

# **PART 5**

## **CODES AND PROTOCOLS**

# **DACORUM BOROUGH COUNCIL**

## **CODE OF CONDUCT FOR MEMBERS**

(Adopted by Council 11<sup>th</sup> July 2012)

### **Part 1**

#### **General Provisions**

#### **1. Introduction and interpretation**

- (1) As a member you are a representative of this authority and the public will view you as such therefore your actions impact on how the authority as a whole is viewed and your actions can have both positive and negative impacts on the authority. This Code deals with the conduct that is expected of you as a member of this authority when you are acting in that capacity.

The Code has been drawn up in accordance with Section 28 of the Localism Act 2011 (the Act). The provisions of this Code are consistent with the seven principles contained in Section 28(1) of the Act (the so-called “Nolan Principles”) and these are set out in Appendix 1.

- (2) In this Code-

“meeting” means any meeting of:

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;
- (d) any Task and Finish Group or similar internal body;
- (e) one or more members with an officer or officers of the authority, including any briefings by officers and site visits organised by the authority; or
- (f) any other meeting (except party group meetings) where one or more members are attending in an official capacity (or might reasonably be regarded by a member of the public as attending in an official capacity);

#### **2. Who does the Code apply to?**

- (1) This Code applies to all members of Dacorum Borough Council, including co-opted members.
- (2) It is your responsibility to comply with the provisions of this Code.

### **3. What does the Code apply to?**

- (1) This Code applies to your conduct when you are acting in the capacity of an elected member or co-opted member of the Council or its Committees and Sub-Committees.
- (2) You must comply with this Code whenever you-
  - (a) conduct the business of the authority (which, in this Code, 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 as a representative of the authority,  
  
and references to your official capacity are construed accordingly.
- (3) This Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (4) Where you act as a representative of the authority-
  - (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.

### **4. General Obligations**

- (1) You must treat others with respect.
- (2) You must not
  - (a) do anything which may cause your authority to breach any of the equality enactments ;
  - (b) bully any person;
  - (c) 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 a member (including yourself) has failed to comply with his or her authority's code of conduct; or
  - (d) do anything which comprises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.

## **5. Confidential Information**

You must not-

- (a) 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-
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

## **6. Not bringing the authority into disrepute**

You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the authority into disrepute.

## **7. Conferring an advantage or disadvantage**

You-

- (a) must 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; and
- (b) must, when using or authorising the use by others of the resources of the authority-
  - (i) act in accordance with the authority's reasonable requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

## **8. Decision-making**

- (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by-

- (a) the authority's chief finance officer; or
- (b) the authority's monitoring officer;

where that officer is acting pursuant to his or her statutory duties.

- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

## Part 2

### Members' Interests

#### 9. Disclosable Pecuniary Interests

You have a disclosable pecuniary interest in any business of the authority if it is of a description set out in Appendix 2 and is either-

- (a) an interest of yours, or
- (b) an interest of-
  - (i) your spouse or civil partner,
  - (ii) a person with whom you are living with as husband and wife, or
  - (iii) a person with whom you are living with as if you were civil partners,

and you are aware that that other person has the interest.

#### 10. Other Personal Interests

(1) You have a personal interest in any business of the authority where either:

- (a) it relates to or is likely to affect:
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the authority;
    - (ii) any body:
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management;

  - (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
  - (iv) any person or body who employs or has appointed you; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the

majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision.

- (2) In sub-paragraph (1)(b), a relevant person is a member of your family or any person with whom you have a close association.

## 11. Disclosure of Personal Interests

- (1) Where you have a **personal interest** under paragraph 10 in any business of the authority and you attend a meeting of the authority at which the business is to be considered, you must disclose to that meeting the existence and nature of that interest before the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business which relates to or is likely to affect a body described in paragraph 10(1)(a)(i) – i.e. a body to which you have been appointed as the authority’s nominee – or 10(1)(a)(ii)(aa) – i.e. a body exercising functions of a public nature of which you are a member or in a position of general control or management - you need only disclose to the meeting the existence and nature of that interest if and when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 10(1)(a)(iii) – i.e. where you have received a gift or hospitality from a person worth at least £25 – you need not disclose the nature and existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 17, sensitive information relating to it is not registered in the authority’s Register of Members’ Interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 14(c), where you have a personal interest in any business of the authority 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.
- (7) In this paragraph, “executive decision” is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

## 12. Prejudicial Interests Generally

- (1) Subject to sub-paragraph (2), where you have a **personal interest** under paragraph 10 in any business of the authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

- (2) You do not have a prejudicial interest in any business of the authority where that business -
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 10;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 10; or
  - (c) relates to the functions of the authority in respect of -
    - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;**
    - (ii) 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;
    - (iv) an allowance, payment or indemnity given to members;
    - (v) any ceremonial honour given to members; and
    - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

### **13. Prejudicial interests arising in relation to overview and scrutiny committees**

You also have a prejudicial interest in any business before an overview and scrutiny committee of the authority (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 authority's executive or another of the authority'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 mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **14. Effect of prejudicial interests on participation**

Where you have a prejudicial interest in any business of the authority under paragraph 12 which is to be considered at a meeting (including a meeting of an overview and scrutiny committee) at which you are present--

- (a) you must, unless paragraph 11(5) applies (sensitive information) disclose the existence and nature of the interest in accordance with paragraph 11(1)

and, unless the meeting is a Council meeting, you must move to the public seating area until that business has been concluded;



- (b) you must not, unless you have obtained dispensation from the monitoring officer, participate in any discussion or voting on the matter, except that you may still make representations, answer questions or give evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose;
- (c) you must not exercise executive functions in relation to that business; and
- (d) you must not seek improperly to influence a decision about that business.

**15. Effect of Disclosable Pecuniary Interests on Participation**

- (1) If present at a meeting and you are aware that you have a **disclosable pecuniary interest** under paragraph 9 in any matter to be considered, or being considered at the meeting, you must not, unless you have obtained dispensation from the monitoring officer-
  - (a) participate, or participate further, in any discussion of the matter at the meeting, or
  - (b) participate in any vote, or further vote, taken on the matter at the meeting,  
  
and, unless the meeting is a Council meeting, you must move to the public seating area until that business has been concluded,
  - (c) you must not exercise executive functions in relation to that business; and
  - (d) you must not seek improperly to influence a decision about that business
- (2) If a function of the authority may be discharged by a member acting alone and you have a disclosable pecuniary interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself)

## Part 3

### Registration of Members' Interests

#### 16. Registration of members' interests

(1) Subject to paragraph 17, you must, within 28 days of -

- (a) this Code being adopted by the authority; or
- (b) your election or appointment to office (where that is later),

register in the authority's Register of Members' Interests (maintained by the monitoring officer under Section 29(1)) of the Act details of any-

- (i) **disclosable pecuniary interests** as referred to in paragraph 9 that you may have, or your spouse, civil partner or person with whom you live as if they were your spouse or civil partner may have in so far as you are aware of their interests at that time
- (ii) other **personal interests** that you may have where they fall within a category mentioned in paragraph 10(1)(a)

by providing written notification to the authority's monitoring officer.

(2) Subject to paragraph 17, you must, within 28 days of becoming aware of any new disclosable pecuniary interest or other personal interest or change to any existing disclosable pecuniary interest or other personal interest registered under paragraph (1), register details of that new interest or change by providing written notification to the authority's monitoring officer.

#### 17. Sensitive information

(1) Where you and the authority's monitoring officer both consider that the information relating to any of your interests (whether or not a disclosable pecuniary interest) is sensitive information then copies of the register that are made available for inspection, and any published version should not include details of the interest but may state that you have an interest details of which are withheld under Section 32(2) of the Act and/or this paragraph.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that details excluded under paragraph (1) are no longer sensitive information, notify the authority's monitoring officer asking that the details be included in the authority's Register of Members' Interests.

(3) In this Code, "sensitive information" means information which if disclosed or made available for inspection by the public could lead you, or a person connected with you, to being subject to violence or intimidation.

## **CODE OF CONDUCT**

### **APPENDIX 1**

#### **THE NOLAN PRINCIPLES AND SECTION 28(1) OF THE LOCALISM ACT 2011**

##### **SELFLESSNESS**

Members should only serve the public interest and should never improperly confer an advantage or disadvantage on any person

##### **INTEGRITY**

Members should not place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour

##### **OBJECTIVITY**

Members should make decisions on merit, including when making appointments, awarding contracts or recommending individuals for rewards or benefits.

##### **ACCOUNTABILITY**

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

##### **OPENNESS**

Members should be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.

##### **HONESTY**

Members should not place themselves in situations where their honesty may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.

##### **LEADERSHIP**

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

## Appendix 2

### Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<i>Interest</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	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 relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose –

**“the Act”** means the Localism Act 2011;

**“body in which the relevant person has a beneficial interest”** means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

**“director”** includes a member of the committee of management of an industrial and provident society;

**“land”** excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

**“M”** means a member of a relevant authority;

**“member”** includes a co-opted member;

**“relevant authority”** means the authority of which M is a member;

**“relevant period”** means the period of 12 months ending with the day on which M gives a notification to the monitoring officer of their disclosable pecuniary interests, either–

following their election or co-option for the purposes of section 30(1) of the Act, or

following a disclosure of a disclosable pecuniary interest which has not already been registered, or is not in the process of being registered, for the purposes of section 31(7) of the Act;

**“relevant person”** means M, or

M’s spouse or civil partner, or  
a person with whom M is living as husband and wife, or as if they were civil partners;

**“securities”** means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## **PART 5: CODE OF CONDUCT FOR EMPLOYEES**

### **CONDUCT IN LOCAL GOVERNMENT CODE OF GUIDANCE**

#### **1. BACKGROUND**

- 1.1 The Council's business must be conducted at all times with integrity and honesty. All employees must be particularly careful to see that their official duties and private interests do not conflict.
- 1.2 The public is entitled to expect the highest standards of conduct from all employees who work for the Council. This Code outlines the existing laws, regulations and conditions of service and its aim is to help maintain and improve standards and protect employees from misunderstanding or criticism.
- 1.3 The National Joint Council Scheme of Conditions of Service contains a code of practice on appointment and promotion and official conduct and various practices exist on the question of gifts and hospitality and private or other employment. The Local Government Management Board has issued a Code of Conduct for employees in Local Government which has been approved by the Local Authority Associations. This Code covers all these situations and the manner in which the formal rules are interpreted and applied within Dacorum.
- 1.4 The Code applies to all employees of the Council.

#### **2. OFFICIAL CONDUCT**

- 2.1 The National Joint Council Scheme for Administrative, Professional, Technical and Clerical staff makes the following provision concerning official conduct. Perhaps because of its age, the following quotes are couched in language which would now be regarded as sexist. For the purposes of anything that is contained within the quotes here and anywhere else within this document, 'he', 'him' and 'his' should be read as including their female counterparts.

*"General:*

- (a) *the public is entitled to demand of a Local Government Officer, conduct of the highest standard and public confidence in his integrity would be shaken were the least suspicion to arise that he could in any way be influenced by improper motives;*
- (b) *an Officer's off-duty hours are his personal concern but he should not subordinate his duty to his private interests, or put himself in a position where his duty and his private interests conflict. The employing authority should not attempt to preclude Officers from undertaking additional employment, but any such employment must not, in the view of the authority, conflict with or react detrimentally to the authority's interests, or in any way weaken public confidence in the conduct of the authority's business;*

- (c) *the Officer should not be called upon to advise any political group of the employing authority, either as to the work of the group, or as to the work of the authority, neither shall he be required to attend any meeting of any political group."*

*"Whole-time Service:*

*Officers above Band 9, shall devote their whole-time service to the work of their Council and shall not engage in any other business, or take up any other additional appointment without the express consent of the Council."*

*"Proceedings of Committees:*

*No Officer shall communicate to the public, the proceedings of any Committee meeting, etc, nor the contents of any document relating to the authority unless required by law or expressly authorised to do so."*

[In practice, within Dacorum any officer attending a meeting in his/her official capacity is authorised by his/her Chief Officer to communicate the Committee's or Council's decision and any other information which it would be in the best interests of the Council to divulge in the ordinary course of business.

*Interest of Officers in Contracts:*

*If it comes to the knowledge of an Officer that a contract in which he has any pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been, or is proposed to be, entered into by the authority he shall, as soon as practicable, give notice in writing to the Chief Executive of the authority of the fact that he is interested therein. (Attention is drawn to the provisions of the Local Government Act 1972, Sections 95 and 117)."*

*"Information Concerning Officers:*

*Information concerning an Officer's private affairs shall not be supplied to any person outside the service of the employing authority, unless the consent of such Officer is first obtained." [NB If required by law, statutory Code of Guidance or by the Police, Inland Revenue, Customs and Excise or any other official law enforcement agency, information reasonably required to be divulged may be so divulged by a Chief or other Senior Officer in the course of his/her duties as such, without prior consent of the officer concerned].*

- 2.2 The Joint Negotiating Committee for Chief Officers of Local Authorities' Scheme of Conditions of Service makes very similar provisions for the conduct of Chief Officers, with the following principal differences:

*"An Officer shall not be required to advise any political group of the Council, either as to the work of the group or as to the work of the Council, neither shall he be required to attend any meeting of any political group. This shall be without prejudice to any arrangements to the contrary which may be made in agreement with any Officer and which includes adequate safeguards to preserve the neutrality of the Officer in relation to the affairs of the Council."*



*"No Officer shall communicate to the public the proceedings of any Committee meeting nor the contents of any document relating to the authority which in either case is regarded by the authority as confidential unless required by law or expressly authorised to do so."*

### **3. PECUNIARY INTEREST**

- 3.1 The law relating to pecuniary interests of employees in contracts is contained in the Local Government Act 1972 and the National Conditions of Service. In simple terms, if you, as an employee of the Council, have a pecuniary interest in a contract which has been or is proposed to be entered into by the Council, you must notify the Council in writing of this fact. This you may do by writing to the Head of Legal Services using the form at Appendix 1. The Head of Legal Services maintains a register of declarations of Officer interests in contracts for this purpose. The register is open to public inspection during normal office hours.
- 3.2 Whether you have a pecuniary interest in a contract, direct or indirect, which should be declared, will be a matter for your decision. You should however be aware of the following points:
- 3.2.1 You have an indirect pecuniary interest in a contract if you or any nominee of yours is a member of a Company or other body with which the contract is to be made. An interest arising out of a shareholding of not more than £25,000 or 1/100th of the issued share capital of a particular company (whichever is the lesser) need not be declared.
- 3.2.2 You have an indirect pecuniary interest in a contract if you are in partnership with a person who has a direct pecuniary interest in the contract.
- 3.2.3 If you are married, and living with your spouse, the interests of your spouse are deemed to be your interests for these purposes.
- 3.2.4 You should declare any interests in a contract which your regular partner or any close relative may have. For these purposes a "close relative" would include your parents, child, brother, sister, uncle, aunt, grandparent, grandchild and any other relative who lives with you.
- 3.2.5 You need not declare your interest in your contract of employment, since the Council is aware of this and you must, by definition, have a pecuniary interest in it.
- 3.2.6 If you are in any doubt as to whether you have an interest which should be declared and recorded in this way, you should seek the advice of your Chief Officer or the Head of Legal Services.

### **4. NON-PECUNIARY INTERESTS**

Employees are encouraged to declare interests other than pecuniary ones that they consider could at a later date bring about conflict with the Council's interest (eg involvement with an organisation receiving grant aid from the employing local authority). Non-financial interests should be notified to the Head of Legal Services using the form at Appendix 2.

## **5. GIFTS AND HOSPITALITY**

- 5.1 It would be inappropriate to foster an atmosphere in which Council employees refused all invitations for social involvement with persons or bodies who may have had, or may seek to have in the future, business dealings with the Council. Contacts established on a social basis can be helpful and in the Council's interests. At the same time it is very easy for such involvement to be misconstrued as providing an opportunity to bring about undue influence. All employees should seek the advice of their Chief Officer or the Head of Legal Services if in any doubt about the right course of action to pursue in such cases.
- 5.2 The general problem of gifts and hospitality is that very often a careful exercise of judgement may be necessary to decide how the public interest, and the Council's good name, may best be served. Some flexibility is necessary therefore, as extreme strictness can give unnecessary offence to people and organisations with whom the Council's relationships should be cordial. However, an appearance of improper influence is easily created, and with it encouragement of suspicion about the motives of those who serve in local government. The general rule must be "when in doubt, opt out".
- 5.3 The following guidelines are set out to help employees to avoid the risk of putting themselves in a position which could damage their own position and the public confidence in the Council and are intended to be of assistance to everyone in this delicate area:

### **5.4 Gifts:**

The following paragraphs are particularly directed to gifts from organisations or persons who are, or who seek to provide work, goods or services to the Council, e.g. building contractors, suppliers of goods or equipment and firms able to provide professional or commercial services to the Council. Apart from the items listed below, the employee must refuse any personal gifts offered to him or her or to a member of his or her family, by any persons or body who has or seeks dealings with the Council.

#### **5.4.1 The following are acceptable:**

5.4.1.1 A modest gift or gifts of a promotional character given to a wide range of people and not uniquely to you. These gifts are usually given at Christmas time and include calendars, diaries, desk sets, flow charts, tape measures, scales and other articles of use in the office or job. In no circumstances should a promotional gift or gifts of this nature worth more than £10 (or £10 in total when the value of gifts from one source are aggregated together) be deemed acceptable.

5.4.1.2 Gifts on the conclusion of any courtesy visit to a factory or firm or other community or other organisation of a sort normally given by that firm or organisation

5.4.2 Obviously, it is wise to err on the side of caution as an obviously expensive gift could raise a question even if it otherwise falls

within one of the above categories. If in doubt, you should seek the advice of the relevant Chief Officer or the Head of Legal Services.

- 5.4.3 When a gift has to be refused, this should be done with tact, because the offering of gifts is common practice in the commercial world. In some cases a gift is simply delivered and there may be a problem of returning it, e.g. a turkey received at Christmas. However, unless they are listed in the acceptable items given above, the above guidelines should be followed. It is sometimes acceptable to the giver for the gift to be the subject of a raffle and the proceeds placed to a charitable fund. However, an arrangement of this sort should only be made with a Chief Officer's approval and recorded by letter.

## **5.5 Hospitality:**

Hospitality is sometimes offered to representatives of the Council and is accepted at official level, where it is reasonable in all the circumstances. Where it is offered to employees, special caution is needed where the host is seeking to do business with the Council or to obtain a decision on their services or supply of goods. It is important to avoid any suggestion of improper influence. The question is one of judgement, and the following examples are intended to give general guidance.

### **5.5.1 ACCEPTABLE**

- 5.5.1.1 A functional working lunch or dinner provided at reasonable cost to allow the parties to discuss business. Such lunches or dinners should not be held in extravagant or luxurious surroundings. An employee must not claim subsistence unless he or she has actually expended the money claimed on, for example the purchase of drinks.
- 5.5.1.2 Invitation to a Society or Institute dinner or function.
- 5.5.1.3 Invitation to participate in Company sporting fixture or attendance as part of a group at an event.?
- 5.5.1.4 Invitations to attend opening ceremonies, celebrations of major commercial or community events.

### **5.5.2 UNACCEPTABLE**

- 5.5.2.1 Holiday abroad or weekend in any holiday centre.
- 5.5.2.2 Offer of hotel and tickets for theatre.
- 5.5.2.3 Use of company flat or hotel suite.

- 5.5.3** In general terms it will often be more acceptable to join in hospitality offered to a group rather than to accept something unique to yourself. When a particular person or body has a matter currently in issue with the Council, e.g. litigation arising from a contract, then clearly common sense dictates that offers of hospitality be refused even if in normal times they would be in the acceptable list. Any offer of hospitality which does not

readily come under the headings above, should be discussed with your Chief Officer or the Head of Legal Services before being accepted.

## **5.6 Registration of Gifts and Hospitality**

Any offer of a gift or of hospitality, whether or not it is accepted must be declared to your manager. Any offer of a gift or hospitality worth more than £10.00 which is accepted must be recorded in a register maintained for the purpose by the Head of Legal Services using the form at Appendix 3.

## **6. PRIVATE AND OTHER EMPLOYMENT WHILE IN SERVICE**

6.1 The Council recognises that employees sometimes undertake work outside their own official duties, whether or not for payment, which is clearly not against the public interest and is to be encouraged, e.g. participation in the work of an employee's professional institution or lectures at a local college, but it is not permissible for employees to undertake outside work for payment on any matter within the scope of their official duties. Examples of unacceptable practices would include:

- architect, planner or other technical officer drawing plans for a third party for applications for planning consent by his/her own Council;
- any lawyer acting for client purchasing his/her house from the Council
- carpenter replacing door in a Council house in own time and at tenant's expense.

6.2 The following rules should be observed in this respect:

6.2.1 Employees at all levels are required to avoid getting in a position of conflict by undertaking outside work. A conflict arises when an employee undertakes to do work for or to represent a member of the public or any outside organisation or body, with or without pay, in a matter which is connected with the scope of his/her official duties, or indeed where the work could result in the need for Council approval and, accordingly, such work must not be accepted. It is impossible to set rigid rules or give exhaustive examples of conduct which might give rise to a conflict of interest. The test would be to ask yourself "How would a reasonable member of the public see my conduct?" If, objectively, there would appear on the face of it to be a conflict of interest, the proposed employment should not be undertaken.

6.2.2 Those employees above Band 9, i.e. Senior Officers and above, need specific permission to undertake outside work even if, in their view, the work could not possibly conflict with their duty as an employee of the Council. Such permission will be considered in the light of the particular circumstances of the application to be approved, upon application to the Chief Officer concerned.

6.2.3 Employees below the above salary level must advise their Chief Officer of private or other employment undertaken.

6.2.4 Any employee who undertakes the work outlined in paragraph 6.2.1 above or has not obtained the permission or advised

his/her Chief Officer as in 6.2.2 and 6.2.3 above, will render themselves subject to the Conduct Procedure.

6.2.5 Chief Officers must obtain the express permission of the Cabinet to undertake outside work for payment. The Chief Executive is authorised to grant permission for Chief Officers to carry out irregular casual paid outside work. The permission to carry out any such work must be registered in a register kept by the Head of Legal Services and open to public inspection during normal office hours.

## **7. POLITICAL NEUTRALITY**

7.1 All employees of the Council (with the exception of the political group secretaries) serve the authority as a whole. It follows that they must serve all Councillors and not just those of the majority group, and must ensure that the individual rights of all Councillors are respected.

7.2 Many senior employees of the Council are politically restricted, which means that they are disqualified from being Councillors, Members of Parliament or Members of the European Parliament. It also means that they are subject to prescribed restrictions on their political activity.

7.3 All employees, whether or not politically restricted, must follow every lawful expressed policy of the Council and not allow their own personal or political opinion to interfere with their work.

7.4 It is not the Council's practice to provide dedicated assistance to the political groups, beyond the secretarial and clerical services of the group secretaries. However, you may be invited to attend and advise meetings of one or other of the political groups or be asked to provide a group with statistical or other information. If this occurs, you should be sure to offer the same facility to any other group or section of Councillors. Whatever information or opinion may be disclosed to you at these group meetings must be treated with strict respect for confidentiality.

7.5 Information of a general, factual nature which is disclosed on request to a Councillor, should be copied at the same time to the Chair of the appropriate Committee or Cabinet Member(s).

## **8. RELATIONSHIPS**

### **8.1 With Customers**

Employees should always remember their responsibilities to the people of Dacorum and ensure courteous efficient and impartial service delivery to all groups and individuals within the community in accordance with the Council's policies.

### **8.2 With Councillors**

Employees are required to observe the Protocol for Member/Officer Relations.

### **8.3 With Contractors**

- 8.3.1 Any relationship of a business or private nature with external or potential contractors should be made known to your Manager. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour may be shown to businesses run by, for instance, friends, partners, or relatives in the tendering process. No part of the local community should be discriminated against.
- 8.3.2 Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to their Manager.
- 8.3.3 In entering into contractual relationships on behalf of the Council employees must adhere to the rules and advice stipulated in the Procurement Standing Orders and Financial Regulations.

### **8.4 With Certain Organisations**

Employees should declare to their Manager and/or the Head of Legal Services, membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules, membership or conduct.

- 8.5 All declarations made under section 8.4 of the Code should be made, in writing, to the Chief Executive or the Head of Legal Services. For this purpose the Head of Legal Services maintains a register of declarations, which is open to public scrutiny.

## **9. EMPLOYMENT MATTERS**

- 9.1 Employees involved in appointments should ensure that these are made in accordance with the Council's personnel policies and strictly on the basis of merit. You should not make an appointment based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias or discrimination, you should not be involved in an appointment where you are related to the applicant or have a close personal relationship outside of work with him or her.
- 9.2 Similarly, you should not be involved in decisions relating to discipline or pay adjustments for any other employee who is your relative, partner, or with whom you have a close personal relationship.
- 9.3 You should always ensure that policies relating to equality issues as agreed by the Council are complied with in addition to any requirements of the law. All members of the local community, customers and other employees, have a right to be treated with fairness and equity.

## **10. COMPETITIVE TENDERING “DUAL HATTEDNESS”**

- 10.1 Employees who are privy to confidential information on tenders or bids during a competitive tendering process must not disclose that information to any person or organisation.

- 10.2 Employees who have both a client and a contractor responsibility must be aware of the need for accountability and openness.
- 10.3 Where employees are located in units providing goods or services they must exercise the same degree of fairness and impartiality when dealing with customers, suppliers and contractors. The sections of this Code of Conduct on hospitality apply to provider units in that they should not offer to customers gifts or hospitality except those which the Council deems to be of an insignificant nature.
- 10.4 Any employee appointed as a Manager of a Direct Labour or Service Organisation remains an employee of the Council and responsible to the Council and as such, the normal rules under the Code of Conduct will apply.
- 10.5 Employees should ensure that no special favour is shown to current or former employees or their close relatives, partners or associates in awarding contracts to private or other businesses run by them or employing them in a senior or relevant managerial capacity. All selection processes should be conducted impartially and employees who are known to have relevant interests should play no part in the selection of tenderers or contractors.

## Appendix 1

### Dacorum Borough Council's Code of Conduct for Employees

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Notification by an Employee of a Financial Interest in a Contract

I, *(full name)*

an employee of Dacorum Borough Council

(a) GIVE NOTICE that I have a financial interest in a contract which has been, or is proposed to be, entered into with the Council.

(b) The details of the contract are as follows :-

The contract is made, or will be made, between –

The contract (if already completed) is dated –

The contract relates to –

The nature of my financial interest is -

Date

Signed

NOTE – This notification must be given to the Head of Legal Services as soon as you become aware that you have a direct or indirect financial interest in a contract (not being a contract to which you are a party) which has been, or is proposed to be, entered into with the Council.



## Appendix 2

### Dacorum Borough Council's Code of Conduct for Employees

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Notification by an Employee of a Non-Financial Interest

I, *(full name)*

an employee of Dacorum Borough Council

GIVE NOTICE that I have a non-financial interest which I consider could bring about a conflict with the Council's interests. The nature of my non-financial interest is –

Date

Signed

NOTE – This notification must be given to the Head of Legal Services as soon as you become aware that you have a non-financial interest which you consider could bring about a conflict with the Council's interests.

### Appendix 3

#### Dacorum Borough Council's Code of Conduct for Employees

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Notification by an Employee of Receipt of Gift or Hospitality over the value of £10.00

I, *(full name)*

an employee of Dacorum Borough Council

GIVE NOTICE that I have received the following [gift(s)] [hospitality] *(delete whichever does not apply)* over the value of £10.00

(c) Date(s) of receipt of [gift(s)] [hospitality]

(d) Name(s) and address(es) of donor(s)

(e) Nature of gift(s) and/or hospitality

Date

Signed

NOTE – This notification must be given by an employee to the Head of Legal Services upon receipt of any gift or hospitality over the value of £10.00.

## **PART 5: CODES AND PROTOCOLS**

### **PROTOCOL FOR MEMBER/OFFICER RELATIONS (Adopted by Council on 14 June 2006)**

#### **1. INTRODUCTION**

- 1.1 Dacorum Borough Council is determined to provide excellent local government for the people of Dacorum. It has produced this Protocol for Member/Officer relations in order to promote the highest standards in public life and harmonious working relationships. This Protocol applies to Members and Officers within Dacorum Borough Council. It does not apply to the Town and Parish Councils within Dacorum, although they may of course choose to adopt their own protocols.
- 1.2 Partnership, based on mutual trust and respect between Members and paid Officers, is essential in achieving good local government. However this partnership will not be effective unless there is a clear understanding by all of the rôle and obligations of Members and the separate rôle and duties of Officers. This Protocol sets out these rôles, obligations and duties and also the ground rules for all to observe. The standards in this Protocol are binding and apply equally to elected Members, co-opted Members and to Officers.
- 1.3 This protocol is based upon legislation, Council policies and documents deriving from legislation as well as guidance from a variety of sources, primarily:
  - The Local Government Act 2000
  - The Council's Constitution
  - The Member's Code of Conduct
  - Guidance from the Office of the Deputy Prime Minister
  - Guidance from the Standards Board for England
- 1.4 This Protocol is designed to supplement and offer local interpretation of these documents. This Protocol refers extensively to Members' relationships with Officers and other employees directly in the service of the Council. The principles of this Protocol also apply to Members' dealings with other people not directly employed by the Council but who are in an employment based relationship with the Council (such as consultants employed on a longer-term basis by the Council).
- 1.5 The principles underlying this Protocol are as follows:
  - 1.5.1 There shall be mutual courtesy and respect between Members and Officers with regard to their respective rôles.
  - 1.5.2 Members and Officers shall each carry out their respective duties in the best interests of the Council.
  - 1.5.3 This Protocol applies to all dealings between Members and Officers and not only formal meetings.

- 1.5.3.1 Members and Officers should recognise the need for judgement and discretion in the operation of the principles in this Protocol. The Leaders of the Political Groups, the Chief Executive and the Head of Legal Services will be available to resolve difficulties.

## **2. GENERAL OBLIGATIONS OF MEMBERS**

- 2.1 Members must observe the Council's Code of Conduct whenever they are conducting the business of the Council, conducting the business of their office or representing the Council. Members and co-opted Members are bound in law by the Code of Conduct.
- 2.2 The Code of Conduct places certain general obligations that Members must observe and which have a bearing upon Member/Officer relations:
- 2.2.1 Members must not, in their official capacity or any other circumstance, conduct themselves in a manner which could be reasonably regarded as bringing their office or the Council into disrepute.
- 2.2.2 Members must promote equality by not discriminating unlawfully against any other person, treat others with respect and not to do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of the Council.
- 2.2.3 Members must not disclose information given to them in confidence by anyone or information which they have reason to believe is confidential unless they have authorisation or are required to do so by law.
- 2.2.4 Members must not prevent another person from gaining access to information to which they are entitled by law.
- 2.2.5 Members must not use their position improperly to gain advantage for themselves or to advantage or disadvantage another person.
- 2.2.6 Members must use any Council facilities provided for them in their rôle as a member strictly for that purpose and no other. For example, Members must not use rooms in the Civic Centre or any of the Council's paper, photocopiers, or printers for any personal, business-related or party-political matter, nor on behalf of any community groups of which they are a member. Members must, when using, or authorising the use by others, of any home office equipment provided by the Council (for example computers) act in accordance with any relevant Council requirements governing the use of such equipment.
- 2.2.7 Members' Support Officers are employed to assist Councillors only in their rôle as Council Members. Members should not ask them to assist with any personal, business or party-political matter. Members' Support Officers will refer inappropriate requests for assistance to their Head of Service.
- 2.2.8 Members are under an obligation to disclose personal interests and in accordance with the Code of Conduct. Members must register financial and other interests as well as gifts and hospitality as set out in the Code of Conduct.

- 2.3 Members have a duty to act reasonably and, when taking part in the Council's decision making processes, must always:
- take into consideration everything they regard as relevant, or which they are advised is relevant,
  - disregard anything which they consider is not relevant, or which they are advised is not relevant,
  - follow the correct procedure.
- 2.4 Members control the Council's assets and finances, are in a position of trust and therefore have a fiduciary duty to act in the interests of all the people of Dacorum. In law, someone with a fiduciary duty is someone who occupies a position of control over the property of another so that the law requires him or her to act solely in the interest of the person he or she represents. This is in contrast with an ordinary business relationship, in which each party is free to seek purely personal benefits from his or her transactions with the other.

### **3. RELATIONSHIP BETWEEN MEMBERS AND OFFICERS**

- 3.1 The relationship between Officers and Members should be characterised by mutual respect which is essential to good local government.
- 3.2 Any close personal or family relationships between Officers and Members should be disclosed to the Chief Executive who will then decide how far this needs to be disclosed to others. Members must also declare any such relationship with an Officer which might be seen as influencing their work as a Member to their Group Leader.
- 3.3 Generally, a close relationship between a Member and a Senior Officer of second tier and above (and in some cases, other senior staff) is incompatible with the high standards of public life promoted by the Council and should be avoided or discouraged. The relationship may put the Member, or the Officer, in a position to exercise improper influence over the workings of the Council. Even if there is no actual impropriety, the situation may give rise to suspicion and the public may perceive that the opportunity for improper influence exists.
- 3.4 Close personal familiarity between individual Members and Officers can damage professional relationships and create difficulties for other Members and Officers. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct.
- 3.5 Officers and Members should address each other formally at meetings of Full Council, Cabinet, Committee, Sub-Committee, Panels and other formal meetings that officers attend that are open to the public.
- 3.6 Officers and Members should dress formally when attending all meetings. Officers should refer to Members by the office they hold. Members should avoid excessive informality and should refer to Officers either by their title or by their full name.
- 3.7 The same degree of formality is not necessary at any social events that Members attend with Officers. Nevertheless, Members and Officers attending an event by virtue of their rôle with the Council should avoid close personal familiarity or any action which would damage their relationship with staff or Members. Socialising between Members and Officers, other than in an official capacity, should be avoided.

## **4. THE ROLE OF MEMBERS**

### **4.1 Members:**

- 4.1.1 Develop and set policies that will then be implemented by Officers.
- 4.1.2 Monitor how those policies are being implemented.
- 4.1.3 Where their office allows them to do so, provide guidance to Officers on how those policies are to be implemented.
- 4.1.4 Represent the views of their communities and ward constituents, and deal with individual casework.
- 4.1.5 Recognise the statutory rôles and duties of the Chief Executive, as the Head of Paid Service, the Director of Finance and Resources as the Section 151 Officer, and the Head of Legal Services, as the Monitoring Officer, and of the significance attached to their advice.
- 4.1.6 Consult with the Monitoring Officer and the Section 151 Officer about the Council's powers, maladministration, financial impropriety and probity, or where they have any doubt as to whether the particular decisions are, or are likely to be, contrary to the policy framework, or contrary to, or not wholly in accordance with the budget.
- 4.1.7 Respect Officers' political impartiality
- 4.1.8 Promote the highest standards of conduct and ethics.

### **4.2 Members must not:**

- 4.2.1 Insist that any Officer take any action, or not take action, that the Officer considers unlawful or illegal or in direct contradiction of any code or guidance, or contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.

## **5. THE ROLE OF OFFICERS**

### **5.1 Officers:**

- 5.1.1 Implement the policies agreed by Members.
- 5.1.2 Will ask for guidance on implementation of the policies agreed by Members if they are unclear about any aspect of those policies.
- 5.1.3 Give such professional advice to Members as may be required of them from time to time, recognising the different needs for advice Members may have in their different capacities as Ward Member, Cabinet Member or Scrutiny Member, etc.

- 5.1.4 Carry out their delegated functions to the best of their ability and in the interests of the Council.
- 5.1.5 Must remember that he or she is employed by Dacorum Borough Council as a whole, and not by any particular part of the Council.
- 5.1.6 Are under a duty to help all Members and Co-opted Members.
- 5.1.7 Must take all relevant matters into account when formulating advice to Members.
- 5.2 Officers must not:
  - 5.2.1 Set policy other than for the smooth running of office procedures and processes, and as may have been delegated under the Council's Constitution and Scheme of Delegations.
  - 5.2.2 Take any action, or not take action, which would be unlawful or illegal, or in direct contradiction of any code or guidance, or contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.

## **6. RELATIONSHIP BETWEEN THE CHAIRMAN AND MEMBERS OF OVERVIEW AND SCRUTINY COMMITTEES AND OFFICERS**

- 6.1 The Chairman and Members of the Council's Overview and Scrutiny Committees shall:
  - 6.1.2 Seek the advice of the Monitoring Officer where they consider there is doubt about the exercise of the Council's powers for a decision or the Monitoring Officer and/or other appropriate Officers where they consider a decision of the Cabinet or a Portfolio Holder might be contrary to the Council's policy/budgetary framework.
  - 6.1.3 When considering calling Officers to give evidence they shall not, without the consent of the relevant Chief Officer, request the attendance of a junior officer. This is to ensure that more junior officers are not put under undue pressure.
  - 6.1.4 When asking Officers to give evidence questions should be confined, so far as possible, to questions of fact and explanation relating to policies and decisions. Officers may be asked to give a professional opinion, but must not be expected to give a political view.
  - 6.1.5 Where they consider it appropriate, ask Officers to explain and justify advice given to the Cabinet or a Portfolio Holder prior to decisions being taken, and justify decisions they themselves have taken under the Council's Constitution.
  - 6.1.6 Not question Officers in such a way as to be in breach of the Council's Harassment Policy nor deal with matters which are of a disciplinary nature.

6.1.7 At all times respect the political impartiality of the officers.

6.2 Officers shall:

6.2.1 Maintain political impartiality at all times when commenting and/or advising on the Cabinet's/Council's policies and actions.

6.2.2 Be prepared to explain and justify advice given to the Cabinet/Portfolio Holders/Committees, etc, or the Council prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution and Scheme of Delegations.

6.2.3 Ensure that an Officer of sufficient seniority appears before the relevant Overview and Scrutiny Committee.

## **7. RELATIONSHIP BETWEEN THE CHAIRMAN OF OTHER COMMITTEES AND OFFICERS**

7.1 This shall apply to all the other Council Committees and Sub-Committees.

7.2 The Chairman and Members of the other Committees and Sub-Committees shall:

7.2.1 Be bound by the same provisions set out in paragraph 2 when sitting as a Committee or Sub-Committee; and

7.2.2 Give Officers the opportunity to present any report and give any advice they wish to present or give.

## **8. MEMBERS IN THEIR WARD RÔLE**

8.1 When acting in their ward rôle, Members:

8.1.1 Need to be mindful of their competing rôles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise.

8.1.2 Recognise the Officers' right to suggest that Senior Officers, the Cabinet, Council, or a Committee or Sub-Committee need to authorise additional work requested by individual members.

## **9. COMPLAINTS BY MEMBERS ABOUT OFFICERS OR SERVICES**

9.1 Members have the right to criticise reports or the actions taken by Officers, but they should always:

- avoid personal attacks on Officers
- ensure that criticism is constructive and well-founded.

9.2 Members shall not undermine respect for Officers at meetings, or in any public forum. This would be damaging, both to effective working relationships and to the public image of the Council. It would also undermine the mutual trust and courtesy that is an essential element of a well run authority.



- 9.3 Complaints about Officers or Council services should be made to the Director of the service where you feel the fault lies. Within five working days, s/he will:
- acknowledge your complaint, and
  - say if s/he intends to take action, or
  - say how long s/he needs to investigate.
- 9.4 Members have a right to know if action has been taken to correct a matter, but they must not, either:
- influence the level of disciplinary action to be taken against an Officer, nor
  - insist (nor be seen to insist) that an employee is disciplined.
- 9.5 Members have a right to be told the outcome of any disciplinary case, but have no entitlement to detailed information about the hearing or its conduct.
- 9.6 If a Member is not satisfied that action has been taken to deal with the complaint it may be referred to the Chief Executive by the Member concerned.

## **10. MEMBER ACCESS TO DOCUMENTS AND INFORMATION**

- 10.1 In order that Members are able to carry out their duties they are given rights of access to a wide range of information by the common law, by statute, (in particular, provisions of the Local Government Act 1972, inserted by the Local Government (Access to Information) Act 1985) and the Access to Information Procedure Rules included within the Council's Constitution.
- 10.2 These rights do **not** extend to information:
- Which the Member does not require in connection with his or her duties as a Member, or
  - Which is "exempt information" of the types described in Schedule 12A of the Local Government Act 1972, or
  - Which is "confidential information" as defined by S.100A of the Local Government Act 1972 (i.e., information provided by a Government Department on condition that it is not disclosed by law or by virtue of a court order).
- 10.3 In the first case a Member may have a right of access to the information as a member of the public. The right to inspect a document sometimes carries with it a right to have a copy (but a fee may in some cases be charged). Any Member may seek factual information or advice from any Officer of the Council. Members may need to approach the relevant Service Unit Manager, or in appropriate circumstances the relevant Director if the matter is of significance. Information may be provided in writing and all requests will be subject to the usual legal restraints and an assumption that it can be provided at reasonable cost. If significant cost is involved the Director concerned shall seek guidance from the Cabinet Member or Chairman of the relevant Committee, as appropriate.

- 10.4 If a Member requests information from an Officer or asks to see a document or to be provided with a copy of a document, and the Officer concerned is in any doubt whatsoever about whether to comply, the Officer should refer the matter to his or her Director forthwith, who will, if necessary, consult the Head of Legal Services.
- 10.5 There may be rare occasions when a Member asks for information which he or she has no right to have, and disclosure of which to an individual Member might, in the Director's judgement, be premature or have policy or "political" consequences. In such a case, the Director should refer the matter to the Cabinet Member or Chairman of the relevant Committee, as appropriate, and the Member concerned should deal directly with the Cabinet Member or Chairman on the matter.

### **Information in Confidence**

- 10.6 Members must be free to seek the advice or the opinion of Officers in confidence and it is essential that this confidence be respected. Advice should not be copied or otherwise disclosed to the Cabinet Member, or the Chairman of the relevant Committee, or any other Members of the Council. In some cases what the Member has requested may include such advice and also information which should be made available to the Cabinet Member or Chairman. On these occasions it will be appropriate to send two separate letters to the Member who made the request, one containing the information, a copy of which will go to the relevant Cabinet Member or Chairman, the other containing the advice, which will not be copied.
- 10.7 The basic principle is that when an Officer provides information to assist members in the decision making process it will usually be provided to all the Political Groups on an equal basis. A Member seeking information should always be told when it is the intention to inform the relevant Cabinet Member or Chairman of the reply before the answer is given. All correspondence must clearly state the names of the recipients on it.
- 10.8 However, if a Member makes a general inquiry regarding their other ward duties, for example progress of a planning application, or on an issue concerning a particular housing tenant, the information will be provided solely to that Member on the basis that this is not information required by other Members to enable them to carry out their duties and/or it is exempt information.
- 10.9 Other Examples of Information and Advice

### **Information**

- 10.10 A Member asks an Officer why traffic calming has not been introduced in a road in his/her ward. The Officer informs the Member of the reasons surrounding the decision and copies the letter to the Chairman. Thus, if the Member asks the question at a Cabinet or Committee or Council meeting the Chairman will be aware of the factual information regarding this issue.

## **Advice**

10.11 The Leader of a minority Political Group asks for assistance to produce an alternative budget. Although the advice is given in confidence, the Officer informs the relevant Cabinet Member or Chairman, so that procedurally the Cabinet/Committee/Council meeting can be managed effectively. The Leader of the Political Group is also informed that the Cabinet Member or Chairman is aware of the Officer's involvement but not the content of the advice. This means that the advice given remains confidential.

10.12 A more general example of the difference between information and advice is:

The Council needs to save £4 million from its budget. This is information that all Members require. Advice given to each of the Political Groups on how these savings could be achieved will be given in confidence.

## **Briefings**

10.13 Officers will offer all Political Groups a briefing. The Chairman/Leader may choose to have these briefings separately or with other Groups. The briefing with the Chairman/Leader may include procedural issues.

10.14 If the spokesperson of the Minority Group(s) is not invited to these briefings they may request a separate briefing meeting with the relevant Officers.

10.15 A Director may communicate important, confidential matters relating to the work of a Committee/Cabinet to the Committee Chairman/Leader and any group spokesperson or the Political Group Leaders.

10.16 Group briefings will be confidential unless the spokespersons concerned indicate otherwise.

10.17 In the event that it is considered necessary to hold briefings prior to Sub-Committee meetings, the above will apply.

## **11. CORRESPONDENCE AND RECORDING KEY DECISIONS**

11.1 All 'key decisions' of the Council, or any individual Members or Officers must be recorded. Key decisions are defined in the 'Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000' as:

- (a) Decisions which are likely to be significant in terms of expenditure or savings and
- (b) decisions which are likely to have a significant impact on two or more wards or electoral divisions within the local authority.

11.2 Unless it is impracticable to do so, the Council will treat any decisions which are likely to have a significant impact on communities in one ward as if they were key decisions.

11.3 A report might be prepared for a Cabinet Member or Officer to enable them to make a key decision. Where a report has been made for the decision maker, the person who submitted the report must make a copy available to the public and must supply a copy of it to the Chairman of every relevant Overview and Scrutiny Committee, as soon as is reasonably practicable.

- 11.4 Officers are expected to copy replies to Members' letters to the relevant Portfolio Holder(s) where these relate to policy issues. All recipients should be stated on the response.
- 11.5 Correspondence between an individual Member and an Officer on a matter relating to a single constituent should not routinely 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. In other words, a system of "silent or blind copies" should not be employed.
- 11.6 In some cases issues are raised by, or with, individual Members relating to a matter of general interest in a Council Ward or individual Parish. Recognising that it is in the best interests of the Council to ensure that all Members are properly informed of general issues in their Ward or Parish, copies of correspondence will normally be sent to all Members for the particular area. Where the Member specifically requests that correspondence is not copied to other Members, or there is a political, or other reason, why this is not appropriate, this will be for the Officer to determine in consultation with the relevant Head of Service. Where correspondence is copied to other Members this will be made clear to the original Member before the answer is given.
- 11.7 Officer letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (for example representations to a Government Minister) for a letter to be signed by 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 in the name of a Member. However, it would not be appropriate for officers to make a 'political' response to a letter.

## **12. CONSULTATION**

- 12.1 'Chairman', 'Vice-Chairman' and 'Spokesperson', in this Protocol, means, in the case of the Cabinet or the Standing Committees, the person agreed as such at the Annual Council Meeting. In the case of other political groups the 'spokesperson' means the person identified by the Leader of those groups as spokesperson.
- 12.2 When a Chairman or Spokesperson is unavailable, Officers will consult the Vice-Chairman (if any), Group Leader or Deputy-Group Leader.
- 12.3 Officers need to consult with Members on frequent occasions, formally and informally, either specifically in pursuance of the Scheme of Delegation or to keep Members informed of the business of the Council.
- 12.4 When Officers approach an issue, they should ask themselves whether the matter requires the involvement of Members and if so whether it requires the involvement only of the ward Members. If it does, they will consult or inform that ward Member in writing and proceed; otherwise they will notify the Chairman and other Spokesperson for the relevant Committee.

- 12.5 Some cases will involve more Members where a cross-committee item arises or an item with mixed service and finance issues. In most cases the Leader and Deputy-Leader(s) of the Administration Group and Leaders of the Minority Groups should also be included and in other cases Officers should copy papers to them even if not consulting them. Where a joint working scheme is in operation Officers should also involve Members from other authorities as required.
- 12.6 Where a matter requires consultation, Officers will send two copies of a letter giving as full a picture as possible of the matter to the Chairman and Spokesperson; one for the recipient to keep and one to be returned with comments. The letter will include a date by which a response is needed. This date must allow the Members time for thought and if necessary to confer with colleagues: normally at least a week should be allowed, preferably longer. To save time, fax and/or e-mail should be used both ways where available. If the Members consent the Officer is free to proceed. Silence does not imply concurrence and Officers may need to remind the Members concerned. If a Member regularly fails to respond by the suggested date, the officer should consult the relevant Group Leader or Deputy-Leader of the Group as appropriate.
- 12.7 In any event, the Officer will always advise the Chairman and Spokesperson of the decision reached and (if known) the outcome of the action.

### **13. BUDGET PROCESS**

- 13.1 The Chief Executive and Director of Finance and Resources are able to assist any Group Leader in preparing a budget strategy prior to consideration through the Committee and Cabinet system. Strict confidentiality will be maintained by Officers in connection with this work.
- 13.2 If requested by the Chairman of the relevant Committee or by a Group Leader, the Chief Executive will require the relevant Director to draft written briefings on any proposed service changes. These will also be prepared on a confidential basis. If requested, Chief Officers, accompanied by the Chief Executive, will attend Political Group meetings to provide technical background information.

### **14. CHAIRMAN**

- 14.1 Appointments to the Cabinet are subject to the provisions of the Local Government Act 2000. Appointments to Committees and Sub-Committees are subject to the political balance provisions of the Local Government and Housing Act, 1989 (with some exceptions).
- 14.2 Any requirement to consult with Chairman and/or Vice-Chairman under the Constitution or the Scheme of Delegation shall be observed. However, consultation shall also take place with the appointed representative of each of the Groups, including Minority Group Members. Any Political Groups, which do not have a Member as either Chairman or Vice-Chairman of a particular Committee or Sub-Committee, should formally advise the Head of Legal Services of its spokesperson. The primary role of the Chairman is to conduct the meeting in accordance with the requirements of the law and the Council's Constitution.

- 14.3 Chairmen are expected to be procedurally fair to all Members when presiding at meetings.

## **15. TIMES OF MEETINGS**

- 15.1 Dates of meetings (except for those Sub-Committees, which meet only ad-hoc and are marked as such in the Scheme of Delegation) are agreed by Full Council. Meetings are all held at the Hemel Hempstead Civic Centre unless otherwise notified and the venue is identified on the Agenda. Meetings are generally held at 7.30 pm (except for Development Control Committee which is held at 7.00pm) but the time will be confirmed to Members on the front page of the agenda when issued.
- 15.2 Because of the importance to Members of being able to plan their diaries ahead, these dates should not be changed during the year. Changes will only be made to dates and times of Cabinet and Committees for good reason and if agreed by the Cabinet or Council or, if there is a genuinely pressing need, by the Chairman after consultation with other Group Spokespersons. A Special Meeting of a Committee may be called by the Chairman at any time in accordance with Rule 25 of the Rules of Procedure in the Constitution.
- 15.3 Special Meetings can also be summoned in accordance with Rule 25. The Head of Legal Services will endeavour to fix the exact date and time to suit as many Members as possible after consultation with Group Spokespersons, usually by choosing the day of the week on which ordinary meetings of that Committee are held.
- 15.4 If there is insufficient business for any meeting, the Head of Legal Services will consult the Chairman with a view to cancelling it.

## **16. COMMITTEE AND SUB-COMMITTEE AGENDA**

- 16.1 Items for inclusion on Committee agenda will be prepared on the initiative of the relevant Officer, following full officer consultation. Draft reports for the agenda will be provided to Chairmen, Vice-Chairmen and Shadow-Chairs and other Group Spokespersons by Members' Support Services at least three days before the date of despatch of the agenda to which they relate. In each case, urgent or late items may not be forwarded within this timescale but they will be provided as soon as available. This does not apply to the Development Control Committee because the frequency of meetings does not allow the time for reports to be circulated to Members in advance of the agenda.
- 16.2 Any Group Leader may request that an item be reported to a meeting of the appropriate Committee, provided that such an item properly relates to a function or power of the Council or upon which it could be expected to have an opinion to voice. An item shall be placed on the agenda for the next available meeting of the appropriate Committee so that debate may take place. In the event that a Director feels that a particular item is not relevant to a certain agenda, that Director should raise the matter with the Member concerned and if agreement is not reached, the matter should be referred to the Head of Legal Services for guidance.
- 16.3 The notice of motion procedure enables any individual Member to bring a matter before the Council.

## **17. MINUTES**

- 17.1 A record of every decision taken by the Cabinet or a Portfolio Holder will be produced in accordance with the Access to Information Procedure Rules. The main body of the minutes in respect of decisions taken by Committees (other than the Overview and Scrutiny Committees) shall be limited to recording decisions made on items considered and noting matters reported for information and shall not extend to the discussions thereon. Minutes of all meetings shall include a record of voting and declarations of Members' interests. Draft minutes of each meeting will be forwarded by the relevant Members Support Officer to the Chairman, Vice-Chairman, Shadow-Chair and other Group Spokespersons, who will be asked to indicate if he or she has any comments by a given date and time. If no comments are received by the deadline, it will be assumed that the Members concerned concur with the draft minutes. If, in the process of seeking comments, disputes arise, the matter shall be referred to the Head of Legal Services for guidance.
- 17.2 The Chairman shall present the minutes to the Council, shall move any recommendations (no seconder is required) and shall have a right of reply before a vote is taken.

## **18. USE OF CASTING VOTE BY MAYOR OR CHAIRMAN**

- 18.1 The Mayor and Chairmen of Committees and Sub-Committees shall have a second or casting vote at any meeting in accordance with Rule 16.2 and Rule 20 of the Rules of Procedure. There are no restrictions on how the Mayor or a Chairman shall exercise a casting vote.
- 18.2 In the interest of the efficient conduct of the Council's business, most matters not coming before Committees and Sub-Committees will continue to be determined at the appropriate officer level in accordance with the Scheme of Delegation.
- 18.3 For the avoidance of doubt the term "Chairman" in this part of this Protocol is to be construed as relating also to a "Vice-Chairman" or any other Members of the Council chairing a meeting.

## **19. THE MAYOR**

- 19.1 The ceremonial and representational role of the Mayor and/or Deputy Mayor shall remain unaffected by this Protocol.
- 19.2 The Council should, in April/May of each year, consider nominations for the Mayor and Deputy-Mayor in the forthcoming Municipal Year.
- 19.3 Members should always be informed of and, where possible, invited to ceremonial events taking place within their own wards. Members taking part in ceremonial events must not seek disproportionate personal publicity or use the occasions for party political advantage. There may also be events when celebrities are invited to draw press and public attention. Appropriate elected Members, however, must also be invited.

## **20. MEDIA PROTOCOL**

### **20.1 Background**

This protocol is designed to help ensure an accurate, timely and cost efficient dialogue between Dacorum Borough Council and all our stakeholders.

The law governing communications in local authorities is enshrined in the Local Government Acts 1986 and 1988 and the Government's Code of Practice on Publicity. These set out the restrictions under which Councils, and groups funded by Councils, work.

The current code means that **all** Council publicity should be informative rather than persuasive. It should:

- be cost effective and justifiable
- not duplicate other available information
- be informative, balanced and accurate  
set out the reasons for the council's views

The Acts state that the publicity may be illegal if it:

- promotes or opposes a point of view which is identifiable as the view of one political party and not of another
- is part of a wider campaign which appears to be designed to affect support for a political party

The law applies to all forms of external communications including all aspects of media relations, printed material, web site information and conferences.

The Communications Team exists to serve the Council as a whole and to promote the authority, its policies and the area as a place to live and work. Media relations will be conducted in a professional, open, transparent and helpful manner.

### **20.2 Use of Council Publicity Material**

All publicity material (including photographs) produced by Council officers or commissioned and paid for by Council services for publicity and information purposes is the property of the Council and, as such, is subject to copyright. It is important that a clear distinction should be maintained between the Council's publicity material and that produced by the Political Groups. Political Groups should not publish for their own party political purposes, publicity material in a form that wholly, or substantially replicates official Council press releases, statements and publications (for example the Dacorum Digest), or individual articles in such publications, without first obtaining the express consent of the Monitoring Officer or the Senior Manager-Corporate Communications.

In the case of photographs, it must be remembered that these constitute personal data for the purposes of the Data Protection Acts. This means that, if a Political Group wishes to use a particular Council photograph which depicts a Council employee who can be personally identified, the express consent of that employee will have to be obtained in addition to the consent of the Monitoring Officer or Senior Manager-Corporate Communications.



### **20.3 Press Releases**

Press releases relating to Cabinet may be prepared by the Communications Team in consultation with the author of the report, the relevant Director and the Cabinet Portfolio Holder.

Other Council press releases are drafted by Officers and sent out without consultation with any Political Group or Members at the discretion of the Senior Manager-Corporate Communications in consultation with the Chief Executive or relevant Director.

Media briefings may be arranged by the Senior Manager-Corporate Communications.

Councillors will receive weekly e-mail bulletins updating them of press releases and media coverage.

Cabinet Members and the Chairmen of Scrutiny, Regulatory or Audit Committees may be quoted in Council Press Releases where the issue relates to their role. Non-political quotes from relevant officers may also be included.

### **20.4 Press Enquiries**

Press requests for information will be dealt with in the first instance by the Communications Team. Where the request concerns a matter of basic information or a documented policy decision, the Communications Team will respond directly. In other instances the Communications Team will liaise with the relevant Service Manager for a response.

The Communications Team will inform the relevant Head of Service and / or Director of any enquiry which has an impact on the reputation of the service and refer upwards any matters of controversy.

All responses to the media should go through the Communications Team for purposes of recording and monitoring. The Communications Team will act as Council spokespersons when providing factual or policy information or will put the media in contact with officers to explain more detailed technical or policy information where appropriate.

Where any matters of policy or of a controversial nature relate to Council business, the relevant Cabinet Portfolio Holder must be informed as soon as possible and given the opportunity to respond. The relevant Cabinet Member should be kept informed of any significant requests for information and/or comment.

Photo opportunities will only be arranged for Cabinet Portfolio Holders, the Mayor, Deputy Mayor, Chairmen or Vice Chairmen of Committees, and only then in connection with Cabinet or Committee business or Civic duties.

Local Journalists will be encouraged to exercise their right to attend all Cabinet and Committee meetings and meetings of the Council

## **20.5 Publicity in the run-up to Elections**

Particular rules on publicity will apply in the run-up to all elections being conducted by the Council. All publicity referring to a Political Party or anyone standing for election must be suspended between the publication of a notice of election and polling day. During this period the Council will not issue any publicity that deals with controversial issues, or which reports views, proposals or recommendations in a way which identifies them with individual Members, groups of Members or any one Political Party.

Members will not be quoted in Council press releases during this period. The only exceptions to this rule will be for a Member who holds a key political or civic position commenting on an emergency or an important event outside of the Council's control and where there is a genuine need for a response from a Member.

It is unlawful for the Council to incur any expense with a view to promoting the election of a particular candidate, including producing publicity material, such as circulars, publications or advertisements, which represent the candidate or their views, or disparage another candidate.

## **21. ATTENDANCE OF OFFICERS AT POLITICAL GROUP MEETINGS**

21.1 It should be noted that the national conditions of service for all local government officers provides that no Officer shall be required to attend any meeting of a Political Group. The conditions for Chief Executives allow local arrangements to be made, but only with the agreement of the Chief Executive and with safeguards to protect political neutrality in relation to the Council's affairs.

21.2 Any request from a Political Group for an Officer to attend a meeting of that Group shall be made in writing to the Chief Executive. The Chief Executive may authorise in writing the Officer concerned to attend on the understanding that:

21.2.1 The Officer will provide factual information only on an issue which is currently or will shortly be considered by a Committee, Sub-Committee or other body constituted by the Council, provided that the request does not relate to an individual person or an individual matter such as a planning application;

21.2.2 any such meeting will be held at the Hemel Hempstead Civic Centre;

21.2.3 the only other persons present at such a meeting should be Members of the Council, and

21.2.4 details of the request will be notified to the other Group Leaders for information only;

21.2.5 Officers will leave Group meetings before Groups enter into discussion or decision making. Group Members should reserve political comment until the Officer concerned has left the meeting. Officers will not disclose the nature of any business conducted at Political Group meetings.

## **22. MEETING WITH THE CHIEF EXECUTIVE**

- 22.1 Group Leaders and the Chief Executive will formally meet jointly at regular intervals on a basis to be determined between them but this shall not inhibit any Members of the Council seeking a meeting with the Chief Executive at any time.
- 22.2 Groups, through their Leaders, may required to be briefed by the Chief Executive on the business of the Council. Such a briefing will be treated with whatever level of confidentiality the Group requires.

## **23. COMPLAINTS RECEIVED BY MEMBERS**

- 23.1 Letters, including complaints, arrive through many channels and may be addressed to Members on Council or Ward business. Officers will be happy to assist with responses and this will be sent solely to the Member concerned.

## **24. CONFLICTS OF INTEREST**

- 24.1 All Members and Officers shall make themselves familiar with the Council's own Members' and Officers' Code of Conduct and shall consider carefully whether there are Committees, Sub-Committees, working parties, etc., for which they could not properly offer themselves. Clear rules are within the Codes as to disclosure of personal and other interests and Members are required by their Code to declare certain financial and other interests in the Register of Members' Interests kept for this purpose.
- 24.2 Officers of the Council having a financial interest in a contract which has been or is proposed to be entered into by the Council, must notify the Council in writing of this fact and a Register of Declarations of Officer Interests in contracts is kept for this purpose.
- 24.3 Officers are encouraged to declare interests other than financial ones that they consider could at a later date bring about conflict with the Council's interest.
- 24.4 Rules on the acceptance of gifts are also clearly laid out in the Codes and Members and Officers shall familiarise themselves with these rules in the event of gifts or hospitality being offered.
- 24.5 Members appointed to serve on the Development Control Committee shall also make themselves familiar with the Council's "Code of Practice for Planning Procedures".

## **25. CORRESPONDENCE**

- 25.1 All correspondence written on behalf of the Council must be written on the relevant headed paper. When Members are writing in their capacity as a Member they must make it clear whether they are writing on behalf of the Council or as the Ward Member.

- 25.2 Correspondence between individual Members and Officers should be treated as confidential unless the Member or Officer indicates otherwise. All correspondence should normally be open to the inspection of the public under the Freedom of Information Act 2000. This does not apply to correspondence written in connection with legal proceedings, contractual matters or any other matter where papers can remain 'exempt' within the meaning of Schedule 12A to the Local Government Act 1972 or if this would be in conflict with the data protection legislation.

## **26. BREACH OF THE PROTOCOL BY A MEMBER**

- 26.1 Members and Co-opted Members are required to report any matter that they believe may be a breach of the Code of Conduct to the Standards Board for England. Members are requested to inform the Monitoring Officer of alleged breaches that they have reported to the Standards Board.
- 26.2 Officers are required to report any matter they believe may be a breach of the Code of Conduct to the Monitoring Officer. The Monitoring Officer may refer the complaint to the Standards Board for England if there is evidence that there has been a breach of the Code of Conduct and the Monitoring officer considers it appropriate to do so.
- 26.3 Where there has been an alleged breach of this Protocol the Monitoring Officer will arrange for the matter to be investigated and may refer the complaint to the Standards Committee to be determined. A summary of all alleged breaches will be reported to the Standards Committee once each quarter.
- 26.4 The Monitoring Officer, in conjunction with the Chief Executive, may refer the alleged breach to the relevant Group Leader where appropriate

## **27. BREACH OF THE PROTOCOL BY AN OFFICER**

- 27.1 Complaints of an alleged breach should be raised with the relevant Director and/or the Chief Executive. The provisions of section 9 of this Protocol will then apply.

## **28. FURTHER ADVICE**

- 28.1 Advice on the application of this Protocol should be sought from either the Chief Executive or the Monitoring Officer.

**PLANNING CODE OF PRACTICE**  
(Adopted by the Council 27 February 2008)

**1. Purpose of this Code**

- 1.1 The main objectives of this Code are to guide Members, (and in what follows, Councillors will for the most part be referred to as "Members"), and Officers of the Council in dealing with planning-related matters and to inform potential developers and the public generally of the standards adopted by the Council in the exercise of its planning powers. The Planning Code of Practice is, in addition to the Code of Conduct for Members, adopted by the Council under the provisions of the Local Government Act 2000. The purpose of the Code is to provide more detailed guidance on the standards to be applied specifically in relation to planning matters and to ensure that Officers carry out their responsibilities professionally and Members of the Development Control Committee are, and are perceived as being, impartial and accountable.
- 1.2 Reference will need to be made to other parts of the Council's Constitution, as appropriate, as it is not the purpose of this Code to duplicate extensively provisions in the Code of Conduct for Members, Code of Conduct for Employees, Protocol for Member/Officer Relations, Scheme of Delegation to Officers and Rules of Public Participation.

**2. The Rôle of Officers**

- 2.1 In reporting to Committee on non-delegated applications, Officers shall:
  - 2.1.1 provide professional and impartial advice;
  - 2.1.2 make sure that all information necessary for a decision to be made is given;
  - 2.1.3 set the application in the context of the Development Plan and all other material considerations;
  - 2.1.4 include the substance of objections and the views of people who have been consulted;
  - 2.1.5 provide a clear and accurate written analysis of the issues;
  - 2.1.6 give a clear recommendation.
- 2.2 In making delegated decisions on applications, Officers shall:
  - 2.2.1 act fairly and openly;
  - 2.2.2 approach each application with an open mind;
  - 2.2.3 carefully weigh up all the material planning considerations;
  - 2.2.4 determine each application on its own merits in accordance with the provisions of the Development Plan and other material planning considerations;
  - 2.2.5 ensure that the relevant report demonstrates that all the above requirements have been fulfilled;
  - 2.2.6 state valid reasons for decisions.
- 2.3 The Council endorses the Royal Town Planning Institute Code of Conduct, particularly the provision that Chartered Town Planners shall not make, nor subscribe to, any statement or report which is contrary to their own professional opinions.

2.4 Subject to the rules for employees undertaking work for third parties, if an Officer who deals with any aspect of planning work has, or has had, any involvement with an Applicant, Agent or Interested Party on a personal basis, the Officer shall take no part in any work connected with the Applicant, Agent or Interested Party concerned.

2.5 Officers are also bound by rules relating to offers of gifts and hospitality.

### **3. Discussions with Applicants/Representatives and Presentations**

3.1 Local Authorities are encouraged by the Audit Commission, the Local Government Association and the National Planning Forum to enter into pre-application discussions with potential Applicants. In addition, negotiations and discussions are likely to be ongoing after an application has been submitted. Such discussions can often be interpreted by the public, and especially by objectors, as prejudicing the planning decision-making process. In order to ensure transparency and propriety, pre-application discussions shall normally be conducted between an Officer and a prospective Applicant without any Member being present, and in accordance with the following strictures:-

3.1.1 The Officer shall make it clear that the advice and discussions will not bind the Council and that any view expressed is personal and provisional, on the basis that at that stage no formal consultation will have taken place in respect of the application;

3.1.2 The Officer shall give advice in a reasoned and impartial way based on the Development Plan and other material planning considerations;

3.1.3 The Officer shall indicate whether or not s/he will make the decision if an application is submitted;

3.1.4 The Officer shall make notes of any meeting and/or telephone calls and keep them on file;

3.1.5 The Officer shall file any documentation supplied by the prospective Applicant.

3.2 In an exceptional case it may be appropriate for Members to receive a special presentation on a particular planning proposal or wider planning issues. It shall be made clear at the outset that no Member present whose rôle in the Council's decision-making structure is such that he or she would potentially be liable to make a decision subsequently on the proposal or issues concerned will offer any view or comment: such Member will be limited to asking questions of clarification. Subject to the relevant provisions of 8. below, other Members will be at liberty to express opinions as they will not be potentially liable to make any decision subsequently. An Officer shall be present at the presentation and shall make notes detailing Members' views, comments and questions and keep such notes on file.

### **4. Exclusions from the Scheme of Delegation to Officers**

4.1 Decisions relating to certain proposals for development by the Council, or affecting land or buildings in which the Council has an interest, or relating to certain proposals submitted by or on behalf of Members or Officers, are required to be reported to the Development Control Committee. Such proposals shall be subjected to the same rigorous examination as proposals submitted by other parties.

## **5. The Rôle of Councillors**

- 5.1 In making decisions on planning matters, Members shall:
  - 5.1.1 act fairly and openly;
  - 5.1.2 avoid inappropriate contact with interested parties;
  - 5.1.3 approach each application with an open mind;
  - 5.1.4 carefully weigh up all the material planning considerations;
  - 5.1.5 determine each application on its own merits in accordance with the provisions of the Development Plan and other material planning considerations;
  - 5.1.6 ensure that valid reasons for decisions are clearly stated;
  - 5.1.7 vote as they consider appropriate and not along party lines.
- 5.2 Members shall refrain from personal abuse and bullying and party political considerations shall play no part in their deliberations. Members shall be respectful to the Chairman of the Committee and to each other and to Officers and members of the public including Applicants, Agents, Objectors and Members of other Councils.
- 5.3 Members shall not give instructions to Officers nor place any pressure on Officers in order to influence the terms of a report and/or secure a particular recommendation on any planning matter.
- 5.4 If any Officer has grounds to consider that pressure is being exerted upon him or her by any Member in relation to any particular planning matter, he or she shall forthwith notify the Monitoring Officer and the Head of Planning and Regeneration of the details of such matter and the Member's conduct.
- 5.5 Any criticism by any Member of any Officer in relation to the handling of any planning matter shall be made to the Head of Planning and Regeneration and shall not be raised in public.
- 5.6 Members shall not use, or attempt to use, their position improperly to the advantage or disadvantage of themselves or anyone else.

## **6. Lobbying**

- 6.1 Lobbying can, unless care is exercised, lead to the impartiality and integrity of a Member being called into question. In its document "Probity in Planning" the Local Government Association stated "Councillors and members of the planning committee in particular, need to take account of the general public's (and the Ombudsmen's) expectation that a planning application will be processed and determined in a transparently open and fair manner, in which members taking the decision will take account of all the evidence presented before arriving at a decision, and that to commit themselves one way or the other before hearing all the arguments and evidence makes them vulnerable to an accusation of partiality."
- 6.2 To avoid compromising their position before receiving all the relevant information and hearing all the relevant evidence and arguments, Members shall:
  - 6.2.1 not make it known in advance of the consideration of the application by Committee whether they support or oppose a proposal unless they accept that this will mean that they may not take part in the decision (see paragraph 8 below);

- 6.2.2 restrict themselves to giving procedural advice, such as advising lobbyists to write to the Development Control Manager and/or avail themselves of the public participation process;
- 6.2.3 Explain they will only be in a position to make a final decision after having received all the relevant information and having heard all the relevant evidence and arguments at the Committee meeting itself;
- 6.2.4 advise the Monitoring Officer promptly of the existence of any undue or excessive lobbying activity or approaches (including any offer of a gift or hospitality).

## **7. Material Submitted to Members by Applicants and Others**

- 7.1 If a Member receives information or material from or on behalf of any party in connection with any planning matter s/he must establish with the Planning Officers whether the information or material has been received by them. If it has not, the Member shall make it available as soon as possible to the Development Control Manager.

## **8. Committee Meetings**

- 8.1 Declaration of Interests
  - 8.1.1 The responsibility for declaring an interest lies with the individual Member.
  - 8.1.2 Members of the Development Control Committee shall declare personal and prejudicial interests in planning matters in accordance with the Members Code of Conduct.
  - 8.1.3 Where a personal interest arises because a Member is a member of, or is in a position of control or management in, a body to which s/he was appointed or nominated by the Council or which exercises functions of a public nature, s/he need only declare the personal interest if and when s/he addresses the Committee on that item (unless s/he also has a prejudicial interest).
  - 8.1.4 A Member with a prejudicial interest shall declare it and leave the room unless s/he wishes to make representations. Provided the Member has registered to make representations under the rules applicable to public participation, the Member shall be entitled to take a seat in the place set aside for public participation and shall then follow the rules for such participation. The Member shall leave the room immediately after speaking and shall not stay and observe any remaining public participation and/or any part of any subsequent debate or vote.
  - 8.1.5 In addition, a Member shall not seek improperly to influence a decision in which s/he has a prejudicial interest.
  - 8.1.6 If a Member has a prejudicial interest in a planning matter which would normally be dealt with by Officers under the Scheme of Delegation, s/he shall not request that the matter be referred to the Committee for consideration.
  - 8.1.7 Members who have business or other interests which may bring them into contact with the Council's planning system on a regular basis should not be considered for membership of the Development Control Committee.



## 8.2 Predisposition, Predetermination and Bias.

8.2.1 A Member is entitled to be “predisposed” about a particular matter. Predisposition is where a Member holds what may be termed a preliminary, or provisional, view and may have expressed such view publicly and, indeed, been elected upon the strength of it. The critical point is that the Development Control Committee Member must have an open mind in relation to all the relevant information, evidence and arguments when participating in the decision-making process.

8.2.2 If a Development Control Committee Member is not prepared to be open-minded and to consider all the relevant information, evidence and arguments relating to a particular matter, or in any way gives the *appearance* of having decided in advance what stance to take at the meeting, that Member may be considered to have “predetermined” the matter or to be biased in relation to it. If that Member then participates in the decision-making process the Committee’s decision may be ruled as invalid.

8.2.3 If a Member of the Committee has compromised his or her position by expressing views which indicate that he or she has already made up his or her mind on an issue before receiving all the relevant information and hearing all the relevant evidence and arguments, that Member shall make a declaration to that effect and take no part in the discussion, voting or decision. In such a case, for example where a Committee Member represents a Ward affected by a controversial application, the Member may speak as a member of the public subject to compliance with the public participation rules.

8.3 Any Member in any doubt about the declaration of interests or predetermination should seek the advice of the Council’s Monitoring Officer or Deputy Monitoring Officer.

## 9. **Development Control Committee Members who serve on Parish and Town Councils**

9.1 Some Borough Councillors will also be Members of Parish or Town Councils. This situation can present problems where the Parish or Town Council is consulted on planning applications. This is often the stage when Borough Councillors come under pressure to indicate their support or objection in respect of a particular proposal. Of particular concern is the potential for a conflict of interest arising when a Member of both Councils votes on an application at a Parish or Town meeting prior to the relevant Borough Development Control Committee meeting. It would be quite conceivable that a Councillor in this position could end up voting in a different way when all the relevant information, evidence and arguments are made available at the Borough Committee meeting.

9.2 In order to avoid any potential conflict, it would be preferable for Borough Councillors not to serve on a Parish or Town Council’s Planning Committee. If they cannot avoid that, and if they wish to participate in the Borough Committee’s deliberations, they shall not vote or say anything which would create the impression that they have already made up their minds prior to the relevant Borough Committee meeting. In this way they will avoid being part of the formal process of submitting representations on planning applications to the Borough

Council and so demonstrate their impartiality. To avoid any challenge, those Members who have expressed a definite view on an application and/or have voted shall act as indicated under 8. above.

## **10. Site Visits**

- 10.1 Formal site visits can be helpful in identifying features of a proposal which may be difficult to convey in a written report. Site visits do delay the decision on an application but, where there is a clearly identified benefit from holding one, they will be authorised by the Development Control Committee. The reason why a formal site visit was authorised will be recorded in the minutes.
- 10.2 Where a formal site visit is held, all Members of the Development Control Committee will be invited to attend. The local Member, if not serving on the Development Control Committee, will also be invited to attend. The relevant Town or Parish Council will be notified of any formal site visit and invited to send a representative. At least one Officer will be present at all formal site visits to conduct the proceedings and a record will be kept of attendance.
- 10.3 All those who attend a formal site visit do so on the understanding that such visits:
  - 10.3.1 are fact finding exercises;
  - 10.3.2 are not part of the formal consideration of an application and public rights of attendance and participation do not apply;
  - 10.3.3 enable Officers to point out relevant features;
  - 10.3.4 enable questions to be asked for clarification.
- 10.4 No discussion of the merits of an application shall take place on site and no lobbying/objection shall be permitted.
- 10.5 Any Member wishing to see any particular site on an individual, informal, basis prior to a Committee meeting shall have due regard to the other provisions of this Code, for example paragraphs 5., 6. and 8. and such Member should seek to view the site from a public vantage point in the first instance.

## **11. Decisions Contrary to Officer Recommendations**

There will be occasions when the Committee disagrees with the professional advice given by Officers. In such cases reasons shall be given for overturning Officer recommendations and, in the case of approval of a planning application recommended for refusal, the conditions to be imposed shall be specified.

## **12. Training**

Members of Development Control Committee shall undergo induction training and attend refresher training at regular intervals thereafter. Failure by a Member to attend formal induction training will disqualify that Member from sitting on the Committee. Failure to attend formal refresher training may result in a recommendation to full Council for the removal of a Member or Members from Development Control Committee. The Development Control Manager, in consultation with the Chairman of Development Control Committee, shall formally review Members' training needs and monitor whether all training requirements have been met on an annual basis.

## **WHISTLE BLOWING POLICY** **(Adopted by Council on 11 July 2007)**

### **1. Introduction**

All of us at one time or another have concerns about what is happening at work. Usually these concerns are easily resolved. However, sometimes it can be difficult to know what to do.

The Council has introduced this policy to enable you to raise your concerns about malpractice at an early stage and in the right way. We would encourage you to raise the matter when you have a genuine concern rather than wait for proof.

### **2. Who may use this policy?**

- Staff employed by the Council
- Councillors
- The Council's contractors and sub-contractors
- Agency and Temporary staff

### **3. When does the policy apply?**

Use this procedure where you reasonably believe that you have information which tends to show malpractice such as a:

- Breach of legal obligation
- Criminal offence
- Breach of health and safety
- Environmental damage or
- Miscarriage of justice

Remember, the Council also has in place an Anti-Fraud and Corruption Policy, which this policy is intended to complement.

It is inappropriate for you to raise your concerns outside the Council before you have voiced your concerns internally first, since doing so may weaken the protection given to you under the Public Interest Disclosure Act 1998.

Where you have an employment grievance, the provisions of this policy will not apply. Please use the Council's Grievance Procedure. A copy can be obtained from the intranet, your manager or from Human Resources.

### **4. The Council's assurances to you:**

If you raise a concern in good faith, you will not be at risk of losing your job or suffering any form of retribution as a result. Of course the Council does not extend this assurance to someone who maliciously raises a matter they know is untrue.

The Council will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, it is recognised that you may nonetheless want to raise a concern in confidence under this policy. If you ask us to protect your identity, your details will not be disclosed without your consent. Your anonymity is protected under the Public Interest Disclosure Act 1998. If the situation arises where the matter cannot be resolved without revealing your identity (for instance because your evidence is needed in court), the person investigating the matter will discuss with you how to proceed.

The Council will consider, as far as is reasonably practicable, concerns raised anonymously. Remember that if you do not reveal who you are, the person investigating the matter will be unable to give you any feedback. It will also make the task of investigating the allegation more difficult.

#### **5. What the Council will do if you raise a concern:**

Once you have expressed your concern, the matter will be looked into to assess what action should be taken initially. This may involve an internal inquiry or a more formal investigation. In the interim, the issue you raise will be acknowledged within 5 working days. You will be told:

- who is handling the matter
- how you can contact him/her
- whether your further assistance may be needed

#### **6. How to raise your concerns:**

##### **Employees:**

If you have a reasonable concern about possible malpractice, please raise it with your manager or Head of Service first. This may be done orally or in writing.

If you do not feel able to approach your manager or Head of Service, you should report your concerns to:

- your Director; or
- the Chief Executive; or
- the Director of Finance & Resources (Section 151 Officer); or
- the Head of Legal and Democratic Services; or
- the Corporate Anti-Fraud Manager; or
- the Senior Manager Internal Audit & Corporate Anti-Fraud.

##### **Councillors:**

Councillors should report concerns to:

- their Group Leader; or
- the Chief Executive; or
- the Director of Finance & Resources (Section 151 Officer); or
- the Head of Legal and Democratic Services; or
- the Corporate Anti-Fraud Manager; or
- the Senior Manager Internal Audit & Corporate Anti-Fraud.

## **Contractors, Sub-Contractors, Agency & Temporary Staff**

You should report your concerns in writing to:

- the Chief Executive; or
- the Director of Finance & Resources (Section 151 Officer); or
- the Head of Legal and Democratic Services; or
- the Corporate Anti-Fraud Manager; or
- the Senior Manager Internal Audit & Corporate Anti-Fraud

The correspondence address is: Dacorum Borough Council, Civic Centre, Marlowes, Hemel Hempstead, Herts, HP1 1HH. Please mark the envelope **“PRIVATE & CONFIDENTIAL- FOR ADDRESSEE’S EYES ONLY”**

### **7. Independent Advice**

If you are unsure whether to use this procedure or if you want independent advice at any stage, you may contact the independent charity Public Concern at Work on (0207) 4046609. Their advisers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work. They will support you and advise you on the law and how best to proceed.