers

Staff acting within the remit of their general delegated powers within the Constitution will ensure that they identify issues upon which councillors should be consulted and will ensure that appropriate consultation takes place.

7. Officer decision record

7.1 The form below should be used to record an officer decision and published in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and the Openness of Local Government Bodies Regulations 2014.

Officer name and title:	
Directorate/Service:	
Subject of decision:	
Type of decision (tick as appropriate):	1. Key Decision 2. Material Decision 3. Significant Decision
Divisions affected:	
Subject to Call-In (yes/no):	
Source of delegated power (specific authorisation or scheme of delegation):	
Decision taken (specify details, including any grant of permission/licence; whether affecting the rights of an individual; or awarding a contract/incurred expenditure materially affecting the council's financial position):	
Reasons for the decision (including reference to relevant council policy):	
Alternative options considered and rejected:	
Persons/organisations consulted and their comments:	
Any conflicts of interests declared by any member consulted and any dispensations granted by the Chief Executive in respect of any declared conflict:	
Background reports/information considered and attached (legal, personnel, financial implications, etc):	

Consideration of the Public Sector Equality Duty and relevant Equality, Environmental and/or Community Impact Assessments:	
Risk analysis:	
Any information exempt from publication:	
Date:	

4. Member Code of Conduct

1. Introduction and interpretation

This Code applies to all elected and co-opted members of the Isle of Wight Council when they act in their role as a member and it is their responsibility to comply with the provisions of this Code.

You should behave in a manner that is consistent with the “Nolan Principles – the seven principles of public life”, which apply to anyone who is elected or appointed to public office:

SELFLESSNESS - Holders of public office should act solely in terms of the public interest.

INTEGRITY - 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.

OBJECTIVITY - Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

ACCOUNTABILITY - Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

OPENNESS - Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

HONESTY - Holders of public office should be truthful. They must declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP - Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

2. Scope

You must comply with this Code whenever you:

- (a) conduct the business of the council (which includes the business of the office to which you are elected or appointed); or
- (b) act, claim to act, or give the impression you are acting in your official capacity as a representative of the council

This Code does not have effect in relation to your conduct other than where it is in your official capacity.

Where you act as a representative of the council:

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- (b) on any other body, you must, when acting for that other body, comply with this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General obligations

When acting in your role as a member of the council you must:

- (a) Treat others with respect.
- (b) Not do anything that may cause the council to breach any of the equality enactments (in particular the Equality Act 2010);
- (c) Not bully any person;
- (d) In relation to an allegation that a member (including yourself) has failed to comply with their council's code of conduct, not intimidate, or attempt to intimidate, any person who is, or is likely to be:
 - (i) complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings,
- (e) Not do anything that compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the council.
- (f) Not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - reasonable and in the public interest; and
 - made in good faith and in compliance with the reasonable requirements of the authority; and
 - you have consulted the Monitoring Officer prior to its release
- (g) Not prevent another person from gaining access to information to which that person is entitled by law.
- (h) Not conduct yourself in a manner that could reasonably be regarded as bringing your office or the council into disrepute.
- (i) Not use or attempt to use your position as a member improperly to confer on, or secure for yourself or any other person, an advantage or disadvantage.
- (j) When using, or authorising the use by others of, the council resources:
 - (i) act in accordance with the council's reasonable requirements
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (k) Have regard to any applicable local authority code of publicity made under the Local Government Act 1986.
- (l) When reaching decisions on any matter, have regard to any relevant advice provided to you by the Chief Finance Officer or the Monitoring Officer.
- (m) Give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the council.

4. Register of Interests

You must complete your register of Disclosable Pecuniary Interests within 28 days of being elected and then update your register of interests within 28 days of any event that requires a change. A copy of the register will be available for public inspection and will be published on the authority's website.

A 'Disclosable Pecuniary Interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union & Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between you or your partner (or a body in which you or your partner has a beneficial interest) and the council: (a) under which goods or services are to be provided or works are to be executed; and, (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the council's area.
Licences	Any licence (alone or jointly with others) to occupy land in the council's area for a month or longer.
Corporate tenancies	Any tenancy where (to your knowledge): (a) the council is the landlord; and, (b) the tenant is a body in which you or your partner has a beneficial interest.
Securities	Any beneficial interest in securities of a body where: (a) that body (to your knowledge) has a place of business or land in the council's area; 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.

In the above schedule:

- (a) "body in which you or your partner has a beneficial interest" means a firm in which you or your partner is a partner or a body corporate of which you or your partner is a director, or in the securities of which you or your partner has a beneficial interest;
- (b) "director" includes a member of the committee of management of an industrial and provident society;
- (c) "land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you or your partner (alone or jointly with another) to occupy the land or to receive income;

- (d) “relevant period” means the period of 12 months ending with the day on which you notify the Monitoring Officer of any Disclosable Pecuniary Interests; and,
- (e) “securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services & Markets Act 2000 and other securities of any description, other than money deposited with a building society.

5. Declaration and Non-participation in case of Disclosable Pecuniary Interest

A member with a Disclosable Pecuniary Interest in a matter to be considered at a meeting must, before the matter is discussed or when that interest becomes apparent:

- (a) disclose the interest
- (b) explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent; and unless they have been granted a dispensation
- (c) not participate in any discussion of, or vote taken on, the matter at the meeting
- (d) withdraw from the meeting room whenever it becomes apparent that the business is being considered
- (e) not seek improperly to influence a decision about that business

Members can only stay to speak as a member of the public (where a member of the public is permitted to speak) if the Monitoring Officer has granted the member a dispensation to do so but must leave the room as soon as they have finished speaking as a member of the public (see Part 4B Section 12).

Where a Cabinet member discharges a function alone and becomes aware of a Disclosable Pecuniary Interest in a matter being dealt with or to be dealt with by them, the Cabinet member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

6. Sensitive interests

Where you consider that disclosure of the details of a Disclosable Pecuniary Interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a Disclosable Pecuniary Interest, the details of which are withheld under section 32(2) of the Localism Act 2011.

7. Dispensations

The council may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a Disclosable Pecuniary Interest.

The Monitoring Officer has delegated authority in consultation with a duly appointed Independent Person, to deal with requests for dispensations without the need for a meeting of the Appeals Committee where that is deemed to be appropriate.

Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a Disclosable Pecuniary Interest that relates to the functions of the council in respect of:

- (a) housing, where you are a tenant of the council, provided those functions do not relate particularly to your tenancy or lease;

- (b) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (d) an allowance, payment or indemnity given to members;
- (e) any ceremonial honour given to members; and

A councillor seeking a dispensation should submit an application in writing to the Monitoring Officer (see Dispensations Protocol at Part 5 Section 6).

Offences

It is a criminal offence to:

- (a) fail to notify the Monitoring Officer of any Disclosable Pecuniary Interest within 28 days of election;
- (b) fail to disclose a Disclosable Pecuniary Interest at a meeting if it is not on the register;
- (c) fail to notify the Monitoring Officer within 28 days of a Disclosable Pecuniary Interest that is not on the register that you have disclosed to a meeting;
- (d) participate in any discussion or vote on a matter in which you have a Disclosable Pecuniary Interests;
- (e) as a Cabinet Member discharging a function acting alone, and having a Disclosable Pecuniary Interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest; and,
- (f) knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a Disclosable Pecuniary Interest or in disclosing such interest to a meeting.

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

8. Personal Interests

In addition to Disclosable Pecuniary Interests, you must, within 28 days of your election or appointment to office notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the following descriptions, for inclusion in the register of interests.

You must also, within 28 days of becoming aware of any new interest or change to any personal interest, notify the Monitoring Officer of the details of that new interest or change.

A member has a “personal interest” in an item of business where it relates to or is likely to affect any of the following bodies of which they are a member: a public or charitable body, any body to which the Member has been appointed by the authority, any political party, trade union or other body one of whose principal purposes is to influence public opinion or policy.

A Member also has a personal interest in an item of business where a decision in relation to it might reasonably be regarded as affecting the wellbeing or financial position, of themselves, a member of their family or person with whom they have a close association, more than other council tax payers, ratepayers or inhabitants of the authority’s area.

A member must disclose a personal interest at a meeting where they consider it is relevant to an item of business being considered at that meeting. The disclosure shall be made at the

commencement of the meeting, or when the interest becomes apparent, and shall be recorded in the minutes of the meeting.

Where you have a personal interest but sensitive information relating to it is not registered in your register of interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

Disclosure of a personal interest will only affect your ability to participate in discussion or vote on the relevant item if it is also a Disclosable Pecuniary Interest OR if it is so close that it could give rise to actual or apparent impartiality, bias or pre-determination (e.g. the matter directly affects themselves, a close associate, friend or a family member). In either case you should declare this interest and leave the room during its consideration.

Where an individual Cabinet member has a personal interest in any business and you have made an Executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

9. Interests arising in relation to overview and scrutiny committees

In any business before an overview and scrutiny committee of the council (or of a sub-committee of such a committee) where:

- (a) that business relates to a decision made (whether implemented or not) or action taken by the Executive or another of the council's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the Executive, committee, sub-committee, joint committee or joint sub-committee and you were present when that decision was made or action was taken,

You may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

10. Register of Gifts and Hospitality

You must register with the Monitoring Officer any gift or hospitality exceeding a value of £50 that you have been offered (whether accepted or not) as part of your role as a member.

Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

11. Complaints procedure

Under Section 28(6) and (7) of the Localism Act 2011, the council must have in place arrangements under which allegations that a councillor or co-opted member has failed to comply with Code can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member against whom an allegation has been made.

Details of the complaints procedure can be found on the council's website.

12. Sanctions for breaches of the Code of Conduct

The Isle of Wight Council has delegated to the Monitoring Officer and the Appeals Committee such of its powers to take action in respect of individual members (including parish council members) as may be necessary to promote and maintain high standards of conduct. If, following an investigation, it is established that a member has failed to comply with their council's Code of Member Conduct, one or more of the following sanctions may be applied:

- (a) Publish findings in respect of the member's conduct;
- (b) Report findings to the relevant council for information;
- (c) Recommend to the relevant council that the member be issued with a formal censure or be reprimanded;
- (d) Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to the relevant Council or committees) that they be removed from any or all committees or sub-committees of the council;
- (e) Where Executive arrangements exist, recommend to the Executive Leader that the member be removed from Cabinet, or removed from particular portfolio responsibilities;
- (f) Arrange or recommend training for the member;
- (g) Remove or recommend the removal of the member from all outside appointments to which they have been appointed or nominated by their council;
- (h) Withdraw or recommend withdrawal of facilities provided to the member by their council, such as a computer, website and/or email and internet access;
- (i) Exclude or recommend the exclusion of the member from their council's offices or other premises, with the exception of meeting rooms as necessary for attending Full Council, committee and sub-committee meetings.

The council has no power to suspend or disqualify a councillor or to withdraw a councillor's basic or special responsibility allowance.

5. Member Code of Conduct Complaints Procedure

Introduction

The Localism Act 2011 requires local authorities to establish arrangements to deal with allegations of breaches by councillors of the Members' Code of Conduct.

This procedure is to be adopted when dealing with complaints against elected councillors and voting co-opted members when they are acting in that capacity. The procedure applies when a complaint is received that an Isle of Wight Council member, an Island town/parish council member or a voting co-opted member has, or may have, failed to comply with the relevant Members' Code of Conduct at the time of the alleged breach.

The Isle of Wight Council's Members' Code of Conduct (see Part 5 Section 4). Parish and Town Councils can determine their own codes of conduct – to inspect them, view their [contact details](#).

COMPLAINTS PROCEDURE

In this procedure, the person making a complaint is referred to as “the complainant” and the person against whom a complaint is made is referred to as “the subject member”.

A complaint is confidential and remains so until the complaint is resolved.

A complainant may request that a complaint be withdrawn at any stage and all such requests will be determined by the Monitoring Officer, which may include consultation with a Designated Independent Person¹⁸.

Complaints can be made about a subject member breaking any part of their council's Members' Code of Conduct when they are acting (or giving the impression they are acting) as a representative of their council or undertaking council business.

This includes:

- Treating others with respect
- Bullying
- Intimidating a complainant or witness
- Compromising the impartiality of officers
- Bringing their council/office as councillor or executive member into disrepute
- Disclosing information given in confidence/confidential information unless:
 - They have consent; or
 - Are required to do so by law; or
 - Disclosure to obtain professional advice; or
 - Disclosure is reasonable, in the public interest, in good faith and in compliance with reasonable requirements of the council
- Using their position improperly to obtain advantage or disadvantage for anyone
- Using council resources for political purposes
- Preventing anyone accessing information they have a legal right to

¹⁸ A Designated Independent Person is someone who is independent of the council or any political group and who has experience of dealing with ethical issues. They are appointed for the Monitoring Officer or councillors to consult with on complaints.

- Failing to register financial or other interests
- Failing to disclose a pecuniary interest at a meeting
- Failing to register any gifts or hospitality worth over £50 received in their role as a councillor

If none of the above applies, it will probably not qualify as a valid complaint.

Making a complaint

A complaint should be made in writing by filling in a [complaint form](#) within 10 working days of the alleged breach of the Members' Code of Conduct. Any documents that support a complaint should accompany the form.

A complaint will normally be acknowledged within 10 working days of receipt and the complainant advised if the complaint will be passed for initial assessment by the Monitoring Officer or rejected.

Complaints may be rejected:

- where a member is not named
- where the complainant is not named¹⁹
- if they relate to a person who is no longer a member or which refer to alleged incidents before the person became a member
- that are not in writing
- that relate to a person who is not an elected or a voting co-opted member of the Isle of Wight Council or an Island town/parish council
- that relate to incidents or actions that are not covered by the Members' Code of Conduct
- where they are about the actions (or inactions) of the Isle of Wight Council as a whole (these complaints should be dealt with through the [Council Complaints Page](#))
- where they relate to a member's personal or private life
- contain insufficient information
- about people employed by local authorities
- if they refer to alleged incidents which happened so long ago that there would be little benefit in taking action now
- if they contain trivial allegations, or which appear to be malicious, politically motivated or tit-for-tat;
- that relate to alleged behaviour that has already been the subject of an investigation or some form of action

Where the Monitoring Officer decides to reject a complaint, they will write to the complainant explaining why their complaint cannot be dealt with under this procedure. In these circumstances, there will be no right of appeal.

Informal resolution

If the complaint is accepted, the Monitoring Officer will write to the complainant and explain that the matter is to be dealt with under this procedure. The subject member will be sent a copy of the

¹⁹ Complaints that contain a request for the complainant's identity to be withheld may be accepted, although the complainant's identity will only be withheld in exceptional circumstances. If the Monitoring Officer does not consider it appropriate to withhold the complainant's identity, the complainant will be given the opportunity to withdraw their complaint before it proceeds to the next stage.

complaint and will also be sent contact details of a Designated Independent Person. In this correspondence, the Monitoring Officer will:

- (a) seek confirmation from the complainant as to what form of informal resolution they would find acceptable; and
- (b) provide the subject member with a reasonable timescale (usually 20 working days) within which to attempt to informally resolve the complaint

Types of informal resolution might include:

- (a) An explanation by the subject member of the circumstances surrounding the complaint
- (b) An apology from the subject member
- (c) Agreement from the subject member to attend relevant training or to take part in a mentoring process
- (d) Offering to engage in a process of mediation or conciliation between the subject member and the complainant
- (e) Correcting an entry in a register
- (f) Any other action capable of resolving the complaint

Where the subject member has appropriately addressed the matters raised there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the complainant and the subject member of this decision.

If the complaint makes allegations that a criminal offence may have been committed, then the matter will not be dealt with under this procedure, but instead will be referred to the police.

INVESTIGATION PROCEDURE

Where it has not been possible to informally resolve matters, the complaint will be referred by the Monitoring Officer to an officer, an officer of another authority or such other expert as the monitoring officer considers appropriate for investigation. The Monitoring Officer will notify both the complainant and the subject member of this decision.

When notifying the persons mentioned above, the Monitoring Officer will request that they respond within 10 working days:

- Listing any documents which they would wish to be taken into account in any investigation of the allegation, providing copies of these documents, and confirming where the original documents may be inspected.
- Providing the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the person would wish to be interviewed in the course of any investigation of the allegation.
- Providing any information which they would wish to be sought from any person or organisation in the course of any investigation of the allegation.

The officer responsible for the investigation will take into account both the content of the original complaint and any information received from the persons notified above. They will make any further necessary enquiries, following which they will determine whether or not there appears to have been any breach of the Members' Code of Conduct.

Upon conclusion, the Investigating Officer will provide the Monitoring Officer with a report setting out their findings and whether or not, in the officer's view, there have been any breaches of the Members' Code of Conduct.

The investigation will normally be carried out and the report provided to the Monitoring Officer within 30 working days of the investigation being commissioned.

Outcome of investigation

The Investigating Officer's report will set out:

- The details of the allegation
- The relevant provisions of statute, the Members' Code of Conduct and any relevant local protocols
- The subject member's response to notification of the allegation (if any)
- The views of a Designated Independent Person
- The relevant information, advice and explanations obtained in the course of the investigation
- Any documents relevant to the matter
- A list of those persons they have interviewed and those organisations from whom they have sought information
- A note of any person or organisation who has failed to co-operate with the investigation and the manner in which they have failed to cooperate
- A statement of their draft findings of fact
- Their conclusions as to whether or not the subject member has failed to comply with the Members' Code of Conduct

If the Investigating Officer's conclusion is that there has been no breach of the Members' Code of Conduct, the complainant and the subject member will be notified. In these circumstances, there will be no right of appeal.

If the Investigating Officer's conclusion is that there has been a breach of the Members' Code of Conduct, consideration will be given by the Monitoring Officer, in liaison with a Designated Independent Person (where appropriate), whether or not an informal resolution between the parties would be appropriate.

Where an informal resolution is considered appropriate, this will be discussed with the complainant and the subject member. Should an informal resolution be agreed, the complaint will not proceed any further.

Should either the complainant or the subject member not agree the proposed informal resolution, or an informal resolution is not considered appropriate, the matter will be referred to the Appeals Sub-Committee for final decision.

HEARING PROCEDURE

Where the matter is referred to the Appeals Sub-Committee for decision, the complainant, the subject member, a Designated Independent Person and, where appropriate, the relevant political group leader and/or the clerk of the parish or town council concerned, will be advised of the position and consulted on the date of the Sub-Committee hearing.

Democratic Services will arrange a convenient time and date for the Sub-Committee to meet and determine the matter. It is anticipated that a hearing will be dealt with on a single day.

At least 20 working days before the hearing, the complainant, the subject member and a Designated Independent Person will be notified of the date, time and place of meeting, provided with the agenda for the meeting and a copy of the investigation report. They will be invited to attend and identify any witnesses already interviewed that they wish to speak.

At the same time (and where appropriate), the relevant political group leader and/or the clerk of the parish or town council concerned will be notified of the date, time and place of meeting, provided with the agenda for the meeting and a copy of the investigation report.

The documentation sent out must be treated by all recipients as confidential information until such time (if any) as the report is made available to the press and public or the Sub-Committee resolves that the press and public should not be excluded from the meeting at which the allegations are heard.

The date of the meeting and the agenda will be published on the council's website.

Determination of the matter by the Appeals Sub-Committee will normally be made within 65 working days of referral of the matter to the Sub-Committee.

Appeals Sub-Committee hearings

The Appeals Sub-Committee is made up of three members of the Isle of Wight Council. In addition, where the subject member is a parish/town councillor, another parish or town councillor will be co-opted as a non-voting member of the Sub-Committee.

The Appeals Sub-Committee will determine whether or not it agrees with the Investigating Officer's conclusions, whether there has been a breach of the Member's Code of Conduct and, if so, what (if any) sanctions should be applied. In so doing, they may seek the views of a Designated Independent Person.

Where a witness has been interviewed and their information is included in the Investigating Officer's report, should they not attend, the Sub-Committee will give such weight to their comments as it considers appropriate.

The Appeals Sub-Committee's decision as to whether or not there have been any breaches of the Members' Code of Conduct shall be final. This also applies to any sanctions imposed or recommended by the Sub-Committee for any such breaches of the Code.

If at any point during the hearing process, the subject member resigns, loses their seat, is seriously ill or has died, the Appeals Sub-Committee will only hear the matter if it considers it is in the public interest to do so.

Representation

The subject member may be represented or accompanied during the hearing by another person as long as the Sub-Committee or its chairman has given prior consent.

The subject member may make representations (orally or in writing) or present evidence in accordance with this procedure either personally or through their representative. The Sub-Committee will not normally permit the subject member and their representative to both make representations, although the subject member may present evidence themselves whether or not represented.

Outline of the Procedure for the Hearing

The Appeals Sub-Committee may govern its own procedure as long as it acts fairly. It may request advice from the Monitoring Officer (or Deputy) at any time. However, in general the following procedure should be adopted:

- (a) Hearings should normally be held in private unless the Sub-Committee has resolved not to exclude the press and public from all or any part of the hearing in accordance with the council's Access to Information Rules.
- (b) Any submissions by either party about the conduct of the case, including disputes about witnesses, potential new information, new supporting documents etc, should be raised at the commencement of the hearing.
- (c) The sub-committee will adopt as far as reasonably practicable an inquisitorial approach to the hearing rather than permit an adversarial or hostile approach to develop.
- (d) Witnesses are not to be present in the hearing until they have been called to give their evidence.
- (e) If the subject member is not present, then the Sub-Committee shall consider whether or not to proceed. If the Sub-Committee is not satisfied that there is sufficient reason for the subject member's absence, it may either proceed to consider the matter and make a determination in the absence of the subject member, or adjourn the hearing to another time or date. If the Sub-Committee is satisfied there is sufficient reason, it shall adjourn the hearing to another date unless the subject member has indicated that the hearing should proceed in their absence.

Order of witnesses

- (a) The Investigating Officer presents the evidence on which they rely and calls any witnesses;
- (b) The Investigating Officer makes submissions about whether the facts constitute a breach of the Member's Code of Conduct;
- (c) The Investigating Officer makes submissions as to the seriousness of the breach and the appropriate sanction in the event that the Sub-Committee decides that a breach has occurred;
- (d) The subject member and members of the Sub-Committee may ask questions through the chairman of the Investigating Officer and/or their witnesses;
- (e) The subject member may present evidence on which they rely and call any witnesses referred to in the investigating officer's report;
- (f) The subject member may make submissions about whether the facts constitute a breach of the Member's Code of Conduct;
- (g) The subject member may make a statement in mitigation in regard to the seriousness of the breach and the appropriate sanction in the event that the Sub-Committee decides that a breach has occurred;
- (h) The Investigating Officer and members of the Appeals Sub-Committee may ask questions through the chairman of the subject member and/or their witnesses;
- (i) The Appeals Sub-Committee retires to decide the facts and whether, on the balance of probabilities, there has been a breach of the Members' Code of Conduct. At this point, the Sub-Committee is likely to ask all present to leave the room whilst they consider the matter.
- (j) Once the Sub-Committee has concluded its findings as to whether the facts amount to a breach, all return to the room and the decision is read out.

Outcome

If the Appeals Sub-Committee decides there has been a breach of the Members' Code of Conduct, then it can determine whether and, if so, which of the following sanctions should apply:

- (a) Publish findings in respect of the subject member's conduct;
- (b) Report findings to the relevant council for information;
- (c) Recommend to the relevant council that the subject member be issued with a formal censure or be reprimanded;
- (d) Recommend to the subject member's political group leader (or in the case of un-grouped members, recommend to the relevant council) that they be removed from any or all committees or sub-committees of the council;
- (e) Where Executive arrangements exist, recommend to the Executive Leader that the subject member be removed from Cabinet, or removed from particular portfolio responsibilities;
- (f) Arrange or recommend training for the subject member;
- (g) Remove or recommend the removal of the subject member from all outside appointments to which they have been appointed or nominated by their council;
- (h) Withdraw or recommend withdrawal of facilities provided to the subject member by their council, such as a computer, website and/or email and internet access;
- (i) Exclude or recommend the exclusion of the subject member from their council's offices or other premises, with the exception of meeting rooms as necessary for attending Full Council, committee and sub-committee meetings.

The Appeals Sub-Committee has no power to suspend or disqualify a member or to withdraw a member's basic or special responsibility allowance.

If the matter relates to a parish/town councillor, then if a breach has been determined, the matter is referred to that parish/town council with recommendations as to what action they may wish to take. The clerk to the parish/town council will be expected to confirm to the Monitoring Officer as soon as reasonably practicable what action the parish/town council proposes to take in response to the recommendation.

The Sub-Committee will issue a formal written decision together with supporting reasons as soon as practicable after the end of the hearing and in any event within 10 working days.

6. Dispensations Protocol

Guide to Dispensations

The council is responsible for determining requests for a dispensation by a councillor under s.33 of the Localism Act 2011. The council may grant a dispensation to an elected or co-opted member on a matter with which they would otherwise not be permitted to deal, as a result of having a Disclosable Pecuniary Interest.

This guide explains:

- (a) The purpose and effect of dispensations
- (b) The procedure for requesting dispensations
- (c) The criteria applied in determining dispensation requests
- (d) The terms of dispensations

Until a dispensation is granted, a member may not participate in the consideration of the matter before the council (or any committee or sub-committee) in which they have a Disclosable Pecuniary Interest.

A member may also have a close Personal Interest under the Member Code of Conduct and should also use this same procedure to request a dispensation in respect of that interest.

Purpose and effect of dispensations

In certain circumstances, members may be granted a dispensation that enables them to take part in council business where this would otherwise be prohibited because they have a Disclosable Pecuniary Interest or a close Personal Interest. Provided members act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct or the law.

Section 31(4) of the Localism Act 2011 states that dispensations may allow the member to:

- (a) participate, or participate further, in any discussion of the matter at the meeting(s); and/or
- (b) participate in any vote, or further vote, taken on the matter at the meeting(s)

If a dispensation is granted, the member may remain in the room where the meeting considering the business is being held.

Please note: if a member participates in a meeting where they have a Disclosable Pecuniary Interest and they do not have a dispensation, they may be committing a criminal offence under section 34 of the Localism Act 2011.

The same procedure will be used for applications close Personal Interests, enabling a member to remain in the meeting and to speak and vote.

Process for making requests

A request for dispensation must be made on an individual basis. Any member who wishes to apply for a dispensation should fully complete a Dispensation Application Form (Appendix 1) and submit it to the Monitoring Officer, explaining why it is desirable and appropriate to grant the dispensation.

Approval Process

The Monitoring Officer may only grant a dispensation to a member who has a Disclosable Pecuniary Interest or close Personal Interest, allowing them to participate in any discussion of a matter at a

meeting and/or to participate in any vote on the matter (as per paragraph 2 above), if they consider that:

- (a) without the dispensation, the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
- (b) without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- (c) without the dispensation, each member of the authority's Executive would be prohibited from participating in any particular business to be transacted by the Executive,
- (d) granting the dispensation is in the interests of persons living in the authority's area, or
- (e) it is otherwise appropriate to grant a dispensation.

In the absence of the Monitoring Officer, the Deputy Monitoring Officer is authorised to execute the functions of the Monitoring Officer. The Appeals Committee also has the delegated power to agree dispensations.

Applications dealt with by the Monitoring Officer will normally be determined within 10 working days. Applications made to the Appeals Committee will go to the next ordinary meeting or it may be appropriate to arrange a special meeting at the discretion of the chairman of the committee. Applications must be received at least 10 working days before a meeting to enable a report to be prepared and the agenda published five clear days before the meeting.

The Monitoring Officer will formally notify the councillor of the decision and reasons in writing at the earliest opportunity and in any event within 5 working days of the decision.

Criteria for determination of requests

In reaching a decision on a request for a dispensation, the Monitoring Officer (in consultation with a Designated Independent Person) will consider:

- (a) The nature of the member's interest
- (b) The extent to which the request could have been avoided or other arrangements could be made
- (c) The need to maintain public confidence in the conduct of the council's business
- (d) The extent to which there is some personal benefit and the extent of the public benefit obtained by agreeing to a dispensation
- (e) The possible outcome of the proposed vote
- (f) The need for efficient and effective conduct of the council's business
- (g) Any other relevant circumstances

Terms of dispensations

Dispensations may be:

- (a) Granted for one meeting or for a period not exceeding 4 years
- (b) Subject to specific conditions, e.g. notification of any material change in circumstances arising from the dispensation

Disclosure of decision

Any member who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which it relates.

A copy of the dispensation will be kept with the Register of Members' Interests.

Dispensations for Conflicts of Interest when taking Executive decisions

Under regulations 12 and 13 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the record of an Executive decision made either at meetings or by individuals, must include:

- (a) details of any conflict of interest either declared by any member of the body which made the decision or declared by any Executive member consulted by the councillor or staff member taking the decision which relates to that decision;
- (b) In respect of any such conflict of interest, a note of dispensation granted by the Chief Executive.

Please note: A conflict of interest is broader than a Disclosable Pecuniary Interest. It can be any interest that conflicts (or may reasonably be perceived to conflict) with a councillor's duty to take decisions only in the public interest in the light of material considerations.

Appendix 1

To: The Isle of Wight Council's Monitoring Officer

APPLICATION FOR A DISPENSATION UNDER SECTION 33 OF THE LOCALISM ACT 2011 IN RESPECT OF A DISCLOSABLE PECUNIARY INTEREST

Name of member:

A member who has a Disclosable Pecuniary Interest or close Personal Interest in a matter that is under consideration may not participate in the consideration of that matter by the council, a committee or sub-committee or by the Executive or a committee of the Executive unless they have first obtained a dispensation from the council.

You may apply for a dispensation by completing this form and sending it to the Monitoring Officer.

1. What is the matter for which dispensation is sought?

Please provide full details including amounts where the matter involves funding or finance.

2. For which type of meeting is dispensation sought?

(Full Council, Cabinet, Committee or Sub-Committee)

3. What is the nature of the Disclosable Pecuniary Interest or close Personal Interest?

Please provide full details.

4. What is the date of the meeting(s) at which this matter is to be considered?

5. For how long is the dispensation needed?

Please note that it cannot be longer than 4 years nor exceed the term of office of the member concerned.

6. Do you benefit personally from the business to which this application relates?

If "yes" the full details must be provided of the nature and extent.

7. How is the business of the council being impeded in the absence of a dispensation?

8. Are there any other factors that might help the council to reach a decision on the application?

9. Are you seeking a dispensation to speak and vote?

Yes/ No

10. Are you seeking a dispensation to speak but not vote?

Yes/ No

Signed: _____ Date: _____

Please complete, sign and return this form to the Monitoring Officer

7. Gifts and Hospitality Protocol

Introduction

The public are entitled to demand of local government staff and councillors, conduct of a high standard. Public confidence in their integrity would be shaken were there the least suspicion that they could in any way be influenced by improper motives.

It is a serious criminal offence for staff or councillors to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in an official capacity. If an allegation is made in such circumstances, the burden of proof will fall upon the staff member or councillor to show that they have not in any way been influenced by improper motives. For this reason, it is important for the council to set clear guidance for all employees and councillors.

This protocol is intended to assist staff and councillors in making a decision as to whether a gift or hospitality can be accepted. Staff will receive a copy of these rules and are being required to acknowledge receipt of them. Staff are reminded that breaches of the code may result in disciplinary action and in serious cases, could result in dismissal. Councillors are reminded that a breach of this guidance may result in a complaint against them to the Monitoring Officer.

Gifts

In general, gifts should be refused. A gift must not be accepted if it is offered by a person or organisation which has, or is seeking business with, the council or one who has an interest in a council decision.

In normal circumstances, only minor gifts of token value, such as promotional material, may be accepted. In some very special circumstances (where, for example, visiting dignitaries are involved), refusal may cause unintentional offence and this should be taken into consideration.

More substantial gifts must not be accepted under any circumstances. These may include, for example, cash, vouchers, bottles or cases of wine or hampers. In such circumstances, the gift should be returned in a courteous manner accompanied if appropriate by the following or similar statement:

“Thank you for your kind offer of [insert details of gift]. Unfortunately, the council has a clearly defined policy on receiving gifts or hospitality and I am unable to accept it. I therefore return the gift.”

For the purpose of consistency, it is not appropriate to accept gifts and to donate them to a charity.

If in doubt, staff should consult their Director before accepting any gift. Councillors should consult the council’s Monitoring Officer.

Legacies

Staff may not accept legacies from clients. If it becomes known to any employee that they are likely to benefit from a legacy made by a former or existing client, they must inform their Director as soon as possible. The Director will then consider what action to take and if necessary consult the Head of Paid Service and Monitoring Officer. If the beneficiary is also a relative of the former client, it is advisable that they notify their Director as soon as they are aware of the legacy in order to avoid any misinterpretation.

Hospitality

The same principles which apply to gifts apply to the offer and acceptance of hospitality. Generally, offers of hospitality must be declined. It must not be accepted when the offer of hospitality is made by any person or organisation seeking business or requiring a decision from the council, or where purchasing decisions may be potentially compromised.

Exceptions to this general rule are few, but it may be in order to accept offers of hospitality if there is a genuine need to impart information or to represent the council's wider interest in the community. Staff may, for example, need to attend functions in support of local councillors. It may also be necessary to participate in a working lunch in order to foster a good working relationship with other organisations. These are examples, therefore, where the acceptance of modest forms of hospitality is acceptable.

The following criteria should be applied when deciding whether or not to accept offers of hospitality:

- (a) whether the nature of the hospitality is appropriate - tickets to a major sporting event must invariably be refused, but an invitation to an Island event which meets the criteria below may be appropriate.
- (b) whether the council's interest is better served by attendance.
- (c) whether the scale of the hospitality is appropriate to the circumstance.
- (d) whether the hospitality is modest and can be considered as part of the normal business process to foster good relations.
- (e) whether the hospitality is offered by a person or organisation who is not tendering or about to tender for council business.
- (f) whether councillors are attending an event which meets these criteria and it is appropriate that they are accompanied by an officer.
- (g) whether it is more appropriate to bear the expense oneself.

Any intention by members of staff to accept hospitality other than of a minor nature, must be authorised in advance by the relevant Director. In case of doubt, staff should consult their Director for guidance. In the case of councillors, an appropriate declaration should be completed in advance of the hospitality being accepted. In the event of doubt, the council's Monitoring Officer should be consulted for guidance.

If offers of hospitality are declined, those persons or organisations making the offer should be courteously informed of the procedures and standards operating within the council with, if appropriate, the following or similar statement:

"Thank you for your kind offer of [insert details of hospitality]. Unfortunately, the council has a clearly defined policy on receiving gifts and hospitality and I am therefore unable to accept."

Below are some examples of acceptable and unacceptable hospitality:

Acceptable

- (a) working lunches, provided their purpose is to continue the work underway in the meeting
- (b) attendance in an official capacity at functions to which invitations have been sent to other local authorities

Unacceptable

- (a) holidays or weekends away
- (b) the use of a company flat or suite

- (c) lunch with a developer who is applying for planning permission
- (d) tickets to a theatre, concerts or sporting events that are offered in order to influence decisions and which you would not attend in an official capacity

Recording of Gifts and Hospitality

Whether accepted or not, gifts and hospitality, or offers of them, must be recorded in each service's register maintained for such purposes. For councillors, the register is maintained by Democratic Services. Councillors only need to record gifts or hospitality that have a value in excess of £50, or those that, in aggregate, exceed £50 in any consecutive twelve months. The council has a prescribed format for the register, which includes the following detail:

- (a) employee's/member's name
- (b) job title (if staff)
- (c) name of company/organisation making the offer
- (d) relationship with council
- (e) nature of gift/hospitality offered
- (f) date offered
- (g) whether declined or accepted.

Registers of gifts and hospitality will be reviewed at least quarterly by the relevant Director. The Head of Paid Service will review the register of Directors. The Monitoring Officer will review the register of councillors' registrations and the register of the Head of Paid Service. All such reviews will be evidenced by signature and date.

Legislation in relation to Gifts and Hospitality

An outline of the legislation applicable to the acceptance of gifts and hospitality is given below.

Bribery Act 2010

The Bribery Act 2010 reformed criminal law, replacing the Prevention of Corruption Acts 1889-1916 by providing comprehensive scheme of bribery offences. The Act covers a wide range of both direct and indirect bribery offences, and includes offences committed by individuals and corporate bodies. Penalties for non-compliance are serious, with a maximum penalty for the most serious cases being ten years imprisonment. The Act created two general offences covering the offering, promising or giving of an advantage, and requesting, agreeing to receive, or acceptance of an advantage

Local Government Act 1972

It is a criminal offence under section 117(2) for council employees to accept any fee or reward other than their remuneration. An offender is liable on conviction to pay a fine.

8. Protocol for Member/Officer/Staff Relations

Good member/officer/staff relations, based on mutual respect and understanding, are essential to the effective operation of the council. Members and Officers/Staff are servants of the public and they are indispensable to one another. But their responsibilities are distinct. At the heart of the Members' and Officers' Codes of Conduct and this protocol, is the importance of mutual respect. Member/officer/staff relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and officers/staff should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

Role of Members

Members are responsible to the electorate and serve only so long as their term of office lasts. The Constitution sets out detailed job profiles reflecting the many and varied roles and responsibilities which members may take on at various times whilst they sit on the council. In undertaking those roles and responsibilities, elected councillors are required to operate within the law, the Constitution and within local and national codes and protocols. Members must always act in the public interest. Ultimately however, members are accountable to the electorate through the ballot box.

Role of Officers/Staff

Officers are paid by the council and staff are paid employees of the council (not of elected members). Officers/staff are also required to operate within the law, the Constitution, local and national codes and protocols and must always act to achieve the objectives of the council. Ultimately, officers are accountable under their contracts and staff are accountable under their contracts of employment. Some officers/staff are in politically restricted posts and cannot stand for election, nor hold certain posts in political parties

Officers/staff have a duty to provide information, advice and recommendations to elected members. Such information, etc, can be given both formally and informally, but where significant or potentially controversial issues are at stake should be given formally and in writing.

It must be recognised by all officers/staff and members that in discharging their duties and responsibilities, officers/staff serve the council as a whole and not any political group, combination of groups or any individual member of the council.

Proper, open dialogue between elected members and officers/members of staff of all grades and seniority is essential to good governance. In order to ensure that dialogue is mutually respectful, productive and contributes to the effective running of the council, certain principles should be followed.

Member Decision Making

Officers/staff should never lobby members or otherwise improperly seek to influence their decision making, nor should they seek to act for personal rather than professional motives.

The principal focus of member decision making is to determine policy and strategic objectives. Members will only exceptionally be involved in operational or managerial decisions designed to deliver those policies and strategic objectives. One exception to this principle is that members sitting in a regulatory capacity will take decisions which affect the rights of individuals, for example in

relation to development management and licensing matters, to which specific codes of practice apply.

Member decision making is always formal, public and auditable on the basis of written reports and advice from relevant officers.

Accordingly, members should not purport to give instructions directly to officers/members of staff on an informal basis, except to the small number of officers/staff contracted/employed specifically to provide support services to elected members.

Members need to be aware that some, particularly more junior, officers/members of staff can feel intimidated by direct approaches by members, and in particular should avoid being in a position where they could be seen as asking an officer to act against council policy, against the officer's/member of staff's professional judgement or otherwise under pressure from the member.

Provision of Information

Members have a need to know a wide range of information, but there are some limits to their rights. In order to protect the council and those about whom information is held, officers/staff are entitled to request members identify the purpose for which they require information. Those purposes may only be in connection with the members' duties as an elected member and not for personal, political or other purposes.

Equally on the rare occasions when a request by a member for information is refused, the member is entitled to request written reasons and that a copy of those reasons is sent to the Monitoring Officer for advice.

Officer's/Member of Staff's Advice

Advice by officers/staff must be confined to council business and must be sought and given, in a manner which will avoid compromising the political neutrality required of employees.

Many officers/members of staff are willing to be contacted by members at home outside normal working hours, but this step should only be taken in cases of genuine importance or urgency or by prior arrangement.

Group Briefings

Political groups may request private and confidential briefings, including the provision of written information on matters of policy, which are, or may become, the subject of discussion by the Full Council, Cabinet or any committee.

Officers/members of staff must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussion to another political group.

Attendance by officers/members of staff at group meetings may be requested, but officers will always have the option of declining to attend and giving written advice as an alternative. It is not usually considered good practice for officers to attend such briefings alone.

Officer/staff support must not extend beyond providing information and advice in relation to matters of council business. Officers must not be involved in advising on matters of party business.

Group Leaders and members who receive such advice will treat it as strictly confidential to the council and must ensure that, if such advice is further shared or disseminated within their groups,

their groups understand that the advice is confidential to the council and not to be disclosed further under any circumstances.

In relation to budget proposals:

- (a) The Leader and Cabinet are entitled to confidential information and discussions with officers regarding options and proposals. These will remain confidential until determined by the Executive or until published in advance of Cabinet/Committee/Council meetings, whichever is the earlier; and
- (b) Opposition groups are also entitled to confidential information and discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective political groups or until published in advance of Cabinet/Committee/ Council meetings, whichever is the earlier. Officers giving such advice must not be named in public.

It must not be assumed by any party group or member that any officer is supportive of any policy or strategy developed because of that officer's/member of staff's assistance in its formulation.

Complaints and Criticism

Neither officers/staff nor members should pass comment about officers/staff in a way which could be taken as personally critical of, or as undermining, that officer/member of staff. Similarly, it is never the role of an officer/member of staff to criticise or undermine a member.

A member should not raise matters relating to the conduct or capability of an officer/member of staff in a manner that is incompatible with the objectives of this protocol. This is a longstanding tradition in public service. An officer/member of staff has no means of responding to such criticisms in public. Complaints about officers should be made to their head of service, or where necessary, to their Director or the Chief Executive. Such complaints will be dealt with by appropriate disciplinary, capability or other established procedure.

Complaints about elected members should be made to the Monitoring Officer. A breach of this protocol may be evidence of a breach of the Member Code of Conduct.

Except as part of an appointment and employment committee or appeals committee panel, members are prevented by law from becoming involved in matters relating to individual officers/employees. Information about disciplinary, capability or other employment processes are one of the exceptions to the rights of members to access information.

Cabinet and Overview and Scrutiny Function

The Constitution of the council establishes a separation of powers between the Cabinet and the scrutiny committees. Officers/staff owe an equal duty to both the Cabinet and the Overview and Scrutiny function. Sometimes real or perceived conflicts may arise, for example, when the scrutiny function wishes an officer/a member of staff to explain their advice in relation to a controversial policy or decision. In such circumstances, conflict can be avoided by officers advising impartially on the relative merits of alternative approaches.

Advice and Guidance

This protocol deals with general principles and is not designed to address particular circumstances. Advice can be sought from the Monitoring Officer or Chief Executive whenever difficult situations arise.

Personal/Family/Financial Relationships

Usually it is incompatible with good member/officer/staff relations for close personal, or any financial, relationships to develop between officers/staff and members. Very occasionally there may be exceptions to this rule, and/or that family relationships will exist.

Where there are unusually close relationships (and in the case of any financial relationships) guidance should be sought and the relationship notified in writing to the officer's/employee's Director (or in the case of Directors to the Chief Executive).

9. Employee Code of Conduct

Introduction

Island residents, visitors to the Island and service users expect to receive the highest standards of loyalty, integrity and capability from officers of the council. The purpose of this code is to clearly set out what these standards are for employees' benefit and how the council undertakes to apply it consistently and fairly. It is the responsibility of employees to work in accordance with this code and managers' responsibility to ensure that the code is fairly and consistently applied.

The code sits alongside all other council policies and outlines standards for employees to follow in their day-to-day work. The code reproduces points of principle which have applied in local government for very many years but it also deals with challenges that employees might well face.

The code has been prepared with the intention of setting down the basic rules and principles that govern the way employees should work and to build on the National Code of Conduct for Local Government Employees, embracing the Nolan Committee's seven principles of public life.

This code also explains how employees are expected to deal with conflicts of interest, confidential matters and offers of gifts or hospitality and, where necessary, examples and explanations have been given, however it is important to note that this is not an exhaustive list.

If employees breach this code they may be subject to disciplinary action and in the event of a serious breach, dismissal may occur.

Standards

Local Government is justifiably proud of its high standards of official conduct and is committed to them being maintained. Employees have a part to play in ensuring that these high standards continue to be met. Employees are expected to give the highest possible standard of service to the public and service users. This includes, where it is part of their duties, providing appropriate advice to councillors and fellow employees with impartiality.

It is recognised that employees may be a resident of the Isle of Wight as well. However, they need to be aware that the actions they take as a resident could potentially be seen as acting against the council. Actions which have the potential to bring the council (their employer) into disrepute, to harm public perception or cause reputational damage to the council will be dealt with through the appropriate procedure.

Through agreed procedures and without fear of recrimination, employees are expected to bring to the attention of their immediate line manager any impropriety or breach of procedure. Further guidance can be found via the Whistleblowing at Work Policy. If for any reason employees do not feel it is appropriate to express their concern to their immediate line manager, they should inform either their manager's manager, or the Monitoring Officer. They should not feel afraid to express their concerns as these will be treated confidentially and they will not be penalised in any way.

Dress attire is recognised to be service area/position specific given the varying nature of the roles throughout the council. Any 'dress codes/ requirements' should be confirmed via employees' service manager and must be Health and Safety compliant (where applicable).

Disclosure of Information and Confidentiality

Employees of the council must not use any information obtained or created in the course of their employment for personal gain or benefit, nor shall they pass it on to others who might use it in such a way. Unauthorised disclosure is a serious breach of trust between employees and the council. Any inappropriate use of information in this manner may constitute a criminal offence which would be referred to the police and/or the appropriate policy. If employees are unsure of what they can or can't do with information that they are processing, they should seek the advice of their manager or the Corporate Information Unit.

The ownership of material that benefits from copyright created during the course of employees' employment will belong to the Isle of Wight Council unless there is an express written agreement to the contrary. Any infringement of material which belongs to the council will be pursued through the civil or criminal courts.

The law requires that certain types of information must be available to elected councillors, auditors, government departments, service users and the public. Under the Local Government Act 1972, the public have the right to access certain information. In most circumstances, these rights are related to committee reports and background documents. However, certain information within the committee process is not public, including confidential information as defined by the Act and information exempted by virtue of schedule 12A of the same Act. Any confidential information or exempted information should only be disclosed where required to do so by law or with consent of the Monitoring Officer. In addition, the council is obliged by law and in accordance with its Access to Information rules (see Part 5 Section 2) to ensure that information is available upon request subject to limited exemptions. Employees must also ensure they provide appropriate access and security of information that the Isle of Wight Council holds.

Employees may only talk to the press or media if they are authorised to do so as part of their duties and responsibilities, or otherwise make public statements on behalf of their service. Generally, if they are contacted by the press or media, they should inform their line manager or a senior manager and refer the matter to the Communications Team who will deal with it appropriately.

Former employees of the Isle of Wight Council shall not divulge any council information obtained in the course of their employment to any third party except where required by law to do so. This is taken extremely seriously as a serious breach of trust and confidence.

Political Neutrality and Activity

Employees serve the council as a whole. It follows, therefore, that they must serve all elected councillors, not just elected councillors of the controlling group, and must ensure that the individual rights of all elected councillors are respected.

In some instances, if they are a senior employee, they may be expected to advise political groups in an official capacity but they should not do so without the knowledge and consent of their line manager.

Employees are not eligible to stand for office as a member of the Isle of Wight Council. Involvement in parish council activities is not precluded provided they complete an additional employment form; their line manager gives them permission; and any conflict of interest is declared to the Strategic Manager. If their post has been assessed as being politically restricted, they are prevented from taking part in certain political activities outside their work, of which they would have received formal confirmation from Human Resources where this applies. If they have any doubt about their position

they should contact their line manager. The political activities which are restricted for these posts mainly cover the following areas:

- (a) Standing as a candidate for election to the House of Commons, the European Parliament, or a Local Authority (other than a parish council).
- (b) Holding office with a political party, or a committee or sub-committee member of a party.
- (c) Canvassing at an election.
- (d) Speaking in public or publishing any written or artistic work which appears to be intended to affect public support for a political party.

If employees are in any doubt about whether any activity is political activity and covered by these rules they should seek advice from their line manager or the Monitoring Officer.

Whether or not their post is politically restricted, they must follow all policies of the council and must not allow their own personal or political feelings interfere with their work.

Relationships

Elected Councillors

Employees should ensure that they comply with the Protocol for Member/Officer Relations (see Part 5 Section 8). They may be required to give advice to elected councillors as part of their job. Mutual respect between employees and elected councillors is essential to good local government, but close personal familiarity between employees and individual elected councillors, which goes beyond mere acquaintance can damage the relationship, prove embarrassing to other elected councillors and other employees and should therefore be avoided. If employees have previously had or currently have a relationship in a private or domestic capacity with any elected councillor, they must declare that relationship in writing to their line manager. Further information can be found via the council's register of employee's personal interests.

The Local Community and Service Users

Employees should always remember their responsibility to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within the community.

Contractors

All relationships with contractors or potential contractors must be made known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition and no favouritism should be shown to businesses run by, for example, friends, partners or relatives. If employees have such an interest they must not be involved in any way in placing orders or awarding any work.

If employees engage or supervise contractors as part of their duties, or have an official relationship with contractors and have previously had or currently have a relationship in a private or business capacity, they must declare that relationship in writing to the appropriate manager and ensure they comply with the council's register of employee's personal interests.

Appointment and Other Employment Matters

If employees are involved in the appointment of staff, they must ensure that these are made on the basis of merit. It would be unlawful for employees to make an appointment which was based on anything other than the ability of the candidate to undertake the work. In order to avoid any bias, employees must not be involved in an appointment where they are related to an applicant, or have

a business or personal relationship outside work with them. Similarly, employees must not canvass on behalf of any applicant.

Employees must not line manage nor be involved in decisions related to the appointment, informal/formal discipline, grievance, capability proceedings, promotion or pay adjustments for any other employee who is a 'close associate' – this includes a family member or friend. A family member could include, but is not limited to:

- Husband/Wife/Partner
- Parent
- In-laws
- Niece/Nephew
- Step-relations
- Son/Daughter
- Sibling
- Aunt/Uncle
- Cousin
- Grandparents

Outside Commitments and Personal/Business Interests

Employees must ensure that they have read and comply with the council's register of employees' personal interests. They must declare their membership or personal relationship involving any organisation that is not open to the public without formal membership and commitment of allegiance and which has secrecy about its rules for membership or conduct.

Employees must ensure that any work carried out outside of their role in the council, whether it is paid, unpaid or voluntary, is declared through the additional employment form which can be found in the Additional Employment Policy and should be discussed and agreed with their line manager before accepting such work.

Further information regarding outside commitments and personal/business interests can be found via the Additional Employment Policy.

Equality

Employees have an obligation to ensure that policies relating to equality are agreed by the council are complied with in conjunction with the requirement of the law. All members of the local community, customers and colleagues, have a right to be treated with fairness, dignity, equity and respect. Further guidance on equality can be found via the Equality Policy Statement and Guidance.

Separation of Roles during Tendering

Employees should comply with the council's procurement code and be clear on the separation of client and contractor roles within the council. If they are a senior employee who has both a client and contractor responsibility, they must be aware of the need for accountability and openness.

If employees are in contractor or provider units, they must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors and must not show any favouritism.

If employees are privy to confidential information on tenders or costs for either internal or external contractors, they must not disclose that information to any unauthorised party or organisation.

Corruption

It is potentially unlawful for employees to receive any reward or fee other than the pay and benefits that they are entitled to under their contract of employment. It is a criminal offence for employees to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing

favour or disfavour to any person in their official capacity. Employees should ensure compliance with the council's Counter-Fraud and Corruption Strategy at all times.

Use of Financial Resources

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner, and in accordance with the council's Financial Regulations and Anti-Money Laundering Policy.

Gifts and Hospitality

Employees must read and comply with the council's Gifts and Hospitality Guidance which forms part of the council's Constitution.

Sponsorship by Giving and Receiving

Where an outside organisation wishes to sponsor or is sought to sponsor a local government activity, whether by invitation, tender, negotiation or voluntary, basic conventions concerning acceptance of gifts or hospitality apply. Employees must take particular care when dealing with contractors or potential contractors.

Where the council wishes to sponsor an event or service, employees or any partner, spouse or relative must not benefit from such sponsorship without there being full disclosure to their line manager of any such interests. Similarly, where the council, through sponsorship, grant aid, financial or other means, gives support in the community, employees must ensure that impartial advice is given and that there is no conflict of interest involved.

10. Monitoring Officer Protocol

Statutory Responsibilities

The Monitoring Officer is a statutory appointment under the provisions of section 5 of the Local Government and Housing Act 1989. This protocol sets out how the duties of the Monitoring Officer will be carried out.

The Monitoring Officer's responsibilities will be carried out in accordance with the authority's policies, legislative requirements and relevant government guidance. The Monitoring Officer's ability to carry out these duties and responsibilities effectively will depend on the proactive assistance and cooperation of councillors and staff.

Working Arrangements

The Monitoring Officer will promote effective working relationships with councillors and staff members to advance good governance, the highest standards of ethical behaviour and the effective discharge of the Monitoring Officer's statutory and discretionary duties. A speedy flow of relevant information and access to debate, particularly at the early stages of any decision-making by the authority, is central to fulfilling those responsibilities. Councillors and staff agree to work with the Monitoring Officer, and staff in Legal and Democratic Services to this end.

Resources

The authority agrees to provide the Monitoring Officer with sufficient staff, accommodation and resources to discharge their statutory functions. The Monitoring Officer will appoint such Deputy Monitoring Officers as they think fit and will keep them briefed on any relevant issues that they may be required to deal with in the absence of the Monitoring Officer.

Access to Information

The Monitoring Officer will be kept informed by councillors and staff of any issues that may become of concern to the authority, including, issues concerning legal powers, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to arise or have arisen.

The Monitoring Officer will be given advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the authority (including meetings at which officer delegated decisions may be taken) at which a binding decision may be made (including a failure to take a decision where one should have been taken).

The Monitoring Officer will have the right to attend (including the right to be heard at) any meeting of the authority (including meetings at which officer delegated decisions may be taken) before any binding decision is taken (including a failure to take a decision where one should have been taken).

The Monitoring Officer will have unqualified access to any information held by the council and to any officer who can assist in the discharge of their functions regarding investigation and determination of complaints.

Relationships

The Monitoring Officer will ensure the authority, its councillors and staff, in particular, the Chief Executive and the Chief Finance Officer are kept up to date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other governance issues that are likely to arise or have arisen.

The Monitoring Officer will develop a professional working relationship of respect and trust with the chairman, Leader, party group leaders and other authority members with a view to ensuring the effective and efficient conduct of authority business.

Standards Matters

The Monitoring Officer will give informal advice and undertake relevant enquiries into allegations of misconduct (in the absence of a written complaint being submitted). If a formal written complaint is submitted then the Monitoring Officer will ensure that the complaint is dealt with in accordance with the procedure established from time to time by the Monitoring Officer in consultation with the chairman of the Appeals Committee.

Dispensations

The Monitoring Officer has been delegated the authority, in consultation with a Designated Independent Person, to deal with requests for dispensation without the need for a meeting of the Appeals Committee, where that is deemed to be appropriate (see Part 5 Section 4 paragraph 8 and Part 5 Section 6).

11. Recording, Photography and Use of Social Media Protocol

The purpose of this protocol is to provide guidance, particularly for members of the press or public, on reporting of any council meeting which is held in public. It applies to any Council, Cabinet or committee meeting that is open to the public.

The council allows members of the public or press to report on all public meetings, subject to the limited exceptions outlined below. The term 'reporting' includes the taking of photographs, filming, audio-recording, tweeting, blogging or generally reporting on proceedings.

Those wishing to undertake any reporting of meetings are asked to advise a member of Democratic Services staff in advance of the meeting of their intention to do so, as explained below, in order to allow necessary arrangements to be made, if required.

The chairman of the meeting shall advise those present at the meeting that proceedings may be recorded if advance notice has been received.

Although there is a legal right to allow reporting of council meetings, the proceedings of that meeting must not be disrupted by the use of any equipment or the manner in which the reporting is undertaken. It is also important that reporting does not inhibit community involvement in the proceedings.

Guidelines for reporting

Any member of the public or press wishing to report a public meeting should ensure that:

- (a) Any photography or audio/visual recording must take place from a fixed position in the meeting room approved by the chairman so as to minimise disruption to the proceedings
- (b) The use of flash photography, additional lighting, sound booms or other equipment that may, in the chairman's opinion, be likely to be intrusive or in any way interfere with proceedings, will only be allowed if agreed in advance with the chairman.
- (c) If the chairman feels that any photography, audio or visual recording is disrupting the meeting in any way, then the operator of the equipment will be required to stop reporting
- (d) If, during the meeting, a motion is passed to exclude the press and public because confidential or exempt information is likely to be disclosed, then all rights to report the meeting cease and the operator of the equipment will be required to stop reporting and leave the meeting, taking all reporting equipment with them
- (e) They comply with any request made by the chairman regarding respecting the public's right to privacy
- (f) People seated in the public gallery/seating area should not be photographed, filmed or recorded without their consent. This also applies to those individuals who may ask a public question, present a petition or make a representation at a council meeting open to the public and who are not seated in a public seating area
- (g) Photographs, audio, and visual recordings should not be edited in a way that could lead to misinterpretation of the proceedings. This includes refraining from editing the views being recorded in a way that may ridicule or show lack of respect.

Notices advising the public that the public meeting may be reported on will be displayed in or directly outside the relevant meeting room and this will be noted on the agenda. The chairman will also make an announcement that the meeting may be photographed, recorded or filmed.

What if I don't want to be recorded?

If a member of the public does not wish to be photographed, filmed or recorded, they should inform a Democratic Services officer in advance of the meeting. If anyone is concerned for their personal safety by the recording of the meeting, it may be possible to make alternative seating arrangements or other adaptations.

What is the procedure prior to the meeting for those wishing to record or photograph a meeting?

Members of the public wishing to report on a public meeting should, wherever possible, contact a Democratic Services officer for the meeting concerned (contact details available on the agenda for the meeting; on the council's website; or by email at democratic.services@iow.gov.uk) at least two working days before the meeting. Members of the press should, wherever possible, contact the media team at mediaweb@iow.gov.uk at least two working days prior to the meeting.

The request should include the following information:

- (a) which meeting this request refers to
- (b) the name, organisation (if applicable) and contact details of the person making the request
- (c) what equipment is intended to be used (e.g. camera/audio recorder/video camera, tripod, etc)
- (d) what the photographs or audio/visual recording will be used for and/or where the information is to be published

What is the procedure for reporting during the meeting?

All reporting equipment must be set up before the meeting starts to avoid disrupting the meeting.

If the chairman feels the recording is disrupting the proceedings, the operator of the equipment will be required to stop. If they continue reporting after having been required to stop, then the chairman may ask them to leave the meeting. If they refuse to leave, then the chairman may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption.

Anyone asked to leave a meeting because they have refused to comply with the chairman's requests may be refused permission to report at future council meetings that are open to the public.

If, during the meeting, a motion is passed to exclude the press and public because confidential or exempt information is likely to be disclosed, then all rights to record the meeting are removed. All equipment shall be removed from the meeting room when members of the public and press are excluded.

If a meeting for which agreement is given to report is adjourned, then any reporting should stop at the point at which the meeting is adjourned.

Social media

There are no restrictions placed on anyone at the meeting using social media, provided that the chairman does not consider their actions are disrupting the proceedings of the meeting.

If the chairman feels the use of social media is disrupting the proceedings, the councillor, member of the public or press representative may be required to stop. If use continues, the chairman will ask the person to leave the meeting. If the person refuses to leave, then the chairman may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption.

What is disruptive behaviour?

Essentially, this could be any action or activity which disrupts the proper conduct of meetings. Examples could include:

- (a) moving to areas outside the areas designated for the public or press without the consent of the chairman
- (b) excessive noise in recording or setting up or re-siting equipment during the debate
- (c) intrusive lighting and use of flash photography
- (d) asking for people to repeat statements for the purposes of recording

Can I leave recording equipment in a public meeting room and record without being present?

There is no legal prohibition, however, under this protocol and council procedure rules, the committee may require any such recording to stop if at any stage the meeting became a private meeting and so someone is required to be present to stop the equipment. In addition, the council will not be responsible for the security of any equipment left unattended.

Are there any limits to what I can say in a tweet or video or report I publish?

The laws of the land apply, including that of defamation and public order offences. Freedom of speech within the law should be exercised with personal and social responsibility, showing respect and tolerance towards the views of others.

Will I be able to provide commentary during the meeting?

Any person can provide written commentary during a meeting, as well as oral commentary outside or after the meeting. The protocol does not permit oral commentary during a meeting as this would be disruptive to the good order of the meeting.

12. Code of Practice for Members and Officers Dealing with Licensing Matters

The Need for Guidance

This code has been written to help everyone understand the standards required of the Isle of Wight Council in carrying out its licensing functions.

This code applies to all Isle of Wight Council members and staff involved in the licensing system. It applies equally to the operation of the Licensing Committee and its sub-committees when exercising licensing functions, and the Cabinet and the Full Council in their policy formation functions.

Licensing decision-making relies on informed judgment within a firm policy context. It is also highly contentious because decisions can affect the daily lives of everyone and the private interests of individuals, applicants and residents. This is heightened by the openness of the system, in that it actively invites public opinion on certain licensing functions before taking decisions. It is important, therefore, that the process is characterised by open and transparent decision-making.

The aim of this code is to ensure that the council operates an open and fair system. Failure to follow this code, without good reason, could be taken into account during investigations into possible maladministration or by the courts in considering any appeal.

Councillors and staff are required to read this code thoroughly and put it into practice consistently. It is intended to review the code regularly so that it remains useful and relevant. If any points are unclear or need review, please contact the Monitoring Officer.

General Role and Conduct of Members and Officers

Members and officers have different, but complementary, roles. Both serve the public, but members are responsible to the electorate, while officers are responsible to the council as a whole. A successful relationship between members and officers is based upon mutual trust and understanding of each other's position. This relationship, and the trust which underpins it, must never be abused or compromised.

Applicants and the public are entitled to expect high standards of conduct and probity by all people holding public office and, in particular, when dealing with licensing matters. Only material licensing considerations should be taken into account. There are statutory provisions and a code setting standard, which must be followed.

Both members and officers are guided by the codes of conduct contained in the Constitution. The Member Code of Conduct provides guidance and standards for members. Members should not favour any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take.

A further key principle is that local opposition or support for a proposal is not in itself a ground for refusing or granting a licence, unless that opposition or support is based upon valid reasons and concerns which can be sustained.

Training

Following council elections, and at intervals thereafter, a range of training seminars are held for members. Guidance is given on the Member Code of Conduct and on licensing matters. No member may sit on the Licensing Committee or its sub-committees until they have attended the relevant training sessions on licensing matters and the Code of Conduct.

Declaration and Registration of Interests

The law and the codes of conduct set out requirements and guidance for members and officers on declaring interests and the consequences of having such interests.

In summary, the code requires (where members have a conflict of interests) that if the matter to be considered affects:

(a) An item in the members register of interests then a Disclosable Pecuniary Interest must be declared, and the member must not take part in the consideration of the item, and must leave the room. Members with such an interest may have the same participation rights as a member of the public only if a dispensation has been granted, but must leave the room after they have done so. To speak as a member of the public, members must, in addition to having obtained a dispensation, have made a relevant representation during the consultation period in order to speak.

(b) If a member has a close personal interest in an item (say an application submitted by a close family member or a close associate), which is so close that it could give rise to actual or apparent impartiality, bias or pre-determination, then they should declare this interest and leave the room during its consideration. Again, members with such an interest may have the same participation rights as a member of the public if a dispensation has been granted. To speak as a member of the public members must, in addition to having obtained a dispensation, have made a relevant representation during the consultation period in order to speak.

Members who have substantial licensing interests, or other interests, which would prevent them from voting on a regular basis, should avoid serving on Licensing Committee or its sub-committees.

Further advice on these matters is available from the Monitoring Officer.

Licensing Proposals Submitted by Members and Officers

All Licensing Services officers and other officers involved in licensing matters shall declare to their head of service any interest which they may have in any third party application (e.g. an application submitted in their immediate neighborhood or by a society or club of which they are a member) and take no part in the determination of that application.

Where a licensing application is made by a Licensing Services officer, or any other officers involved in the licensing process (including members of their close family or close associates), that officer shall play no part in the decision making process. Similar to members, the officers shall not take any part in the committee process if their application is referred to committee and must, if they are present, withdraw from the chamber or public gallery.

At the meeting of the Licensing Committee or one of its sub-committees to which an application submitted by a member of the Isle of Wight Council is being considered, that member should neither vote nor speak on the application during the debate and should withdraw from the meeting. The opportunity to present a case to the committee to the same degree as a member of public will be available subject to a dispensation being granted in certain circumstances (see Part 5 Section 4 paragraph 8 and Part 5 Section 6).

All members of the council who may be considering the submission of an application are strongly advised to employ the services of an agent to avoid partiality or the perception of partiality, to ensure proper contact with officers during its processing and to address the committee as appropriate.

Lobbying of Members and Lobbying by Members

Licensing decisions must be taken objectively on the basis of relevant information.

Where the Licensing Committee or one of its sub-committees are taking the decision all, and only, relevant information must be presented either in writing or orally to the committee meeting.

It is perfectly proper for elected councillors to give applicants and objector's factual information about the process but, other than this, contact with applicants or objectors should be treated very carefully. In particular, members who wish to participate in taking a decision must never express an unequivocal opinion about the merits of an application.

Whilst it will usually be preferable for members to avoid debating future decisions, particularly in public forums, they may occasionally wish to do so. When this happens, they should use a form of words that confirms that whilst they may have a pre-disposition towards a particular outcome, they have not made a pre-determination on the subject, such as *"on the basis of the information I have at the moment I am likely to oppose/support the application, but I will consider all the information available before I make my decision"*. Any Member who makes a stronger statement, such as *"this application will be passed over my dead body"* will not be able to take part in the decision made by the committee.

Members may be lobbied by individuals, groups or other interested parties in a matter, and this is to be expected. However, if a member considers that they are receiving unduly intense or inappropriate lobbying, then they can discuss this with the Strategic Manager for Regulatory and Community Safety Services for further advice.

Members should be particularly careful not to exert pressure on an officer who has to make a recommendation to the Licensing Committee or one of its sub-committees. If any officer believes that pressure is being exerted upon them, they will immediately notify the Strategic Manager for Regulatory and Community Safety Services and/or the Monitoring Officer. In the event that the Strategic Manager for Regulatory and Community Safety Services believes that pressure is being exerted upon their role, they should immediately notify the Director and/or the Monitoring Officer.

Officers may take many licensing decisions under delegated powers. It is similarly unacceptable for those officers to be lobbied by members or be subjected to undue pressure.

Bias/Apparent Bias

Any member who is, or appears, biased towards an issue can leave the decision vulnerable to challenge in the courts. The courts will undertake a detailed investigation of a member's conduct over a period rather than just look at the circumstances relating to that decision itself. It is therefore extremely important that members are well aware of what they should and should not do to avoid having decisions undermined by later challenges. There must be an appearance of impartiality at all material times.

The test for bias applied by the courts in terms of a particular member who participates in the decision-making itself is as follows:

"Would a fair minded observer knowing the background, consider there was a real possibility of bias arising from a particular member being a member of the relevant decision making body."

In recent years the courts have been more willing to find that there has been an appearance of bias:

“Whether, from the point of view of the fair minded and informed observer there was a real possibility that the Licensing Committee or one of its sub-committees or some of its members were biased in the sense of approaching the decision with a closed mind and without impartial consideration of the licensing issues.”

The court will look at the facts in each case. If a member has simply given a view on an issue, this will not amount to pre-determination so as to render the decision vulnerable to legal challenge, as this alone does not show that the member has a closed mind on that issue. Simply due to a member making a public statement about their approach to a licensing matter does not mean that the member cannot participate in the determination of the application.

However, members must be careful to articulate how they phrase statements made. Expressing a view may not disqualify a member on the basis of bias or the Member Code of Conduct, but they must be able to show that they have not approached the matter with a “closed mind”. Merely asserting that the member had an open-mind will be of little value – they do not relate to the all-important impression portrayed.

Once the bias or predetermination is demonstrated, the decision will be quashed unless there is good reason for the court to exercise its discretion not to do so. It is no answer to suggest that only one member was “guilty” and therefore the decision should stand.

In light of the above, and the obvious issues this raises, the following further guidance is given:

Members of the Licensing Committee attending public meetings should avoid expressing opinions on any current or live licensing matter nor participate in any debate. They must adhere to stating facts only or declare that they are there to listen to other views.

In respect of pending/forthcoming applications (pre-application discussions), members of the Licensing Committee, or local councillors who wish to take part in the debate, should have regard to this code and may take the view that they should not attend/participate in any discussion/public meeting if they wish to take part in the debate and vote on an application.

Members who are not members of the Licensing Committee, and who do not intend to participate in the debate as local councillors, do not need to avoid discussions/meetings, but must at all times have regard to the Member Code of Conduct (see Part 5 Section 4).

Parish and Town Councils

The danger of prejudging an issue arises not just at public meetings but also in parish and town council debates. Taking part in a parish or town council debate does not prevent members from taking decisions at the Licensing Committee or one of its sub-committees or other members from participating in the debate. However, parish and town councils do not have the advantage of licensing advice nor complete information on any application. Contributions by elected councillors at parish or town councils must therefore be carefully worded to avoid evidence of the decision having been prejudged.

When a member has participated in a public debate, at a parish/town council or elsewhere, they should declare this when they speak at the Licensing Committee or one of its sub-committees and should make a clear statement that they have not prejudged the issue.

Whipping

The use of party political whips in licensing decisions would demonstrate a predetermined position and could also be maladministration. Whipping must not therefore take place.

Individual members should reach their own conclusions on licensing matters rather than follow the lead of another Member. However, the views of other members of the committee, where they are relevant, can be one of the factors taken into account when taking a decision.

Pre-Application and Discussion Prior to Committee Meetings

Discussions between a potential applicant and officers of the council prior to the submission of an application and/or prior to a committee meeting can be of considerable benefit to both parties. Discussions can take place for a variety of reasons, for example to overcome relevant representations submitted by a responsible authority or other persons.

It should always be made clear at the outset that discussions prior to applications and discussions prior to committee meetings will not bind the council to making a particular decision, and that any views expressed are provisional, until all relevant information is submitted and consultations on it have taken place.

Advice should be consistent and based on national and local policies and relevant legislation. There should be no significant difference of interpretation of licensing policies between licensing officers. All officers taking part in such discussion should make it clear whether or not they are the decision maker. Licensing officers will ensure their advice is impartial and is seen to be. A written note should be made of all discussions.

When attending public meetings and site visits, members should take great care to maintain their impartiality, listen to all points of view and not state a conclusive decision on any proposal or submitted licensing application. Members of the committee should not make unaccompanied “unofficial” site visits in connection with pre-submission discussions, the determination of current applications or familiarisation visits.

It is preferable that members do not take part in pre-application discussions, so as to maintain impartiality and avoid apparent bias arising. Where members do become involved in such discussions, including meetings on site, they must seek the assistance and attendance of a licensing officer. If any contact is made in the absence of officers, a written note of any discussions between the member and the applicant and/or their agent should be sent to the Strategic Manager for Regulatory and Community Safety Services so that it may be placed on the file.

Officer Reports to Committee or Sub Committee

The reports will give comprehensive detail and a clear explanation of the location, the relevant licensing history, the policies and any other material considerations. Where lawful, reports will identify a range of options which the Licensing Committee or a sub-committee may choose.

Decisions

A member shall not be able to vote in relation to any licensing application unless they have been present at the meeting of the Licensing Committee or its sub-committee throughout the consideration of that particular application.

All decisions should be properly recorded and the reasons for all decisions should be clear.

Sanctions

Elected councillors who act in breach of this code risk being the subject of a complaint to the Monitoring Officer.

Breaches of the council procedure rules, particularly the Regulatory Committee rules, may invalidate a decision leaving that decision vulnerable to challenge on appeal, through judicial review or criticism by the Local Government and Social Care Ombudsman.

Officers who act in breach of this code of practice may be in breach of their contract of employment and subject to disciplinary or capability procedures.

13. Code of Practice for Members and Officers Dealing with Planning Matters

Introduction

This code sets out guidance for all elected councillors in various roles, including as local councillor and as a member of the Planning Committee.

Planning Committee is established by the Full Council to:

- (a) Determine those issues which have a genuine Island wide significance due to their size or impact;
- (b) Raise marginal and difficult policy issues (including inconsistency between policies or those classed and advertised as a departure);
- (c) Determine applications which are made for commercial or potentially contentious purposes by elected councillors or staff member (or their spouses); or are contentious among the wider island communities.

As such, development management is among the most controversial and high profile council functions. Members need to balance their duties to individual constituents and to the community which they represent in their role as local division councillors, with the need to objectively determine development management issues in accordance with the law and locally adopted planning policies.

The principal purpose of this code is to assist officers and members in delivering unimpeachably high standards of development management decision making. It applies equally to all elected councillors, including those who are sitting on or attending the Planning Committee. It also applies to all council officers.

Officers need to be able to exercise their professional roles, which involve advising applicants, members taking decisions and also taking decisions themselves under the scheme of delegation.

Other Relevant Codes and Protocols

Members' conduct is principally governed by the Member Code of Conduct (see Part 5 Section 4), as well as other local codes, such as this code of practice, breaches of which should be referred to the Monitoring Officer.

Relationships between members and officers are considered in detail in the Protocol for Member/Officer Relations (see Part 5 Section 8).

The roles of members are considered in some detail in a number of job profiles, also forming part of the Constitution (see Part 2 Section 2).

Staff who are members of the Royal Town Planning Institute must follow a code of professional conduct. Breaches of that code may be subject to disciplinary action by the institute. All officers are bound by the Employee Code of Conduct (see Part 5 Section 9).

The Constitution contains rules on acceptance of gifts and hospitality (see Part 5 Section 7). Neither councillors nor officers should ever place themselves in a position of accepting hospitality from an applicant or an objector in breach of these rules.

Decision Making

The Town and Country Planning Act 1990 establishes a plan led system. Planning applications must be determined by reference to the currently adopted development plan. Each application must be decided in accordance with the plan unless there are material considerations to justify departure from it.

Members who are consistently unable to support national or local planning policies will inevitably find themselves unable to take objective decisions in relation to individual planning applications and should not participate in development management decision making.

The decision as to whether a member can continue to participate in development management decision-making is one primarily for individual members, having received advice from the Monitoring Officer. However, any member who finds themselves speaking against a particular policy on two or three occasions during a twelve month period, or five or six occasions during the lifetime of the council, might choose to regard themselves as unable to support that particular policy and withdraw from debate where it is being applied.

Where a member speaks against three or more policies during a twelve month period, or against five or six over the lifetime of a council, they similarly might find themselves unable to support national or local policies to the extent that they should not make development management decisions.

Local opposition or support for an application is not a ground for making a decision, unless that opposition or support is based on material planning considerations.

Members can only take informed, objective, decisions when they have received and carefully read all written reports and submissions. They must attend official committee site visits and carefully listen to all public speaking contributions and to all contributions to the debate from members. Therefore, any member who has not been present throughout the whole consideration of an item must not vote.

Reserved Matters

The majority of applications will be dealt with by officers using delegated powers, however, the following applications and related submissions will be reserved for determination by the Planning Committee:

- (a) Applications which the Strategic Manager for Planning and Infrastructure Delivery considers:
 - (i) have a genuine Island-wide significance due to their size or impact
 - (ii) raise marginal and difficult policy issues (including inconsistency between policies or those classed and advertised as a departure); or
 - (iii) are contentious among the wider Island communities or of significant impact to a locality
- (b) Applications submitted by or on behalf of an elected councillor (or members of their close family or close associates) or by any staff (or members of their close family or close associates) employed in Planning Services or any other areas of the council where the individual may be involved in the planning process (unless the Monitoring Officer, upon receipt of a recommendation from the Strategic Manager for Planning and Infrastructure Delivery, certifies that the nature of the application – being not contrary to policy and for domestic/recreational and not commercial purposes, or if for refusal is supported by clear

and unarguable policy reason, – is such that it can be determined under delegated powers).

- (c) Applications where the proposed development is for council purposes or involves council owned land or property (except where the Monitoring Officer, upon receipt of a recommendation from the Strategic Manager for Planning and Infrastructure Delivery, is satisfied that the application is for minor works and does not need to be determined by Planning Committee). For example:
- (i) minor works to existing property and the use is not to be materially changed
 - (ii) minor applications for changes of use where there is no consequent proposal to dispose of the property
 - (iii) minor applications where there have been no objections during the consultation period; or
 - (iv) where the proposals are an amendment to an earlier scheme and do not extend beyond the previously consented extent of developed area

The Strategic Manager for Planning and Infrastructure Delivery has authority to make minor amendments to the wording on decision notices following resolution by the committee, so long as the changes do not materially affect the decision itself. For example, they may change the wording of a condition but not the need for a condition requested by members.

Prior Approval or Prior Notification

Applications for Prior Approval or Prior Notification (related to permitted development rights) will not be referred to Planning Committee for determination. Such applications must be determined against set regulations and are often time sensitive, in that if they are not determined within the prescribed periods, deemed consent is granted.

Lawful Development Certificates (LDCs) Applications for Certificates of Lawful Use or Development (existing or proposed) will not be referred to the Planning Committee, as they are often complex determinations of matters of law and fact.

Delegated Decisions

The majority of applications will be dealt with under delegated powers. This is reflective of the overall number of applications received by the Local Planning Authority, the range of application types received and the complexity of those cases, whilst also ensuring business efficiency and compliance with required regulations related to the performance of planning authorities (and criteria for designation as set out within Town and Country Planning Act 1990).

Applications are subject to formal consultation processes depending on the nature and scale of application as set out within legislation. Elected councillors may engage with the case officer for an application during the application process and are encouraged to do so to aid in the efficient determination of applications and resolution of issues.

Major applications

For major applications (as defined by the Town and Country Planning Development Management Order 2015) the following will apply:

- (a) If, within the 21 day consultation period of the application, no letters of representation have been received that are contrary to the officer recommendation, officers may move to determine the application under delegated powers.

- (b) If, within the 21 day consultation period of the application, representations are received that are contrary to the officer recommendation, the local councillor may request a determination by the Planning Committee. Such a request must be made within the 21 day consultation period, or within 7 days of the closure of the consultation period. The request must be made in writing and contain relevant and material planning considerations. If no request is made within the timescales identified, officers may move to determine the application under delegated powers.

Where a request is made in connection with paragraph (b) above, officers may seek to overcome the request for a “Call-In” through dialogue with the local councillor and provision of further advice. Examples of this are the provision of a summary of the officer recommendation, use of conditions, or provision of revised plans which may address the reasons set out in the member’s request. If, following dialogue, agreement is reached, officers may move to determine the application under delegated powers.

If, following dialogue, agreement cannot be reached, officers will consult with the chairman of the Planning Committee, who shall consider whether the reasons for requesting Call-In to planning committee are relevant and material to the consideration of the application, with particular regard to the purpose of the Planning Committee.

Where the chairman of the Planning Committee agrees with the request for Call-In the item will be reported to the Planning Committee. Where the chairman of the Planning Committee does not agree with the request for Call-In, the Strategic Manager for Planning and Infrastructure Delivery (or an authorised deputy) may issue the decision under delegated powers.

Non-major applications

For all other application types (except for Reserved Matters, Prior Approval or Prior Notification applications, or applications for LDCs) the following will apply:

- (a) If, within the 21 day consultation period of the application, no letters of representation have been received that are contrary to the officer recommendation, officers may move to determine the application under delegated powers.
- (b) If, within the 21 day consultation period of the application, representations are received that are contrary to the officer recommendation, the local councillor may request a determination by the Planning Committee. Such a request must be made within the 21 day consultation period, or within 7 days of the closure of the consultation period. The request must be made in writing and contain relevant and material planning considerations. If no request is made within the timescales identified, officers may move to determine the application under delegated powers.

Where a request is made in connection with paragraph (b) above, officers may seek to overcome the request for a Call-In through dialogue with the local member and provision of further advice. Examples of this are the provision of a summary of the officer recommendation, use of conditions, or provision of revised plans which may address the reasons set out in the request for Call-In. If, following dialogue, agreement is reached, officers may move to determine the application under delegated powers.

If, following dialogue, agreement cannot be reached, officers will consult with the chairman of the Planning Committee, who shall consider whether the reasons for requesting ‘call-in’ to the Planning

Committee are relevant and material to the consideration of the application, with particular regard to the purpose of the Planning Committee.

Where the chairman of the Planning Committee does not agree with the request for Call-In, officers may issue the decision under delegated powers. Where the chairman of the Planning Committee agrees with the request for Call-In, the item will be reported to the Planning Committee where the request is based on the planning merits of the particular matter. Where the Strategic Manager for Planning and Infrastructure Delivery (or their deputy) agrees with the request for Call-In, the item will be reported to the Planning Committee.

Where officers determine applications under delegated powers:

- (a) a record will be kept of the planning considerations taken into account
- (b) appropriate documentation relating to the delegated process described above, from the local councillor, chairman of the Planning Committee and Strategic Manager for Planning and Infrastructure Delivery (as required), will be retained following the decision being made (in accordance with the adopted document retention policy for Planning Services).

Declaration and Registration of Interests

The Member Code of Conduct sets out a regime for members recording Disclosable Pecuniary Interests (see Part 5 Section 3).

In summary, the code requires (where members have a conflict of interests) that if the matter to be considered affects:

- (a) An item in the members register of interests, then a Disclosable Pecuniary Interest must be declared, the member must not take part in the consideration of the item, and they must leave the room. However, members with such an interest may have the same participation rights as a member of the public if a dispensation has been granted by the Monitoring Officer, but must leave the room after they have done so. To speak as a member of the public, members must, in addition to having obtained a dispensation, have followed the process for registering to speak as a member of the public is required to do.
- (b) If a member has a close personal interest in an item (say an application submitted by a close family member or a close associate), which is so close that it could give rise to actual or apparent impartiality, bias or pre-determination, then they should declare this interest and leave the room during its consideration. Again, members with such an interest may have the same participation rights as a member of the public if a dispensation has been granted. To speak as a member of the public members must, however, in addition to having obtained a dispensation, have followed the process for registering to speak as a member of the public is required to do.

Local Councillors

Any local councillor who is not a member of the Planning Committee is entitled to attend and speak in relation to any item on the agenda with direct impact on their electoral division, so long as they have given prior notice before the start of the meeting to Democratic Services of their wish to do so.

Where a local councillor has requested the item be considered by the Planning Committee and that item is reported to the Planning Committee, it is anticipated that the local councillor will attend the meeting or make alternative arrangements for their representation at the meeting by an adjoining

division councillor, political group leader or by provision of a short written statement, which may be read by the chairman. A local councillor can speak for six minutes at the end of public speaking unless the chairman agrees otherwise.

Members of the Planning Committee who are determining applications that are within their electoral division should, by local convention, declare the fact and nature of the impact on their electoral division as a personal interest and may speak but will not vote on the issue. This convention is encouraged in order to protect the Planning Committee from the perception that decisions are being taken on the basis of local opposition or support rather than material planning considerations. It also protects against the perception that those areas that are represented by a local councillor who sits on Planning Committee have a disproportionate influence on the planning processes.

Other Members

The chairman of the Planning Committee has the discretion to invite members of the council who are not members of the Planning Committee, nor the councillor within whose electoral division the proposed development is located, to address the Planning Committee. The chairman will usually allow a councillor in this position to speak in relation to any issue where that councillor has a contribution to make which relates to material planning considerations, where it has not been practicable for the contribution to be made in writing via officers of the planning service and no other member of the Planning Committee can, or will, make the contribution which the non-local councillor wishes to make.

If any councillor, whether or not a committee member, speaks on behalf of a lobby group at the Planning Committee, they should withdraw from the meeting once any public or local councillor speaking opportunities have been completed. This is to counter any suggestion that members of the committee may have been influenced by their continuing presence.

Cabinet Member for Planning and Housing

The Cabinet member with responsibility for Planning and Housing services will not be appointed to the Planning Committee. That Cabinet member is nevertheless entitled to attend the committee and speak on any item which raises particular planning policy issues.

Sometimes the Cabinet member may, as local councillor, wish to speak on an issue that also interests them as Cabinet member. In order to be able to do this, they must make it clear if they are speaking as a Cabinet member or as the division councillor.

Lobbying of and by Members

Development management decisions must be taken objectively on the basis of relevant information.

Where the Planning Committee is taking the decision all, and only, relevant information must be presented either in writing or orally to the committee meeting.

It is perfectly proper for elected councillors to give applicants and objector's factual information about the process but, other than this, contact with applicants or objectors should be treated very carefully. In particular, members who wish to participate in taking a decision must never express an unequivocal opinion about the merits of an application.

Whilst it will usually be preferable for members to avoid debating future decisions, particularly in public forums, they may occasionally wish to do so. When this happens, they should use a form of words that confirms that whilst they may have a pre-disposition towards a particular outcome, they

have not made a pre-determination on the subject, such as *“on the basis of the information I have at the moment I am likely to oppose/support the application but I will consider all the information available before I make my decision”*. Any member who makes a stronger statement, such as *“this application will be passed over my dead body”* will not be able to take part in the committee decision.

Councillors may be lobbied by individuals, groups or other interested parties in a matter and this is to be expected. However, if any councillor considers that they are receiving unduly intense or inappropriate lobbying, then they can discuss this with the Strategic Manager for Planning and Infrastructure Delivery for further advice.

Members should be particularly careful not to exert pressure on an officer who has to make a recommendation to the Planning Committee. If any officer believes that pressure is being exerted upon them, they will immediately notify the Strategic Manager for Planning and Infrastructure Delivery and/or the Monitoring Officer. In the event that the Strategic Manager for Planning and Infrastructure Delivery believes that pressure is being exerted upon their role, they should immediately notify the Director and/or the Monitoring Officer.

Officers will take many planning decisions under delegated powers. It is similarly unacceptable for those officers to be lobbied by members or be subjected to undue pressure.

Bias/Apparent Bias

Any councillor who is, or appears, biased towards an issue can leave the decision vulnerable to challenge in the courts. The courts will undertake a detailed investigation of a member's conduct over a period rather than look just at the circumstances relating to that decision. It is therefore extremely important that councillors are aware of what they should and should not do to avoid having decisions undermined by later challenges. There must be an appearance of impartiality at all material times.

The test for bias applied by the courts in terms of a particular member who participates in the decision-making itself is as follows:

“Would a fair minded observer knowing the background, consider there was a real possibility of bias arising from a particular member being a member of the relevant decision making body.”

In recent years the courts have been more willing to find that there has been an appearance of bias:

“Whether, from the point of view of the fair minded and informed observer there was a real possibility that the planning committee or some of its members were biased in the sense of approaching the decision with a closed mind and without impartial consideration of the planning issues.”

The court will look at the facts in each case. If a member has simply given a view on an issue, this will not amount to pre-determination so as to render the decision vulnerable to legal challenge, as this alone does not show that the member has a closed mind on that issue. Simply due to a member making a public statement about their approach to a planning application does not mean that the member cannot participate in the determination of the application. However, members must be careful to articulate how they phrase statements. Expressing a view may not disqualify a member on the basis of bias or the Member Code of Conduct, but they must be able to show that they have not approached the matter with a “closed mind”. Merely asserting that the member had an open-mind will be of little value – they do not relate to the all-important impression portrayed.

Once bias or predetermination is demonstrated, the decision will be quashed unless there is good reason for the court to exercise its discretion not to do so. It is no answer to suggest that only one member was “guilty” and therefore the decision should stand.

In light of the above and the issues this raises, the following further guidance is given:

- (a) Planning Committee members attending public meetings should avoid expressing opinions on any current or live planning application nor participate in any debate. They must adhere to only stating facts or declaring that they are taking a position to listen to other views.
- (b) Planning Committee members or local councillors who wish to take part in the debate on pending/forthcoming applications (pre-application discussions), should have regard to this code and may take the view that they should not attend or participate in any discussions or public meetings if they wish to take part in the debate and vote on an application.
- (c) Councillors who are not members of the Planning Committee do not need to avoid discussions or meetings, but must at all times have regard to the Member Code of Conduct.

Town and Parish Councils

The danger of prejudging an issue arises not just at public meetings but also in parish and town council debates. Taking part in a parish or town council debate does not prevent members from taking decisions at the Planning Committee or other members from participating in the debate. However, parish and town councils do not have the advantage of planning advice nor complete information on any application. Contributions by elected councillors at parish or town councils must therefore be carefully worded to avoid evidence of the decision having been prejudged.

When a councillor has participated in a public debate, at a parish/town council or elsewhere, they should declare this when they speak at the Planning Committee and should make a clear statement that they have not prejudged the issue.

Whipping

The use of party political whips in development management decisions would demonstrate a predetermined position and could also be maladministration. Whipping must not therefore take place.

Individual members should reach their own conclusions on planning matters rather than follow the lead of another member. However, the views of other members of the committee, where they are relevant, can be one of the factors taken into account in taking a decision.

Pre-Application Discussions

The opportunity for developers to discuss development proposals with planning officers in advance of the submission of applications is recognised best practice. It provides potential developers with detailed guidance on planning policies and other material considerations relevant to proposals. It is preferable that members do not take part in pre-application discussions in order to maintain impartiality. In certain circumstances, members may be invited by officers to become involved in such meetings. In no circumstances should members become involved in pre-application meetings without the assistance and attendance of a planning officer.

High standards of probity are rightfully expected of members when discharging their planning responsibilities, and members should note in particular that:

- (a) at all times they should maintain the highest standards of probity in their engagement with applicants
- (b) they may have formal contact with the applicants for planning permission for strategic schemes during the pre-application and determination periods
- (c) Planning Committee members can comment on the details of schemes provided they are clear that they will listen to all material considerations presented at committee before deciding how to vote
- (d) involving members early and throughout the application and determination process leads to better planning decisions and better developments

Notes of all pre-application meetings will be taken and agreed with the parties attending the meeting. Where appropriate, notes of pre-application meetings will be included on subsequent application files.

At the discretion of the Strategic Manager for Planning and Infrastructure Delivery, developers proposing the submission of major planning applications may be offered an opportunity to present the outlines of their proposal to members of the Planning Committee prior to formal submission. In such circumstances, members should recognise that the presentation is for information only, and that the decision making process should not commence until such time as any ensuing application is subsequently made.

Development Proposals Submitted by Members and Officers, and for Council Development

All Planning Services officers or other officers involved in the planning process must declare to their head of service any interest that they may have in any third party application (e.g. an application submitted in their immediate neighbourhood or by a society or club of which they are a member) and take no part in the determination of that application.

Where a planning application is made by a Planning Services officer or any other officer involved in the planning process (including their wife/husband or civil partner), that officer shall play no part in the decision making process. Similarly to members, the officers shall not take any part in the committee process if their application is referred to committee and should, if they are present withdraw from the chamber or public gallery.

At the meeting of the Planning Committee to which an application submitted by a member of the Isle of Wight Council is reported, that member should neither vote nor speak on the application during the debate and should withdraw from the meeting. The opportunity to present a case to the committee as part of the public speaking scheme (in accordance with this code) will be available subject to a dispensation having been granted (see Part 5 Section 4 paragraph 8 and Part 5 Section 6).

All members of the council who may be considering the submission of an application are strongly advised to employ the services of an agent to avoid partiality, to ensure proper contact with officers during its processing and to address the committee as appropriate.

Training

The importance of informed objective decision making in relation to development management issues is so important that this council has a policy of training all members taking development management decisions before they start to do so.

Training relating to development management (including this code) and the Member Code of Conduct will be provided as a minimum for all councillors. Periodic additional and refresher/updating training will also be delivered. Training will be undertaken by the Strategic Manager for Planning and Infrastructure Delivery, planning officers, other officers of the council or external trainers, as appropriate. It is extremely important that elected councillors participate in this training. Any councillor who believes they are not sufficiently trained should not participate in development management decisions.

Reports to Planning Committee

All reports will:

- (a) describe the location and nature of the site
- (b) summarise the relevant planning history
- (c) identify relevant planning policies
- (d) evaluate the main material considerations of the application
- (e) set out the representations received on the proposal
- (f) summarise any human rights issues relevant to the specific proposal
- (g) set out a clear recommendation. In the case of a recommendation to approve, appropriate conditions will be set out together with reasons why it satisfies policy. In the case of a recommendation to refuse, detailed reasons for refusal will be set out.

Briefing

In the period between the publication of the committee agenda and the holding of the meeting, a briefing will be held for the chairman and vice chairman of Planning Committee and the Cabinet member for planning. The briefing will be organised by the Strategic Manager for Planning and Infrastructure Delivery and appropriate planning officers. An appropriate Legal officer will also be in attendance, together with the committee administrator. The purpose of the briefing is to:

- (a) advise members of the key points on each planning application
- (b) advise members of the extent of public speaking at the committee meeting
- (c) discuss administrative issues in relation to the detailed organisation of the meeting

The briefing should not be used by members attending as an opportunity to exert pressure on officers to pursue a particular course of action or outcome.

Conduct at Meetings

It is important that public confidence in development management is maintained. The conduct of members at meetings is extremely important. The following arrangements should be followed unless the prior agreement of the chairman is obtained:

- (a) committee members will sit in a designated seat marked with their name plate
- (b) a seating plan will be available for members of the public
- (c) members will speak clearly and concisely using microphones so the public and other members can hear what is said
- (d) the chairman will introduce speakers by family name
- (e) mobile phones will be switched off or on silent
- (f) eating and drinking, other than water, is not permitted
- (g) occasional breaks will be taken during long meetings
- (h) only exceptionally will the chairman allow members to speak for more than five minutes

Public Speaking

In order to ensure that committee members have access to a full and appropriate understanding of the often divergent comments on a planning application, the council operates a scheme of public speaking at Planning Committee.

Full details of the public speaking scheme are set out in "Your Chance to Speak - Public Speaking at Planning Committee", available in leaflet form from the Strategic Manager for Planning and Infrastructure. In summary, unless the chairman agrees otherwise for reasons of natural justice, fairness or for other reasons to enable the proper determination of an application, the key elements of this scheme are as follows:

- (a) public speaking is permitted on all planning applications considered by the Planning Committee
- (b) three groups of speakers are permitted on any application:
 - (i) the applicant/agent/supporters
 - (ii) objectors
 - (iii) parish/town councils
- (c) Each of these groups will have up to six minutes to present its case. A maximum of three people can speak for each group, with the time divided equally between them.
- (d) Public speaking on any application is only permitted on the first occasion the application is considered by the Planning Committee.

Members of the Planning Committee should give appropriate weight to the representations made by the public in their determination of planning applications. Comments made by speakers exercising their right to address the committee will, in most cases, highlight comments already summarised in the officer report on the application. In some cases, other issues will be raised which will not already be covered in the report. In assessing comments made during public speaking, members must only give weight to issues which are material planning considerations. Where appropriate and/or necessary, the chairman of the committee will request officers to comment on items raised by the public, and whether or not they are material to the determination of the application in particular.

Site Inspections

The need for site inspections (which, if required, will take place prior to the committee meeting) will be determined by the Strategic Manager for Planning and Infrastructure Delivery or authorised officers in consultation with the committee chairman. In deciding whether it is appropriate to hold a site inspection, consideration will be given to any state of national emergency (e.g. Covid-19) as to whether the council may have to suspend this provision.

Members of Planning Committee must attend official site visits in order to participate in the debate and vote. If members are unable to make a decision on an application without the benefit of having visited the site, or a further site visit, they may vote for a site visit where the motion identifies the potential material planning benefit of attending site (again).

Cooling Off Period

If within five working days of the Planning Committee at which the application was heard, the Strategic Manager for Planning and Infrastructure Delivery is of the opinion that a decision has been made contrary to policy and could not be sustained under challenge, they may choose to invoke the "cooling off" procedure. The effect of this action is that a decision notice will not be issued on the

application. The Strategic Manager for Planning and Infrastructure Delivery will notify the members of the Planning Committee that this cooling off procedure has been invoked within five working days of making this decision and outline reasons will be given for invoking the cooling off period. A report will be brought back to the Planning Committee once the Strategic Manager for Planning and Infrastructure Delivery has finalised the report and the Monitoring Officer has been consulted. The report will analyse the sustainability of the decision, impact upon the Local Planning Authority and the possibility of precedent.

Minutes/Recording Decisions

Decisions by Planning Committee will be clearly minuted. Where a decision against officers' recommendation is made, clear and sustainable reasons must be set out by the committee. Members who are considering determining an application contrary to officer recommendation are strongly recommended to seek professional advice from Strategic Manager for Planning and Infrastructure Delivery and/or the case officer before raising the matter at the committee. In any event, all decisions made at the committee contrary to officer recommendation will be subject to a named vote.

It is not possible to revisit decisions after the issue of the decision and the chairman of Planning Committee and those advising and assisting them must be confident that sufficient and comprehensively recorded reasons for the decision have been set out before the next agenda item is taken.

Review and Monitoring

Annually, the Planning Committee may review a sample of development management decisions in order to assess their impact. As part of this process, a visit will be organised by the Strategic Manager for Planning and Infrastructure Delivery in consultation with the chairman of Planning Committee to a sample of sites where developments have recently been completed.

Every six months, or to a timescale to be agreed between the Strategic Manager for Planning and Infrastructure Delivery in consultation with the chairman of Planning Committee, the Monitoring Officer and/or Strategic Manager for Planning and Infrastructure Delivery will report to the Planning Committee an analysis of:

- (a) all decisions which depart from policy
- (b) all decisions which are against officers' recommendation
- (c) site visits

Sanctions

Elected councillors who act in breach of this code risk being the subject of a complaint about a breach of this code to the Monitoring Officer.

Breaches of the council procedure rules, particularly the planning committee rules, may invalidate a planning decision leaving that decision vulnerable to challenge on appeal, through judicial review or criticism by the ombudsman.

Officers who act in breach of this code of practice may be in breach of their contract of employment and subject to disciplinary or capability procedures.

14. Protocol for Planning Committee Site Inspections

Background

This protocol establishes procedures for the organisation of Planning Committee site inspections that take place prior to the committee meeting.

General Principles

A site inspection plays an invaluable role in the determination of more complex or controversial planning applications. Site inspections allow committee members to better understand the context and content of the previously published committee report. They also provide members with the opportunity to view particular aspects of a site, the proposal, or the wider local environment raised by officers, the applicant or objectors.

Committee members should under no circumstances make decisions on applications during the site inspection.

Members should debate the proposal at the committee meeting and take into account both the appropriate policies in the adopted plan and all other material planning considerations (both those identified on site and others that may not have been considered on the site inspection).

Planning officers will arrange the itinerary and make the appropriate arrangements for the committee members to gain access to sites or to address the committee before, during or after the inspection. A planning officer will also attend all site inspections.

The site inspection is not open to the general public for reasons of probity, possible health and safety issues, as well as entry onto private land or premises.

Procedures at Site Inspections

The Planning Committee site inspection provides an opportunity for committee members (including, where appropriate, the local councillor) to be briefed by planning officers on or around the application site. Neither members of the public (including supporters/objectors/ parish members) nor the applicant or the applicant's agents are permitted to participate in the site inspection.

Committee members (including where appropriate the local councillor) will:

- (a) not debate the planning application with either members of the public or the applicant during the site inspection
- (b) not debate the planning application with either members of the public or the applicant in the period between the termination of the site inspection and the commencement of the Planning Committee meeting
- (c) receive a group presentation from an appropriate planning officer at the outset of the site inspection
- (d) be shown, key elements of both the site and its wider environment (as appropriate) by an appropriate planning officer. Should committee members wish to visit additional parts of the site or the wider environment than those the officer has drawn their attention to, they should advise the planning officer before the committee leaves the site and the officer will, where there are no reasons for not visiting, ensure that these locations are inspected
- (e) ask the appropriate planning officer to clarify any matters of detail at the end of the group presentation
- (f) remain as a single group throughout the full course of the site inspection

15. Code of Practice for Members and Officers Dealing with Property Transactions

The Need for Guidance

The sale and acquisition of property by the council will invariably have a high profile. This is partly because the property in question is often located in the heart of communities and is therefore of considerable importance to those communities.

The Plan of Proposed Disposals

The relevant Director will produce each year a plan setting out proposed disposals of property, freehold or on long leases, which are likely to reach completion within the next 12 months, and also an indication of planned disposals in subsequent years. The programme of proposed disposals will be updated in the year.

The plan of proposed disposals will appear on the Forward Plan as part of the process of setting the capital programme and be sent to the chairman of Corporate Scrutiny Committee so that Corporate Scrutiny Committee has the opportunity to consider the contents of the plan.

The plan of proposed disposals will show:

- (a) the objectives of each transaction, e.g. maximising capital receipt; delivering policy objective; etc
- (b) the proposed method of disposal, e.g. open market, restricted tender, etc
- (c) the proposed decision-maker, e.g. officer delegation or Cabinet
- (d) whether the disposal is of redundant property or to achieve some other identified policy objective

Member Decision-Making

Member decision-making should concentrate on setting the objectives, parameters and mechanisms for proposed transactions; and members, where their involvement adds value to the process, should be involved as early as possible. Reports to members will, therefore, set out:

- (a) the proposed objectives of the transaction (including alternative objectives)
- (b) the proposed method of pursuing the transaction
- (c) the circumstances in which a further report to members is necessary
- (d) proposed consultation with local members, the local community and other stakeholders (exceptionally the report will be sufficiently late in the process to set out the outcome of consultation already undertaken)
- (e) arrangements to secure the long term objectives of the sale

Where a disposal also declares property redundant or is to achieve a policy objective that is the responsibility of another Cabinet member, then any report to members will be to the Cabinet, jointly in the name of those two Cabinet members (in the case of decisions by the Cabinet).

Confidentiality

There is a presumption that both the plan of proposed disposals and reports to members will be taken in public. The exception is when, and for so long as, information contained within them would either:

- (a) prejudice the local authority or

- (b) would give an advantage to any person seeking to enter into a contract with the local authority or
- (c) would disclose information about the financial or business affairs of a person other than the local authority

The reasons for confidentiality, where these exceptions apply, will be recorded on the face of the report.

Urgency

Where, in the opinion of the Cabinet member, it is not reasonably practicable to delay a decision on a property transaction until the transaction has appeared in a plan, other means of informing the Corporate Scrutiny Committee in advance of the decision, wherever possible, will be followed.

Where it is not possible to involve the Corporate Scrutiny Committee in advance of the transaction, then in these circumstances a record of the decision, including the reasons for urgency, will be provided to the Corporate Scrutiny Committee as soon as is reasonably practicable. The Corporate Scrutiny Committee will, by these means, be able to hold the Cabinet member to account for their judgment in relation to urgency.

Interests

The elements of the Member Code of Conduct in relation to declarations of interest applies to property transactions. Members taking decisions (or engaging in policy development or scrutiny) should consider whether the nature of the transaction, the identity of the other party to the transaction and/or the location of the property gives rise to a disclosable pecuniary, or close personal, interest. Advice on this is available from the Monitoring Officer.

Local Councillor

The elected councillor for the division where the property is located will be informed of the proposed transaction (except where genuine urgency prevents) firstly when the plan of disposals is put to the Corporate Scrutiny Committee and again, prior to any public marketing.

Town and Parish Councils

A copy of the annual plan of proposed disposals will be sent to all town and parish councils. The local council where a property transaction is proposed will be informed prior to any public marketing taking place.

Acquisitions

This code supplements existing arrangements to plan and report proposed acquisitions through the capital programme.

Where a property acquisition is proposed which, for any reason, has not appeared on the capital programme, the Corporate Scrutiny Committee will be given the opportunity to consider the proposal, or if genuine urgency prohibits this, to subsequently consider the acquisition.

16. Consultation Protocol Between Isle of Wight Town and Parish Councils and Isle of Wight Council

The aim of this consultation protocol is to improve the joint working relationship between the Isle of Wight Council (IWC) and town and parish councils (local councils). Island electors expect local government to work together for the benefit of local communities. There is a common desire to foster a better professional working relationship between IWC and local councils. Better knowledge and understanding of each other's roles and responsibilities, together with a willingness to work together, will help to build trust and mutual respect.

This protocol will be reviewed by IWC in collaboration with the Isle of Wight Association of Local Councils (IWALC), the Hampshire Association of Local Councils (HALC), the Society of Local Council Clerks, and Island Town and Parish Councils. The aim is to make decisions on services that are more responsive to the needs of local communities, providing best value and quality.

Local councils need coordinated, considered consultations from IWC which are focused and relevant. This must be balanced with the legal duties that require IWC to consult on proposals at a formative stage, in a meaningful and balanced way and in some instances within a statutory timescale. Effective and meaningful consultation is essential in facilitating a good relationship between IWC and local councils.

Role of the Isle of Wight Council

IWC will endeavour to:

- (a) Ensure that communication and liaison with local councils is effective, meaningful and timely.
- (b) Promote good communications between IWC councillors and local councils in their electoral divisions.
- (c) Recognise IWALC as the collective voice of its member councils.
- (d) Where it is cost effective members take account of the diversity of local councils in information and consultation provision and ensure the timely distribution of communication materials.
- (e) Engage local councils at a sufficiently early stage so they can help shape strategic partnership thinking.
- (f) Ensure that any local councils likely to be affected by any proposals or amendments of services or functions are informed in advance of any decision being made (it is recognised that there will always be cases of urgency or other reason, e.g. statutory requirements, that may mean that this is not possible; where it is not, local councils shall be informed as soon as practicable).
- (g) Provide a period of consultation of not less than six weeks for planned consultation on changes to services (excluding any statutory consultation process, e.g. on planning applications), avoiding the month of August where possible; if this is not possible, then a longer period may be provided. However, this period may be reduced by reasons of urgency and/or where statute sets a shorter period. This consultation will provide sufficient information (usually in an electronic format) for the relevant local council to respond properly.
- (h) Provide information electronically, where appropriate.
- (i) Contact local councils through their clerk or other nominated representative.

- (j) Where practicable, consult local councils again if, following consultation, IWC changes substantially the substance of a proposal.
- (k) Where resources and time allow, meet with local councils to discuss or clarify information regarding a consultation, to enable local councils to give an appropriate informed response. This may be done by attending an IWALC meeting rather than attending each parish/town council meeting.
- (l) Ensure that consultation outcomes are fully considered.
- (m) Explore possible parish/cluster/county liaison functions, linked to broader community engagement.
- (n) Where policies and proposals affect several local councils, also consult with IWALC as a means of securing the collective views of its member councils. Equally, if several local councils believe that they are affected, then they may also ask IWALC to consider the matter.

Information regarding meetings of the IWC Cabinet and committees, together with agendas, minutes and supporting documentation, will be available on IWC's website.

Role of Island Local Councils

Local councils will endeavour to:

- (a) Provide IWC with accurate and current details of the names, addresses, emails and contact numbers of their clerks and to provide this information in a timely manner on their websites (if they have one).
- (b) Support and develop good communication and liaison with IWC through the appropriate Cabinet member, local IWC members and officers.
- (c) Maintain ongoing active engagement with local communities, reflecting their diversity, including relevant local business, voluntary and community sector organisations which might be affected by the subject of the consultation.
- (d) Ensure that parish and town councils' comments in response to a consultation exercise are meaningful and constructive.
- (e) Ensure communications to IWC are sent electronically and to the appropriate officer identified as part of the consultation process.
- (f) Respond to consultations within the stated time limit.
- (g) Ensure that if a local council does not wish to respond to a consultation it will inform IWC to that effect within the stated time limit.
- (h) Ensure that if they are unable to respond within the time limit, they request a short extension from the designated IWC officer as soon as possible; in any event, before the time limit has expired (it may not always be possible to grant such an extension in time). If the reason they are unable to respond is that there is no scheduled meeting, consideration be given to the local council submitting a draft response pending final consideration by them.
- (i) Recognise the role of IWALC as the agreed mechanism for engagement between IWC and member local councils.

Where appropriate, IWALC will co-ordinate the consultation activity for local councils.

Any issues arising from the operation of this protocol will be raised in the first instance with IWC's Monitoring Officer, who will attempt to resolve the matter and/or discuss the issue with the Cabinet member responsible for parish liaison. Such issues will be acknowledged by IWC within 20 working days.

Planning Applications

IWC will send to all local council clerks the weekly planning application press list (via email) together with a copy of all planning applications and plans within the individual local council's area.

The agreed consultation period is 21 days from the date of notification. Where a local council comments on an application outside the consultation period, such comments will be taken into account, if reasonably practicable.

All applications and plans are sent to local councils before there has been any evaluation by the planning officers. This is because any comments received from the local council forms part of the evaluation and will help determine if the application can be decided within the delegated powers of the officers. Therefore, it is important that local councils observe the 21 day deadline or notify the relevant officer if they require more time. Failure to follow this procedure may mean that the application is determined without the benefit of the comments of the local council.

Where a local council comments on an application and they are contrary to the views of the case officer, this is drawn to the attention of the IWC local councillor, who can request that the application be considered by the Planning Committee. Such requests must be supported by relevant material considerations.

Local councils will be emailed a weekly list of decisions made. Copies of the decision notices, along with officer justifications or copies of the reports going to the Planning Committee, will be available on the IWC website.

Policy documents are available on the IWC website. Standard conditions and reasons for refusal books will be made available to local councils upon request to assist in their formulation of comments.

Planning histories are available on the IWC website.

Planning officers' reports cannot be made available within the 21 day timescale for comments has expired; they are unlikely to be prepared by the case officer until the views of consultees are received.

IWC will keep a copy of all local councils' comments received on planning applications in accordance with the IWC document retention policy.

IWC officers will be available to assist local councils in assessing technical details of major application proposals.

IWC will endeavour to consult with a local council where there is a significant change of condition to a planning consent to be made after consent has been granted.

Other matters

IWC will endeavor to consult local councils on any proposals for any changes to any facilities, services or regulatory functions it operates or is responsible for (not specifically mentioned above), which will affect a local council or all or any of the inhabitants of its area.

IWC will endeavor to consult with local councils via IWALC on all major economic issues as and when the occasion arises.

17. Communications Protocol

This protocol covers the legal framework, the role of the Communications Team, principles of effective communication, council spokespeople, clearing and dissemination of press releases, handling media enquiries and interviews, corporate identity and council publications. It also deals with publicising the work of Full Council, the Cabinet, and the Corporate Scrutiny Committee and any committees or sub-committees thereof.

The council's Cabinet is the guardian of the protocol. It is reviewed regularly to ensure it is up to date.

Introduction

The purpose of this protocol is to explain the council's processes, quality standards and principles in relation to communications activity. It offers guidance and a clear set of rules which both officers and members are required to uphold.

It is not the council's Communications Strategy, which is agreed each year and forms the Communications Team workplan. In delivering the Communications Strategy, the council will uphold this protocol.

The legal framework

Local authorities are required by section 4(1) of the Local Government Act (LGA) 1986 (as amended by the LGA 1988) to have regard to the [Code of Recommended Practice on Local Authority Publicity](#) in coming to any decision on publicity.

The code recognises that local authorities are accountable to the electorate and local accountability requires local understanding. Local authorities also need to tell the public about the services which they provide. The code encourages effective publicity aimed at improved public awareness of the council's activities. However, publicity is a sensitive matter in any political environment because of the impact it can have. It is essential to ensure that proper decisions are made on publicity in accordance with clear principles of good practice. The purpose of the code is to set out those principles.

The Communications Team

- Raise awareness and improve understanding of council services through communications that are timely, accurate, clear and accessible.
- Aspire to deliver the highest standards of council communications, implementing existing best practice from other authorities.
- Serve the council and offer support and advice to officers and members.
- Observe all relevant legislation and comply with the Code of Recommended Practice on Local Authority Publicity.
- Proactively develop relationships with Island organisations, broadcast, print and specialist media and others to maximise PR opportunities for the council.
- Use proactive communications to protect and enhance the reputation of the council, recruit and retain good staff and help win additional resources for the Island.
- Use internal communications to engage staff and explain the challenges faced in changing the organisation.
- Design communication campaigns that change public perceptions and increase take up of services.

Principles of effective communication

- **PRIORITY:** Effective communications in terms of informing, listening and explaining to stakeholder groups is regarded as a priority by the authority.
- **STRATEGY:** Proactive communications to promote the Island, protect and enhance the reputation of the council, recruit and retain good staff and help win additional resources for the Island.
- **THE MESSAGE:** We are proud of this authority because it delivers good value local services that are raising standards and creating opportunity on the Isle of Wight.
- **OPERATIONS:** The corporate communications team is responsible for the operational delivery of the media relations, publications, web content and core internal communications of the council.
- **POSITIVE RELATIONSHIPS:** We will develop positive relationships with Island organisations, media and others to maximise promotional opportunities for the council. We will vigorously defend the reputation of the council and rebut inaccurate reporting of the council's activities and plans.
- **PLANNING:** The communications team will produce an annual communications work plan based around delivering corporate activities and delivering a series of campaigns that support service objectives. We will schedule activity through the communications grid to forecast likely demands on time and significant news events. Members and officers must feed news events into the communications team on a weekly basis.
- **ONE VOICE:** Staff and councillors recognise their leading role in terms of actions and behaviours in building the reputation of the authority. They should act, and communicate consistently, taking responsibility and explaining the reasons for decisions. The credibility of the media team rests on the fact that it is the authoritative and accurate voice of the council. All media requests are channeled through communications and any direct approaches from journalists should be reported back to the team.
- **PATIENCE AND PERSISTENCE:** Building reputation and strong brand values will take a significant amount of time. It will require discipline, patience and time. Councillors and staff members will have to use every media opportunity, marketing tools, internal communications and action following consultation to convince the public that the Isle of Wight is providing good value local services.

Spokespersons and media comment

The usual divide between staff and councillor comment is based on whether the story contains 'policy' matters (councillor comment) or 'operational' issues (officers' response). In practice the dividing lines can be blurred and so the media team will gauge what sort of spokesperson will be required to respond to a story – authoritative or compassionate, staff member or councillor.

The council's key spokespersons are the Executive Leader, the Deputy Leader and Cabinet members within their portfolios. They will be featured in any publicity where it relates to their responsibility on the council.

The Chief Executive, chief officers and senior managers (as agreed by the media team) will also act as spokespersons on their areas of expertise, ensuring any comment is based on factual information in line with council policy.

Council officers will not discuss council business with the press without the prior permission of the Communications Team. This includes speaking, emailing, writing or giving interviews. All press enquiries should be referred to the media team.

No officer should publicise confidential information gained in the course of their work, maliciously undermine the council by adverse or negative comments, take personal issues concerning their employment to the media, or bring the council into disrepute by their actions or views expressed.

No councillor should discuss or disclose confidential or exempt information to the media, impugn the professional integrity of officers, make personal attacks or undermine respect for officers or bring the council into disrepute as a corporate body in any public forum, but this is not intended to inhibit proper political scrutiny of the administration.

The credibility of the Communications Team rests on the fact that it is the authoritative and accurate voice of the council. It is essential that all media requests are channeled through communications and that any direct approaches from journalists be reported back to the team to deal with.

Drafting and clearing press releases

There is a difference between a press release and a story. A press release is a vehicle used for transferring information from a press office to a journalist. It is not the subsequent story that will appear in the media. It is crucially important to remember this when drafting or approving press releases. They are just adverts for a particular story. What will get them covered is the ability to deploy supporting arguments in terms of expert witnesses, new evidence, interesting figures or punchy comments.

In most cases it is expected that clearance for media comment and press releases will occur by the end of the day when comment or clearance is requested, with a target clearance time of four hours.

If clearance is not forthcoming from the Cabinet member or chief officer, the communications team will contact the next person in the chain of command to ensure deadlines can be met.

Full Council, Cabinet and other decision-making bodies

A media officer will be assigned to cover the activities of all key decision making bodies to ensure the decisions that are taken are clearly communicated to the relevant target audiences.

Where appropriate, press releases will be issued with agendas highlighting key items as agreed with the Leader, portfolio holder or Chief Executive. Quotes may be included from the Leader, appropriate portfolio holder or chairman to explain and publicise council policies and services.

Motions and questions from individual councillors shown on any agenda will not be publicised through the Communications Team.

If appropriate a press release will be issued following the meeting, describing a decision and quoting the leader, portfolio holder or chairman.

All communication relating to the work of any decision making body must be agreed by the Communications Team. Any comment made by the chairman in relation to the work of their committee must come through the Communications Team.

The Communications Team manager will decide on requests for press releases from decision-making body chairmen. In the event of a dispute, the final decision will be taken by the relevant chief officer.

Corporate Scrutiny Committee

A media officer will be assigned to cover the activities of the Corporate Scrutiny Committee to ensure the work of this body is effectively communicated.

Where appropriate, press releases will be issued with agendas highlighting key items as agreed with the chairman of the Corporate Scrutiny Committee. Quotes may be included from the chairman of the Corporate Scrutiny Committee to explain and publicise the work of committee.

Appropriate senior officers will be consulted on the preparation of press releases.

All communication relating to the work of the Corporate Scrutiny Committee must be agreed by the council's Communications Team. Any comment made by the chairman of the Corporate Scrutiny Committee in relation to the work of their committee must come through the Communications Team.

The Communications Team manager will decide on requests for press releases from the Corporate Scrutiny Committee. In the event of a dispute, the final decision will be taken by the Chief Executive.

Individual councillors

Press releases will not be issued by the Communications Team on behalf of individual councillors.

Individual councillors should make their own group leaders aware of any media activity they are undertaking and should keep the Communications Team informed in case of enquiries.

The Communications Team will not promote the views of individual councillors.

PART 6 – MEMBERS’ ALLOWANCES SCHEME

This Member’ Allowances Scheme has been established under the Local Authorities (Members’ Allowances) (England) Regulations 2003 (and any amendments to those regulations). References to "year" means the 12 months ending with 31 March.

Basic Allowance

For each year, a basic allowance shall be paid to each councillor. The amount of the allowance will be reviewed in accordance with the procedure below. For the year 2020/21 the Basic Allowance is £8,231.38.

Special Responsibility Allowances

- (a) For each year, an SRA shall be paid to those councillors who hold the special responsibilities specified in Schedule 1 to this scheme.
- (b) The amount of each SRA for 2020/21 shall be the amount specified against that special responsibility in Schedule 1.
- (c) SRAs will be reviewed in accordance with the procedure below.

Renunciation

A councillor co-opted or independent member may by notice in writing given to the Chief Finance Officer elect to forego any part of their entitlement to an allowance under this scheme.

Member Allowance Uplift

The Basic Allowance will be uplifted each year in line with the annual percentage increase agreed for the majority of council employees to whom the NJC terms and conditions apply. This will be applied once the pay settlement rate is known and will apply from April in each year unless a further review by the Independent Remuneration Panel determines otherwise.

Part-Year Entitlements

- (a) In the case of Basic Allowances, SRAs, or Dependent Carer’s Allowances, payment will only be made for the period during which a person performs the duties for which these allowances are payable. This provision applies where a member becomes, or ceases to be a member, or becomes or ceases to hold a role for which an SRA is payable.
- (b) Where, in the course of a year, this scheme is amended, any change in an allowance will be effective from the date the amended scheme is approved by Full Council.

Payment of Allowances

- (a) Payments shall be made:
 - (i) in respect of any allowances, subject to sub-paragraph (b), in instalments of one-twelfth of the amount specified in this scheme on the last working day of each month;
 - (ii) in respect of claims for travelling for council business off the Isle of Wight, on the last working day of each month in respect of claims received up to 14 days before that date.
- (b) Where a payment of one-twelfth of the amount specified in this scheme in respect of any allowance would result in a member receiving more than the amount to which they are entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which they are entitled.

Review

The Independent Remuneration Panel will review this scheme in 2021 unless there are changes to the governance structure that require review at an earlier date and/or following on from local authority elections.

Motor Mileage Allowances and Subsistence Rates (for off Island business) are reviewed by the Secretary of State, normally on an annual basis.

Dependent Carer's Allowance

Where a member has either a dependent child living with them under the age of 14, or cares for a dependent elderly or disabled person, the following are claimable:

- (a) For child care: the actual expenditure incurred up to a maximum of £6.19 per hour. This is the rate currently paid by the Local Government Association, which reviews its rates annually and therefore the amount quoted is subject to change.
- (b) For dependents who are elderly or disabled: the actual expenditure up to a maximum of £13 per hour, which is the rate paid by the Isle of Wight Council Adult Services Department under their Direct Payment Scheme. Adult Services review their rates annually and therefore the amount quoted is subject to change.

Travel and Subsistence Allowances – on the Island

Councillors are provided with a sum in addition to their Basic and Special Responsibility Allowance that is payable instead of any claims for travel or subsistence for on-Island activity. No other payments can be made for on-island travel or subsistence.

This “Expenses Sum” is calculated as follows:

- (a) Factor A – distance from member’s home to County Hall – 3 bands:
 - (i) Band 1 – less than 3 miles
 - (ii) Band 2 – between 3 and 8 miles
 - (iii) Band 3 – more than 8 miles
- (b) Factor B – type of office held – 4 bands:
 - (i) Band 1 – frontline member (without an SRA)
 - (ii) Band 2 – Leader of group with 10 or more members; Vice-Chairman of the Council; Vice Chairman of Planning Committee; Vice Chairman of Corporate Scrutiny Committee; Chairman of Appeals Committee; Licensing Chairman, Pension Fund Chairman
 - (iii) Band 3 – Chairman of the Council, Chairman of Planning, Audit and Scrutiny Committees
 - (iv) Band 4 – Leader; Deputy Leader; Cabinet Members

The two factors are added together to give a “Factor” for each member. All factors are then added together to create a Total Factor. The total expenses budget (£21,224) is then divided by the Total Factor. This is the “Available Allowance”. The “Factor” and “Available Allowance” are multiplied together to give the total “Expenses Sum”.

The amount paid to each councillor is fixed at the rate paid at 7 May 2021 until the end of their term of office, only to be altered if the councillor changes address or responsibility so that they would be entitled to a different amount in accordance with the two factors set out above. The rate paid will be

fixed again after each election for the life of the administration, unless it is altered following a recommendation of the Independent Remuneration Panel.

Accommodation and Expenses – Out of Authority

Whenever a member travels off-Island on council business this paragraph applies.

Wherever possible, members should organise their travel and accommodation through the council which pre-books and makes payment. If it is not possible to pre-book travel and accommodation, then costs will only be reimbursed against production of a proper receipt. The most efficient and cost-effective form of transport is to be used in all circumstances; any changes from this must be supported by a detailed justification.

Claims must be made on the prescribed forms obtainable from the corporate leadership support team. The maximum amounts reimbursable are set out below. The duties for which these claims are approved are all off-Island activity connected with council business. All such claims must be supported by evidence of expenditure for every item in the claim.

In addition to paying the cost of the most efficient and cost-effective form of public transport for off-island travel, the following mileage rates (where it is more efficient and/or cost effective not to use public transport) will apply:

Motor Mileage Allowances (for off-Island travel only)

Motorcycles

Up to 150cc	8.5p per mile
151cc to 500cc	12.3p per mile
Over 500cc	16.5p per mile

Motorcars

All vehicles	45p per mile
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Co-Optees Allowances

The following allowances are paid to the following co-optees:

Designated Independent Persons	£301.00
Independent Remuneration Panel Members	£301.00
Education Co-optees	£818.00

Members of the Independent Education Appeals Panels

Members of the Independent Education Appeals Panels are entitled to claim for mileage and subsistence (when attending any meetings of the appeals panels) at rates equivalent to that payable to other members when they attend off-Island meetings.

Annual Reports

Each councillor must produce an annual report (of no more than 300 words) covering what they have achieved in the past year, what they have been unable to achieve in the current year, and what they hope to achieve in the following year. The report is to be prepared for the annual council

meeting each year and will be published in advance of that meeting on the councilor's individual webpage. It will not be required in the year of council ordinary elections, when new and returning members all have the opportunity to set out their aspirations to the new council.

Each member is provided with an Isle of Wight Council encrypted iPad, laptop or desktop computer. Members have access through the group room to telephones. Mobile phone costs are not met by the council.

SCHEDULE 1 - SPECIAL RESPONSIBILITY ALLOWANCES

The following are specified as the special responsibilities in respect of which SRAs are payable, together with the amounts of those allowances for 2020/21. Only one SRA will be paid to any member. These allowances are payable in addition to the Basic Allowance of £8,231.38.

Position	Multiplier of the Basic Allowance	Special Responsibility Allowance
Leader	2	£16,462.76
Deputy Leader	1.25	£10,289.23
Cabinet Member	1	£8,231.38
Corporate Scrutiny Chair	1	£8,231.38
Corporate Scrutiny Vice Chair	0.2	£1,646.28
Health and Social Care Policy and Scrutiny Committee Chair	0.6	£4,938.83
Children's Services, Education and Skills Policy and Scrutiny Committee Chair	0.5	£4,115.69
Neighborhoods and Regeneration Policy and Scrutiny Committee Chair	0.5	£4,115.69
Audit Chair	0.4	£3,292.55
Planning Chair	0.8	£6,585.10
Planning Vice Chair	0.2	£1,646.28
Licensing Chair	0.3	£2,469.41
Pension Fund Chair	0.4	£3,292.55
Appeals Chair	0.2	£1,646.28
Chairman of Council	0.7	£5,761.97
Vice Chairman of Council	0.2	£1,646.28
Leaders of Groups of 5 or more	0.1	£823.14
Leaders of Groups of 10 or more	0.2	£1,646.28
Hampshire Police and Crime Panel Chair*	0.6	£4,938.83