

**PART 5: CODES AND PROTOCOLS**

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### **INTRODUCTION**

This Part of the Constitution sets out North Devon Council's Codes and Protocols which govern how Members and Officers should conduct themselves when exercising their roles within the Council and what they can expect from the Council.

It also sets out Nolan's Seven Principles of Public Life which underpin the new ethical framework.

#### **1. THE SEVEN PRINCIPLES OF PUBLIC LIFE**

Set out below are Nolan's Seven Principles of Public Life, which underpin the ethical framework in the Constitution. In particular, the codes and protocols set out in this part should be read in the context of these Principles.

##### **1.1 Selflessness**

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

##### **1.2 Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

##### **1.3 Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

##### **1.4 Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

##### **1.5 Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

##### **1.6 Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

### 1.7 Leadership

Holders of public office should promote and support these principles by leadership and example.

### MEMBERS' CODE OF CONDUCT

#### **PART 1 GENERAL PROVISIONS**

##### **Public Duty and Private Interests: An introduction**

- 1 This Code applies to you as a Member or a Co-opted Member of North Devon District Council.
- 1.2 You should have regard to the Principles of Public Life namely, Selflessness, Honesty/Integrity, Objectivity, Accountability, Openness, Personal judgment, Respect for others, Duty to uphold the law, Stewardship and Leadership.
- 1.3 When acting in your capacity as a Member or Co-opted Member of the District Council –
  - (a) you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, a member of your family, close associate or relevant person;
  - (b) you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;
  - (c) when carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;
  - (d) you are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office;
  - (e) you must be as open as possible about your decisions and actions and the decisions and actions of the District Council and should be prepared to give reasons for those decisions and actions in accordance with any statutory requirements and any reasonable additional requirements imposed by the District Council or contained in its Constitution,
  - (f) you must declare any interests, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out at Part 2 of this Code;
  - (g) you must, when using or authorising the use by others of the resources of the District Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and that any use is in accordance with the District Council's reasonable requirements;

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(h) you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or any similar Communications Protocol or Code produced by the District Council;

(i) you must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

- 1.4 Whilst you may be strongly influenced by the views of others, it is your responsibility alone to decide what view to take on any question which Members have to decide.
- 1.5 Do nothing as a Member which you could not justify to the public.
- 1.6 The reputation of the District Council depends on your conduct and what the public believes about your conduct.
- 1.7 It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct.
- 1.8 It is your responsibility to comply with the provisions of this Code.

### Definitions

2. In this Code –

“Close Associate”	Means someone with whom you are in close regular contact over a period of time who is more than an acquaintance. It may be a friend, a colleague, a business associate or someone you know through general social contacts; it is someone a reasonable member of the public would think you might be prepared to favour/disadvantage.
“Disclosable Pecuniary Interest”	An interest held by a Relevant Person as set out in paragraph 10.
“Member of your Family”	Means:- <ul style="list-style-type: none"><li>- partner (i.e. your spouse/civil partner/someone you live with in a similar capacity);</li><li>- a parent/parent-in-law, son/daughter, step-son/step-daughter, child of partner;</li><li>- a brother/sister, grandparent/grandchild, uncle/aunt, nephew/niece</li></ul> <p><u>or</u> the partners of any of these persons.</p>
“Meeting”	Means any meeting of :-

	<ul style="list-style-type: none"> <li>- the District Council;</li> <li>- the Executive of the District Council;</li> <li>- any of the Council's or the Executive's, Committees, Sub-Committees, Joint Committees, Joint Sub-committees</li> <li>- one or more Members, formal or informal and with or without officers, relating to the discharge of the District Council's functions where a formal record is made by a Council Officer</li> </ul>
"Personal Interest"	An interest held by a Relevant Person as set out in paragraph 11.
"Prejudicial Interest"	An interest as set out in paragraph 12.
"relevant period"	Means a period of 12 months ending with the date on which you notified the Monitoring Officer of an interest
"Relevant Person"	Means you or your 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 were civil partners.
"Sensitive Information"	Information whose availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or intimidation,
"well being"	Means a general sense of contentment and quality of life

### Scope

3. You must comply with this Code whenever you are acting in your official capacity, when:
  - (a) you are engaged on the business of the District Council; or
  - (b) you behave so as to give a reasonable person the impression that you are acting as a representative of the District Council.

### General obligations

4. You **must** –
  - (a) treat others with courtesy and respect,
  - (b) when reaching decisions on any matter, do so on the merits of the circumstances and in the public interest and have reasonable regard to any relevant advice provided to you by an officer of the Council.

5. You **must not** –

(a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;

(b) do anything which may cause the District Council to breach a statutory duty or any of the equality enactments (as defined in section 149 of the Equality Act 2010);

(c) bully any person (bullying may be characterised as any single act or pattern of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which attempts to undermine or coerce or has the effect of undermining or coercing an individual or group of individuals by gradually eroding their confidence or capability which may cause them to suffer stress or fear);

(d) intimidate or attempt to intimidate any person who is or is likely to be –

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that any Member has failed to comply with the Council's Code of Conduct; or

(e) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council;

(f) 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 –

(A) in the public interest; and

(B) made in good faith and

(C) in compliance with the reasonable requirements of the Council;

(g) prevent another person from gaining access to information to which that person is entitled by law;

(h) conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.

## PART 2 INTERESTS

### Registration of Interests

6 You must, within 28 days of—

(a) this Code being adopted by, or applied to, the District Council; or

(b) your taking office as a Member or Co-opted Member of the District Council,

whichever is the later, and annually thereafter, provide written notification to the District Council's Monitoring Officer of:

(i) any Disclosable Pecuniary Interest; and

(ii) any interests being Personal Interests and falling within paragraphs 11 (i) – (iv);

which will be recorded in the District Council's Register of Members' Interests and made available for public inspection including on the Council's website at : [www.northdevon.gov.uk](http://www.northdevon.gov.uk)

7. Within 28 days of becoming aware of any new interest or change to any interest already registered, you must register details of that new interest or change by providing written notification to the District Council's Monitoring Officer.

8. Where the District Council's Monitoring Officer agrees that any information relating to your interests is Sensitive Information you need not include that information when registering that interest, or, as the case may be, any change to that interest.

9. You must, within 28 days of becoming aware of any change of circumstances which means that information excluded is no longer Sensitive Information, notify the Council's Monitoring Officer asking that the information be included in the Council's Register of Members' Interests.

### Types of Interests

10. **Disclosable Pecuniary Interests** - These are an interest in any of the following:

(a) any employment, office, trade, profession or vocation carried on for profit or gain;

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- (b) any payment or provision of any other financial benefit (other than from North Devon District Council) made or provided within the relevant period in respect of any expenses incurred in carrying out duties as a Member, or towards your election expenses, including any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (c) any contract which is made between a Relevant Person (or a body in which a Relevant Person has a beneficial interest) and the District Council:
- (1) under which goods or services are to be provided or works are to be executed; and
  - (2) which has not been fully discharged
- (d) any beneficial interest in land which is within the area of the District Council;
- (e) any licence (alone or jointly with others) to occupy land in the area of the District Council for a month or longer
- (f) any tenancy where (to your knowledge):
- (1) the landlord is North Devon District Council; and
  - (2) the tenant is a body in which a Relevant Person has a beneficial interest.
- (g) any beneficial interest in securities of a body where:
- (1) that body (to your knowledge) has a place of business or land in the administrative area of the District Council and
  - (2) either:
    - (A) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - (B) 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.

### 11. **Personal Interests** – These are

- (i) membership of any body to which you have been appointed by the District Council,
- (ii) membership of any body exercising functions of a public nature, directed to charitable purposes or whose principal purposes include influence of public opinion or policy, including your membership of any other local Authority, any political party or trade union,

(iii) the name of any person or body from whom you have received a gift or hospitality with an estimated value of at least £25.00,

(iv) membership of any body which, in your view, might create a conflict of interest in carrying out your duties as a District Councillor, and

(v) any matter where a decision on that matter would affect the well being or financial position of any Relevant Person, Member of your Family, Close Associate or any body in which any of those persons may hold a position of general control or management, more than it would affect the majority of people living within the ward or electoral division affected by the decision,

### 12. Prejudicial Interest

There will be a Prejudicial Interest in a matter where a reasonable member of the public with knowledge of the relevant facts would reasonably think that your interest was so significant that it is likely to prejudice your judgement of the public interest. For the avoidance of doubt, a Personal Interest may also amount to a Prejudicial Interest.

### Declaration of Interests

13. If you attend a Meeting and are aware that the business being conducted at that Meeting affects a Personal Interest but does not give rise to a Disclosable Pecuniary Interest or a Prejudicial Interest you must disclose to the Meeting that you have a Personal Interest in that matter and the nature of that interest and if you have not done so already, you must notify the Monitoring Officer of the interest in writing within 28 days of the meeting,

14. If you attend a Meeting and are aware that the business being conducted at that Meeting affects a Disclosable Pecuniary Interest or is such that you would have a Prejudicial Interest in the business:-

(i) you must disclose to the meeting that you have a Disclosable Pecuniary Interest or a Prejudicial Interest in that matter and disclose the nature of that interest and if you have not done so already, you must notify the Monitoring Officer of the interest in writing within 28 days of the meeting,

(ii) subject to paragraph 10 below, unless a Dispensation has been granted, you must not participate, or participate further once the interest is known, in any discussion of the matter at the Meeting, or participate in any vote, or further vote taken on the matter at the Meeting, and must leave the room whilst discussion on the matter is taking place.

15. If you have Personal Interest falling within paragraph 11 (i) or (ii) above which also amounts to a Prejudicial Interest you may, with the consent of the Chairman presiding at the Meeting, remain in the room during the discussion and/or participate in the discussion of the matter, but may not participate in the vote taken on the matter at the Meeting.

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- 16 If you have delegated powers to take a decision on behalf of the Council acting alone or in combination with others and you are aware that you have a Disclosable Pecuniary Interest or a Prejudicial Interest in that matter dealt with or to be dealt with by you, you must not take any steps or further steps in relation to that matter except for the purposes of enabling the matter to be dealt with other than by yourself.

### Dispensations

17. Section 33 of the Localism Act 2011 makes provision for the granting of a dispensation allowing a Member with a disclosable Pecuniary Interest in a matter to speak and/or vote on that matter. For the avoidance of doubt, this Code extends the provisions of section 33 to allow a Member to also seek a dispensation excusing the Member, in whole or in part, from the effect of paragraph 8 above where the Member has a Prejudicial Interest in an item of business.



MEMBERS' CODE OF CONDUCT  
GENERAL NOTICE OF REGISTERABLE INTERESTS

2015/16

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I,

being a Member/Co-opted Member of North Devon District Council,

give notice below of those interests which I am required to declare under The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and North Devon District Council's Code of Conduct:

I understand that in so doing I must declare any interest of my spouse or civil partner or of any person with whom I am living as a husband or wife and also, in relation to categories 3 and 4, of any member of my family, close associate or relevant person, as defined in the Council's Code of Conduct.

**1. Employment, Office, Trade, Profession or Vocation**

**Please give details of (i) every employment, job, trade, business or vocation you have, for which you receive any benefit or gain (i.e. profit, salary or benefit in kind) including a short description of the activity e.g. 'Accountant' or 'Farmer' and (ii) the name of any employer or body, firm or company which you own or in which you have any beneficial interest.**

|                                                             |  |
|-------------------------------------------------------------|--|
| Description of employment, job, vocation, trade or business |  |
|-------------------------------------------------------------|--|

|                                                                                                                                      |  |
|--------------------------------------------------------------------------------------------------------------------------------------|--|
| <p>Name of Employer, body, firm or company by which you are employed or which you own or in which you have a beneficial interest</p> |  |
|--------------------------------------------------------------------------------------------------------------------------------------|--|

|                                                                                                                                                                                                                                                                            |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <p><b>2. Sponsorship</b></p> <p><b>Please give details of any person or body (other than the District Council) who has made any payment to you in respect of your election or any expenses you have incurred in carrying out your duties as a District Councillor.</b></p> |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|

### 3. Securities: Interests in Companies

Please give details of body which has a place of business or owns land in the District Council's area and in which you have a beneficial interest (a shareholding) of more than £25,000 (nominal value) or more than 1/100<sup>th</sup> of the total share issue of that body (whichever is the lower) or if there is more than one class of share, the total nominal value of shares in any class of that body of more than 1/100<sup>th</sup> of the total shares of that class

*Note: It is not necessary to declare the nature or size of the holding, simply the name of the company or other body.*

### 4. Contracts: for Goods, Works or Services with the Council

Please give details of any current, existing contracts for goods, works or services between the District Council and you or any body, firm or company by which you are employed or which you own or in which you have a beneficial interest, as referred to at 3 above.

**5. Landholdings and Licenses in the Area**

**Please give the address or other description (sufficient to identify the location) of any land or property in the District Council's area in which you have a beneficial interest, indicating whether you are the owner, lessee or tenant, including land in which you may have a licence, alone or with others, to occupy for a period of one month or longer.**

**You must include the land and house you live in and for example an allotments you own or use.**

**6. Corporate Tenancies: Land leased from North Devon District Council**

**Please give the address or other description (sufficient to identify the location) of any land leased or licensed from the District Council by a you or any body firm or company by which you are employed or which you own or in which you have a beneficial interest (specified at 3 above).**

**7. Membership of Other Bodies**

**Please give details of your membership of, or any position of general control or management, of any bodies in the categories listed below.**

|                                                                                                                                                                                      |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <p>Any Body or Organisation to which you have been appointed or nominated by the District Council as its representative</p>                                                          |  |
| <p>Any other body exercising functions of a public nature<br/><i>(e.g. County or Parish Council; Health, Police or Fire Authority or Quasi Autonomous Non-Governmental Body)</i></p> |  |
| <p>Any body directed to charitable purposes<br/><i>(e.g., an Industrial and Provident Society or Charitable Body)</i></p>                                                            |  |

Any Body whose principle purpose is to influence public opinion or policy or which, in your view, might create a conflict of interest in carrying out their duties as a District Councillor.

*(e.g. Political Party; Trade Union, Professional Association, Local Action Forum, Civic Society or Interest Group (e.g. National Trust; RSPB; Greenpeace or membership of the Freemasons or similar body)*

**DECLARATION**

I recognise that if I fail to comply with the Code of Conduct for Members of North Devon District Council or:

- (i) omit any information that should be included in this Notice;
- (ii) give false or misleading information; or
- (iii) do not tell the District Council of any changes to this Notice or new interests I acquire,

that may be a criminal offence and/or the matter may be referred to the Council's Standards Committee for investigation.

Signed : .....

**FOR OFFICE USE ONLY**

Received:.....Update .....

### EMPLOYEES CODE OF CONDUCT

This document should be read in conjunction with the Constitution and all approved and adopted Human Resources policies.

#### 1. PURPOSE

North Devon Council (the Council) relies upon the goodwill, loyalty, commitment and reliability of its employees. It is important that employees are aware of the standards of conduct expected of them.

This Code sets out those standards. It is a living document and will be reviewed from time to time.

If employees are ever unsure of their position in relation to this Code of Conduct they should seek advice from their manager.

#### 2. SCOPE

The Code applies to all employees who work for the Council.

#### 3. PRINCIPLES OF PUBLIC LIFE

The Council and the public expect conduct of the highest standards from employees. Public confidence would be shaken should the motives of employees be questioned by suspicion or allegations of improper conduct.

Employees dealing with public funds must deal with them responsibly and lawfully.

To this end the following general principles of conduct must be observed:-

(a) Community Leadership

Employees should promote and support these Principles by example, always acting in such a way as to preserve public confidence in the Council.

(b) Duty to Uphold the Law

Employees have a duty to uphold the law, and act on all occasions in accordance with the public trust placed in them.

(c) Constituency

Employees have a duty to assist the Council to act as far as possible in the interests of the whole community that it serves. Where individuals' interests are in conflict with those of others, employees should help to ensure that the Council is aware of that conflict, and that those individuals are able to pursue their concerns.

(d) Selflessness

Employees should act solely in the public interest. They should never use their position as an employee to gain for themselves, their family or their friends any financial benefit, preferential treatment or other advantage, or to confer such benefits, treatment or advantage or disadvantage improperly on others.

(e) Integrity and Propriety

Employees should not put themselves in a position where their integrity is called into question by any financial or other obligation. As well as avoiding actual impropriety, they should avoid any appearance of it.

(f) Hospitality

Employees should record all gifts and hospitality received in connection with their employment by the Council. They should not accept gifts or hospitality that might reasonably be thought to influence, or be intended to influence, their judgement, or where to do so could bring discredit upon the Council.

(g) Decisions

It is every employee's responsibility to take a professional view on any question, which Councillors or they have to decide.

(h) Objectivity in Decision-Taking

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, employees should make decisions on merit.

(i) Accountability

Employees are accountable to the Council for their actions and their part in reaching decisions, and must submit themselves to whatever scrutiny is appropriate to their office.

(j) Openness

Employees should be as open as possible about all of their actions and their part in reaching decisions. They should seek to ensure that reasons are given for decisions of the Council and that disclosure of information is restricted only in accordance with the law and para (k) below.

(k) Confidentiality

Employees should ensure that confidential material, including material about individuals, is handled in accordance with the law and any decisions on such

handling taken by the Council having regard to the public interest; and is not used for private purposes.

(l) Stewardship

Employees have a responsibility to play their part in ensuring that the Council uses its resources prudently and in accordance with the law.

(m) Participation

Where employees take part in the consideration of questions which come before them, they may do so unless they have a private interest of a kind which, in accordance with this Code, precludes them from participation.

(n) Declarations

Employees have a duty to declare any private interests relating to their employment by the Council and to take steps to resolve any conflicts arising, in a way that protects the public interest. Employees should make relevant declarations of interest at meetings of the Council, its committees and working groups, or any outside body to which they are appointed or nominated by the Council, during informal contacts and in all circumstances where they are active in their role as an employee.

(o) Relations with Councillors

Employees should respect the role of Councillors and treat them in a way that engenders mutual respect at all times.

#### 4. CUSTOMER CARE

All employees are expected to give the highest possible standard of service to the public and to adhere to any appropriate professional Code of Conduct that relates to them.

#### 5. ADVICE TO COUNCILLORS/EMPLOYEES

Any employee who is called upon to provide advice to Councillors or fellow employees must do so impartially.

#### 6. CONFIDENTIAL REPORTING PROCEDURE (WHISTLEBLOWING)

The Council is committed to the highest possible standards of openness, probity and accountability, and encourages employees who have serious concerns about any aspect of the Council's work to come forward and voice these concerns. The Confidential Reporting Procedure (Whistleblowing) is available for any employee who considers that it is an appropriate route for raising concerns.

*Employees must ensure that public interest and assets are protected at all times. Any concerns about dishonesty or impropriety which they suspect has occurred, or is likely to*

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*occur should be reported immediately to their line manager, (or alternative contacts as named in the Confidential Reporting Procedure).*

Initial enquiries will be made which, if appropriate, will result in an investigation.

Employees who fail to report their concerns may become implicated themselves and consequently the Council may treat failure by an employee to report such issues as a serious matter which could lead to disciplinary action, as could be the case should an employee make an allegation frivolously, maliciously or for personal gain. Additionally, the Council may take action against an employee who goes public when it is unreasonable for the employee to do so.

### **7. DISCLOSURE OF CONFIDENTIAL INFORMATION**

- (a) Many employees, by the nature of the work undertaken, are likely to have access to information that is of a confidential nature: -
- (a) Heads of Service and Service Managers are responsible for informing employees which information within the department is available to the public and which is not. Employees must not disclose to the public any information that they have been told is not available to them;
  - (b) Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor pass it on to others who might use it in such a way;
  - (c) If employees receive information from a Councillor, which is personal to that Councillor, and does not belong to the Council, they should not divulge it without the prior approval of that Councillor, except where such disclosure is legally required.
- (b) With the exception of employer confidential references and, where it is necessary, in co-operation with official investigative bodies, personal information concerning another employee should not, without their consent, be supplied to another person inside or outside the service of the Council.
- (c) No proceedings of the Executive, Council or Committee taken in confidence, including the content of any data, document, paper, report nor the contents of any document before any such meeting in confidential session should be disclosed to the public, unless required by law, or expressly authorised by the relevant body in consultation with the Chief Executive or Monitoring Officer

### **8. POLITICAL NEUTRALITY**

In providing a service to the Council, and its elected Councillors, employees may be expected to give advice and information to individual Councillors and their Party Groups. All employees must at all times maintain political neutrality. Certain employees will have been notified that the position they hold has been identified as falling with the definition of "politically restricted" and is therefore politically sensitive. Such employees are prevented from becoming Members of a local authority (other than Parish or Community Councils),

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MPs or MEPs. They are also prevented from holding office in a Party Group and from canvassing, speaking in public or writing on party political matters.

In discharging their duties, employees must:-

- (a) Follow every policy of the Council and must not allow their own personal views or political opinions to interfere with their work;
- (b) Respect the individual rights of all Councillors, not just those of the controlling group;
- (c) Not allow their own personal or political opinions to interfere with their work, whether or not they hold a politically restricted post.

### 9. RELATIONSHIPS

In order to protect against any allegation of bias, employees should:-

- (a) Avoid close personal or social relationships with Councillors;
- (b) Ensure courteous, efficient and impartial service delivery to all Councillors, groups and individuals within the community;
- (c) Make known to the Monitoring Officer any relationship they have of a business or private nature with external or potential contractors, as soon as they are aware of the fact, and take no part in the contractual process, and in addition record their interest in the Register of Interests kept by Member Services ;
- (d) Employees who, as part of their duties, order equipment or services, or are involved in the awarding of contracts, do this on merit by fair competition. Employees should declare their interest and take no part in the selection process where businesses run by their partner, civil partner, spouse, other relative or personal friends are involved, and in addition record their interest in the Register of Interests kept by Member Services ;
- (e) Employees who, as part of their duties engage or supervise, or have any other official relationship with, contractors, must inform the Monitoring Officer of any private or domestic relationship they have had, or currently have with these contractors, and take no part in the contractual process. In addition they must record their interest in the Register of Interests kept by Member Services.

### 10. APPOINTMENT/EMPLOYMENT MATTERS

If employees have a Management or Supervisory role at work they: -

- (a) must ensure that they appoint employees based on merit;
- (b) must not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with the applicant;

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- (c) must not be involved in decisions relating to discipline, promotion or pay adjustments for any employee who is a partner, civil partner, relative or person with whom you have a close personal relationship outside work.

Where operational difficulties arise or business interests are compromised as a result of employees who are related by marriage, or living together as partners, working in the same department, the Council reserves the right to address the issue, which may result in either one of the individuals being re-deployed.

### **11. OUTSIDE COMMITMENTS**

The Council expects that all employees (except possibly those working on a part-time or job share basis) will work for the Council as their main or only employment. If employees do have any other employment they are expected to declare the same and the following principles will apply:-

The Council will have no objection to secondary employment provided there is no conflict of interest between the work the individual undertakes for the Council and their outside employment and:-

- (a) In every case, before accepting any offer of employment employees should inform their Head of Service or Service Manager in writing of the details and request his/her agreement in writing;
- (b) The Head of Service, or Service Manager will discuss the matter with the Chief Executive (who has been delegated responsibility to approve or refuse such requests) and will then reply in writing to the employees giving the Chief Executive's decision.

### **12. PERSONAL INTERESTS**

Employees must declare in the Register of Employee Interests held in Member Services any financial or non-financial interests that they consider could bring about conflict with the Council's interests including membership of any organisation. Such registration should be renewed on an annual basis;

### **13. ACCOUNTABILITY**

Employees must be able to justify any decision they make, or action they take, to their manager or any other senior member of staff or Council committee.

### **14. EQUALITY AND FAIRNESS**

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

Employees should have mutual respect for each other and employees' language and behaviour should be conducive to a productive and harmonious work environment, with all employees having the right to be treated with fairness and equity.

The Council's Equal Opportunities Policy and all Equality schemes should be complied with at all times.

### **15. SEPARATION OF ROLES DURING TENDERING**

When dealing with the tendering process employees must: -

- (a) Exercise fairness and impartiality when dealing with customers, suppliers, other contractors and sub-contractors;
- (b) Not disclose any confidential information to which they are privy on tenders or costs for either internal or external contractors to any unauthorised party or organisation;
- (c) Demonstrate accountability and fairness in all matters associated with the tendering process;
- (d) Inform the Monitoring Officer and withdraw from the contract awarding processes if employees are contemplating a management buy-out;
- (e) Ensure that no special favour is shown to current or recent former employees or their spouses, partners, civil partners, relatives, associates or personal friends in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

### **16. CORRUPTION**

Corruption is a serious criminal offence and employees must always have regard to the Anti Fraud, Corruption and Bribery Policy adopted by the Council.

### **17. USE OF FINANCIAL RESOURCES**

Employees must ensure that any public funds entrusted to them are used in a responsible and lawful manner. They must therefore act in accordance with the Council's Financial Procedure Rules and Contract Procedure Rules and so:-

- (a) Ensure value for money to the local community; and
- (b) Avoid legal challenge to the Council.

### **18. HOSPITALITY**

It is in order to accept:-

- (a) Token gifts of insignificant value (e.g. diaries, pens etc.);
- (b) Hospitality offers if there is a genuine need to impart information or represent the Council in the community;

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- (c) Hospitality through attendance at relevant conferences, courses, meetings or events, where it is clear the hospitality is corporate rather than personal and where the Council can be satisfied that any purchasing decisions are not compromised.

When accepting hospitality employees should:-

- (d) Be particularly sensitive as to its timing in relation to decisions which the Council including employees may be taking affecting those providing the hospitality;
- (e) Gain authorisation in advance from their Head of Service, or Service Managers and record the hospitality in the Register of Hospitality/Sponsorship, which is held in Member Services. The receipt of all gifts and hospitality must be recorded, even if of "insignificant value".

It is not in order to accept: -

- (f) Significant personal gifts;
- (g) Invitations to purely social or sporting functions unless these are part of the life of the community or where the Council should be seen to be represented;
- (h) The cost of visits to inspect equipment etc. (where these are required) as this may jeopardise the integrity of subsequent purchasing decisions. The Council should meet the costs of these visits.

When declining hospitality you should do so courteously but firmly, informing the offeror of the procedures and standards operating within the Council.

### **19. SPONSORSHIP**

Heads of Service or Service Managers must:-

- (a) Ensure that any sponsorship for an activity in their department is gained in a fair, open and unbiased manner.

The Council also helps the community in various ways e.g. sponsorship, grant aid, financial or other means of support. If an employee's work involves any of these they must:-

- (b) Give impartial advice at all times and try not to put themselves in a situation where a conflict of interest could arise;
- (c) Declare in the Register of Hospitality/Sponsorship which is held in Member Services as soon as they realise that they, their spouse, partner, civil partner, other relative or personal friend could benefit from the proposed sponsorship, grant aid, support etc.

### **20. COPYRIGHT, PATENTS AND INVENTIONS**

- (a) All records, documents and other papers which relate to the Council's business, and which are made or obtained by employees in the course of employment are the

property of the Council. The copyright on all such original records, documents and papers (including copies and summaries thereof) belong to the Council.

- (b) Any matter, or thing capable of being patented under the Patents Act 1977 (or any legislation amending or replacing this legislation), made, developed or discovered by an employee, either alone or with others, whilst in the performance of their duties should be disclosed to the Council through the appropriate Head of Service or Service Manager and, subject to the provisions of the Patents Act, it will belong to and be the absolute property of the Council.

### **21. HEALTH & SAFETY**

The Health and Safety at Work Act 1974 places a duty on employees whilst they are at work.

Section 7 requires employees to take reasonable care for the health and safety of employees, themselves and other persons and also to co-operate with the employer to enable statutory duties to be complied with. Section 8 requires that nobody intentionally or recklessly interferes with, or misuses anything provided in the interests of health, safety.

To ensure that they meet the above legal obligations employees should comply with the Council's Health and Safety Policy and all associated documents.

### **22. MEDICATION**

Employees taking prescribed drugs or other medication are required to advise their manager if any such drugs being taken are likely to have an effect on their ability to drive, to use equipment, etc as required by their employment with the Council.

### **23. TIMEKEEPING**

Employees must comply with the Council's standards regarding attendance and absence.

### **24. INFORMATION SECURITY**

Employees must positively prevent information misuse and assure the accuracy of information by:

- (a) Protecting information against unauthorised access;
- (b) Assuring the confidentiality of stored information;
- (c) Maintaining the integrity of information;
- (d) Meeting all regulatory, legislative and Council policy requirements;
- (e) Producing, maintaining and testing business continuity plans;
- (f) Providing and making available relevant information and security training for other employees;

- (g) Preventing improper use of office equipment that can be used for the storage, replication and transmission of information; and
- (h) Limiting the use of electronic mail and Internet as set out within the Council's email and internet policies.

### **25. CONDUCT AND PERFORMANCE AND FIDELITY**

Employees are reminded that they are bound to the Council by their terms and conditions of employment, including compliance with all local agreements and having close regard to all Council policies.

In addition to the express terms, employees have common law duties implied into their contracts of employment that generally reflect the personal nature of the contract.

Employees must obey the lawful and reasonable instructions of the employer in a responsible manner, exercise reasonable skill and care in carrying out their work and abide by the law.

Failure to do so may result in disciplinary action.

### **26. PERSONAL APPEARANCE**

The Council expects employees to observe standards of personal appearance appropriate to the nature of the work undertaken, so as to portray a professional approach in which the public may have confidence.

Those persons in receipt of Council branded clothing should:

- ensure that reasonable care is taken of the same, within the parameters of the particular area of work undertaken;
- be aware that they are the public face of the Council whilst wearing such clothing and as such must act responsibly and not in a way which would bring the Council into disrepute.

Service Managers/ Heads of Service will give their employees clear guidance on the use of Council branded clothing/personal protective equipment.

### PROTOCOL ON OFFICER/COUNCILLOR RELATIONS

#### **1.0 INTRODUCTION**

- 1.1 This document should be read in conjunction with the Constitution and all approved and adopted Human Resources policies.
- 1.2 The purpose of this protocol is to guide Members and officers of the Council in their relations with one another. It is this Council's way of applying best principles:
  - ◆ Members have a right to information on a "need to know basis" and support
  - ◆ Officers must serve the whole Council objectively and impartially
  - ◆ Political processes and different roles of Members are a legitimate part of local democracy.
- 1.3 Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues that most commonly arise. It is hoped, however, that the approach that it adopts will serve as a guide to dealing with other issues.
- 1.4 This protocol is to a large extent no more than a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.
- 1.5 This protocol also seeks to reflect the principles underlying the respective Codes of Conduct, which apply to Members and officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and North Devon District Council in particular and they therefore demand very high standards of personal conduct.
- 1.6 This Protocol should be read in conjunction with the Members' and Employees' Codes of Conduct, the Council's Planning Code of Conduct, the Council's Constitution and any guidance issued by the Ethics Committee and/or Monitoring Officer.

#### **2.0 OFFICERS AS EMPLOYEES**

- 2.1 The Council as a Corporate Body employs officers.
- 2.2 Officers serve the Council as a whole and owe equal obligations to all Members of the Council.
- 2.3 Officers must act apolitically whether or not they hold politically restricted posts, and Members must not put officers in situations where their political neutrality may be compromised.

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- 2.4 At the heart of this Protocol, is the importance of mutual respect. Member/officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and officers should observe reasonable 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. It should be remembered that inappropriate behaviour could be inferred from language and style, so Members and officers should always seek to address each other professionally and with courtesy in both formal and informal meetings.
- 2.5 A Member should not raise matters relating the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol. An officer has no means of responding to such criticisms in public. If a Member feels they have not been treated with proper respect and courtesy, or has concerns about the conduct or capability of an officer, and fails to resolve it through direct discussion with that officer, the Member should raise the matter with the respective Head of Service or Service Manager. If the matter relates to a Head of Service or Service Manager, the Member should raise the issue with Chief Executive. The appropriate line manager will then look into the facts and report back to the Member. If the Member continues to feel concern, then he/she should report the facts to the next appropriate level of line management or if, after doing so, is still dissatisfied, should raise the issue with the Chief Executive, who will look into the matter afresh.
- 2.6 Any action taken against an officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 2.7 An officer should not raise with a Member matters relating to the conduct or capability of another officer or internal management in a manner that is incompatible with the overall objectives of this Protocol. This does not, however, prevent an officer raising a concern with a Member under the Council's Confidential Reporting Code ("Whistleblowing").
- 2.8 Where an officer feels that a Member has not properly treated him/her with respect and courtesy, he/she should raise the matter with his Head of Service/ Service Manager or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Manager will take appropriate action, either by approaching the individual Member and/or Party Group Leader. If the Group Leader does become involved the Chief Executive must be informed. If the matter cannot be resolved to the satisfaction of the employee concerned the matter will be treated as a grievance and dealt with under the Council's formal grievance procedure.
- 2.9 This procedure does not preclude the officer having the right to refer an allegation of misconduct of a Member to the Ethics Committee.
- 3.0 THE RELATIONSHIP: OFFICER SUPPORT TO MEMBERS – GENERAL POINTS**
- 3.1 Officers are responsible for day-to-day managerial and operational decisions within the Authority and will provide professional and impartial support to all Members.

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- 3.2 Support from officers is needed for all the Authority's functions including the Council, Overview and Scrutiny, the Executive, Planning Committee, Licensing Committee, Ethics Committee, Audit Committee, Joint Committees, Executive Portfolio Holders and individual Members representing their communities etc.
- 3.3 Day-to-day managerial and operational decisions are and should remain the responsibility of the Chief Executive and other officers.
- 3.4 The Authority will seek to avoid potential conflicts of interest for officers arising from the separation of the Executive and Overview and Scrutiny role.
- 3.5 A Member when attending external meetings or a site inspection may request to be accompanied by an officer. The Member must discuss the appropriateness of, and seek the approval for such attendance from the appropriate Head of Service or Service Manager.

### **4.0 OFFICER SUPPORT TO PARTY GROUPS**

- 4.1 In discharging their duties and responsibilities, officers serve the Council as a whole and not any Party Group, combination of Groups or any individual Member of the Council.
- 4.2 There is statutory recognition for Party Groups and often such Groups give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making body. Senior Officers may properly be called upon to support and contribute to such deliberations by Party Groups or to support individual Members, but must at all times, maintain political neutrality. All officers must, in their dealings with Party Groups and individual Members, treat them in a fair and even-handed manner.
- 4.3 The assistance provided by Senior Officers can take many forms ranging from a briefing meeting with an Executive Member, Chairman or other Members prior to a meeting, to a presentation to a full Party Group meeting. It is an important principle that such assistance is available to all Party Groups and individual Members.
- 4.4 Certain points must however be clearly understood by all those participating in this type of process, Members and officers alike. In particular:
  - a) officer support in these circumstances must not exceed beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be nor are present at meetings, or parts of meetings, when matters of party business are to be discussed;
  - b) group meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and

- c) similarly, where officers provide information and advice to a group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub Committee when the matter in question is considered.

- 4.5 Special care needs to be exercised whenever officers are involved in providing information and advice to a group meeting that includes persons who are not Members of the Council. Such persons will not be bound by Codes of Local Government Conduct (in particular, provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a Members only meeting.
- 4.6 Officers must respect the confidentiality of any group discussions at which they are present in the sense that they should not relay the content of any such discussion to another group.
- 4.7 Any particular cases of difficulty or uncertainty in this area of officer advice to groups should be raised with the Chief Executive or Monitoring Officer who will discuss them with the relevant group leader(s).

### **5.0 SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS**

- 5.1 The only basis on which the Council can lawfully provide support services (e.g.: stationery, typing, printing, photocopying, transport, IT, etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

### **6.0 THE EXECUTIVE AND OFFICER SUPPORT**

- 6.1 It is clearly important that there should be a close working relationship between Executive Members and the officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officer's ability to deal impartially with other Members and party groups.
- 6.2 It must be recognised that an officer will be under a professional duty to submit a report which presents an unbiased and balanced view of proposals for consideration at meetings of the Executive, and that although an Executive member may be consulted as part of the process, the professional officer as author of the report will always be fully responsible for the contents.
- 6.3 It is likely that in practice many officers will be working for the Executive and with Executive Members for a significant amount of their time. Officers must ensure that even when they are predominantly supporting the Executive or Executive Members their political neutrality is not compromised and Executive members must respect the political neutrality of officers.

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- 6.4 In relation to action between meetings, the Leader of the Council may take urgent decisions so long as they are within the remit as outlined in the scheme of delegations. In order to maintain the confidence of the Council and the public it is important that in exercising these decision-making powers, officers and the Leader ensure that they comply with both the requirements and spirit of the provisions of the Constitution regarding urgent decision-making and, in particular, that the reasons for decisions and reasons for urgency are appropriately recorded.
- 6.5 In organising support for Executive and its Members, there is a potential for tension between Officers and Executive Members. All Members and Officers need to be constantly aware of the possibility of such tensions and conflicts existing or being perceived.

### **7 MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS**

- 7.1 Members will be advised at any early stage about significant matters in their wards or which materially affect their ward. Members are free to approach any Head of Service/ Service Manager to provide them with such information, explanation and advice about that department's functions as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a department's activities, to a request for specific information on behalf of a constituent.
- 7.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 7.3 Members have a statutory right to inspect any Council document that contains material relating to any business that is to be transacted at Council, Executive, Committee or Sub Committee meeting. This right applies irrespective of whether the Member is a member of the Committee or Sub-Committee concerned and extends not only to reports, which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items that may appear on the Confidential Restricted Information part of agendas for meetings. Details of these are contained in the Access to Information rules in Part 4
- 7.4 The common law right of Members is broader and is based on the principle that any Member has a prima facie right to inspect Council documents so far as his/her access to the document is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the '*need to know*' principle.
- 7.5 The exercise of this common law right depends therefore upon the Member's ability to demonstrate that he/she has the necessary '*need to know*'. In this respect a Member has no right to '*a roving commission*' to examine Council documents. Mere curiosity is not sufficient. The crucial question is the determination of the '*need to know*'. This question must initially be determined by the particular Head of Service/ Service Manager whose department holds the document in question (with advice, if necessary, from the Monitoring Officer).

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- 7.6 The Council's Access to Information rules in Part 4 of the Constitution also deals with Members rights to inspect documents or to have access to other information and should be read in conjunction with this Protocol.
- 7.7 In some circumstances (eg: a Committee Member wishing to inspect documents relating to the functions of that Committee) a Member's *'need to know'* will normally be presumed. In other circumstances (eg: a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms.
- 7.8 Whilst the term *'document'* is very broad and includes for example, any document produced with Council resources, it should be accepted that a Member of one group will not have a *'need to know'* and therefore a right to inspect, a document which forms part of the internal workings of another group.
- 7.9 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer.
- 7.10 Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as a Member of the Council. An example would be the early drafts of Committee reports/briefing papers that are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied. This point is emphasised in paragraph 5(f) of the Members Code of Conduct, which should be observed when dealing with such information.

## **8 OFFICER/CHAIRMEN & OTHER RELATIONSHIPS**

- 8.1 It is clearly important that there should be a close working relationship between officers and Chairmen of Committees. However, relationships with a particular party group or such persons should not be such as to create public suspicion that an officer favours that group/person above others. Such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other Members and other party groups.
- 8.2 Whilst a Chairman will routinely be briefed as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised an officer will be under a duty to submit a report on a particular matter and that the author will always be responsible for the contents of any report submitted in his/her name. A Chairman may comment upon a report in terms of readability and clarity and the inclusion of options or alternatives considered and rejected.
- 8.3 Members involved in the scrutiny process should have regard to the position of officers as impartial advisors to those making decisions (whether the Executive collectively or as individuals, or in other forms of Council Committee). Questions asked of officers in Overview and Scrutiny should, as far as possible, be open in nature and should not in any circumstances breach the requirements of mutual respect.

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- 8.4 Close personal and social relationships between Members and Officers should be avoided.

### 9.0 CORRESPONDENCE

- 9.1 Correspondence between an individual Member and an officer should not normally be copied (by the officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member.
- 9.2 Official letters on behalf of the Council should normally be sent out over the name of the appropriate officer, rather than over the name of a Member. It may be appropriate in certain circumstances (eg: representations to a Government Minister) for a letter to appear over the name of a Member, but this should be the exception rather than the norm. Letters, which for example, create obligations or give instructions on behalf of the Council, should never be sent out over the name of a Member.

### 10 PUBLICITY AND PRESS RELEASES

- 10.1 Local Authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors and Council Taxpayers. In recent years, all Local Authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, Local Authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council's activities is to be welcomed. Press releases should be agreed with the Council's Communications Officer..

The Code of recommended practice on Local Authority Publicity should be observed at all times.

### 11 INVOLVEMENT OF WARD COUNCILLORS

#### 11.1 Public Meetings

Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected will as a matter of course be invited to attend the meeting.

#### 11.2 Consultations on Local Issues

Whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise.

#### 11.3 Ombudsman Complaints

Whenever the Council receives a complaint via the Ombudsman, a copy of that complaint, together with the Council's response and, ultimately, the Ombudsman's decision, will be forwarded to the appropriate Ward Members.

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### 12 **PUBLIC MEETINGS CALLED BY INDIVIDUAL COUNCILLORS OR POLITICAL GROUP**

- 12.1 If an individual Member or political group convenes a public meeting, publicity for the meeting must clearly state the basis on which it is being held and should not state or imply it is a Council meeting.
- 12.2 Any request for an officer to attend such a meeting must be made through the Head of Service or the appropriate Service Manager.
- 12.3 It must be made clear to those attending such a meeting that any officer is there in his or her official capacity, is politically neutral and that his or her presence does not signify support for a particular proposal or initiative. This is essential because of the need for officers to act, and to be seen to act, impartially and to comply with any political restrictions under which they operate.

### 13 **CONCLUSION**

Mutual understanding, openness and basic respect are the greatest safeguard of the integrity of the Council, its Members and Officers, and should be demonstrated by strict compliance with this Protocol.