

CONSTITUTION AND ETHICS COMMITTEE



Tuesday, 27 July 2021

Democratic and Members' Services
Fiona McMillan
Monitoring Officer

10:00

Shire Hall
Castle Hill
Cambridge
CB3 0AP

Eco Hub, Gamlingay
[Venue Address]

AGENDA

Open to Public and Press by appointment only

CONSTITUTIONAL MATTERS

1 Apologies for absence and declarations of interest

*Guidance on declaring interests is available at
<http://tinyurl.com/ccc-conduct-code>*

DECISIONS

2 Conflicts of Interest Guidance for Members

3 - 10

3 Exclusion of Press and Public

To resolve that the press and public be excluded from the meeting on the grounds that the agenda contains exempt information under Paragraphs 1 & 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended, and that it would not be in the public interest for this information to be disclosed information relating to any individual, and information relating to the financial or business affairs of any particular person (including the authority holding that information)

4 Code of Conduct Investigation

- Information relating to the financial or business affairs of any particular person (including the authority holding that information);

The Constitution and Ethics Committee comprises the following members:

For more information about this meeting, including access arrangements and facilities for people with disabilities, please contact

COVID-19

The legal provision for virtual meetings no longer exists and meetings of the Council therefore take place physically and are open to the public. Public access to meetings is managed in accordance with current COVID-19 regulations and therefore if you wish to attend a meeting of the Council, please contact the Committee Clerk who will be able to advise you further.

Councillor Sebastian Kindersley (Chair) Councillor Alex Bulat (Vice-Chair) Councillor David Ambrose Smith Councillor Lorna Dupre Councillor Janet French Councillor Neil Gough Councillor Mac McGuire Councillor Kevin Reynolds and Councillor Tom Sanderson

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Conflicts of Interest Guidance for Members

To: Constitution and Ethics Committee

Meeting Date: 27 July 2021

From: Director of Law and Governance & Monitoring Officer

Electoral division(s): All

Key decision: No

Outcome: To respond to recommendations arising out of the Council's Audit & Accounts Committee's Manor Farm Audit, that comprehensive training of Members takes place and that guidance is issued to Members regarding conflicts of interest.

Recommendation: The Committee is asked to:

- a) Note that Code of Conduct training has taken place and an update on Members who have attended or watched the training subsequently will be provided at the next Committee meeting; and
- b) Approve the Guidance on Conflicts of Interest (Appendix 1 of the report) and recommend to Full Council that it forms an appendix to the Member's Code of Conduct in the Council's Constitution.

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1. Background and History

- 1.1 The Manor Farm Audit and its recommendations were considered by the Audit & Accounts Committee on three occasions in March 2021 and agreed.
- 1.2 Three recommendations related to the role of the Constitution and Ethics Committee, one of which forms the basis of a separate exempt report on the Committee meeting's agenda on Code of Conduct issues. The other two, covered in this report, relate to the Monitoring Officer ensuring that comprehensive training takes place for all Members of the Council on the Code of Conduct and associated issues, including how to deal with conflicts of interest, and that guidance was issued to Members about conflicts of interest.

2. Training

- 2.1 A virtual training session on the Code of Conduct and Ethical Standards for all newly elected Councillors, alongside returning Councillors, took place on Friday 18th May 2021 run by Simon Goacher, Local Government partner at Weightmans solicitors. The training included guidance on conflicts of interests and the Council's Protocol on Member/Officer Relations, along with bias and predetermination, and Members worked through a number of case studies in small groups.
- 2.2 The training was very well attended on the day and video-recorded, so those Members who were not able to attend could watch at another time alongside the training notes. All Members who were not able to attend were asked to watch the session as soon as possible and Democratic Services is compiling a training record which will be reported back to the Constitution and Ethics Committee with the aim of ensuring all Members of the Council have participated.

3. Conflict of Interests Policy

- 3.1 A Guidance on Conflicts of Interest for Members has been drafted and is attached as Appendix 1.
- 3.2 It is proposed that this guidance will form an appendix to the Members' Code of Conduct in the Council's Constitution to ensure the necessary level of visibility.
- 3.3 The draft guidance was presented to the Audit & Accounts Committee's meeting on 13th July 2021 for comment and the Committee did not propose any amendments to the draft version.

Guidance on Conflicts of Interest

1. Introduction

This guidance is for councillors who wish to consider how to manage potential conflicts of interest and will form a supplementary document to the Member's Code of Conduct.

Councillors, as holders of public office, are obliged to follow the Nolan Committee's Seven Principles of Public Life:

- (a) **Selflessness:** You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
- (b) **Integrity:** You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- (c) **Objectivity:** When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
- (d) **Accountability:** You are accountable for your decisions to the public and you must cooperate fully with whatever scrutiny is appropriate to your office.
- (e) **Openness:** You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.
- (f) **Honesty:** You must declare any private interests, both pecuniary and nonpecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out below.
- (g) **Leadership:** You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Under the Members' Code of Conduct, Councillors are obliged to declare pecuniary interests and non-statutory disclosable interests. However, these formal definitions do not cover every possible conflict of interest which could be encountered by County Councillors in their role and this document provides additional explanation and guidance on what conflicts, arising out of specific interactions/transactions with the Council, ought to be addressed. This guidance supplements the information already provided in the Members' Code of Conduct (Chapter 5-1 of the Constitution) and Procedure Rules for Committee and Sub-Committee Meetings (Chapter 4-4 of the Constitution).

This guidance:

- (i) Applies to those interactions between the Council's services and councillors when councillors are acting as private individuals but where their Council role provides an inherent risk of being perceived as gaining favourable / unfavourable consideration.
- (ii) Sets out the practical actions required to ensure compliance with the rules so the Council can demonstrate the highest standards of conduct have been applied.

For the avoidance of doubt this guidance applies to:

- (i) All County Councillors;
- (ii) Transactions involving the immediate family of the above (i.e. spouses or civil partners, parents and children); and
- (iii) Transactions where the above persons act as a representative of another individual (e.g. powers of attorney, executor, agency, etc.)

These requirements do not apply where a Councillor interacts with the Council for simple, routine transactions, for example:

- (i) Paying an invoice / council tax;
- (ii) Paying a parking fine, etc.;
- (iii) Using a routine council service as a customer (e.g. parking, library facilities, etc.)

These requirements do apply where an interaction with the Council requires more than simple transactional engagement, for example:

- (i) Complex services provided by the Council including social care, mental health, etc.;
- (ii) Dispute / disagreement of any nature (e.g. appealing a parking fine, refuting a debt, etc.);
- (iii) Any service requiring an application and / or eligibility criteria, such as a tenancy.

The guidance does not apply where a Councillor acts on behalf of a resident as an advocate in their role as Councillor, unless such a person falls within the above categories (i.e. a friend, relative, etc.). Where the relationship to the resident could be interpreted as such, the Councillor should seek advice from the Monitoring Officer.

2. Key Principles

The objectives of this guidance are to:

- (i) Provide public confidence that Councillors do not seek or receive inappropriate advantage or disadvantage in personal transactions with the Council;

- (ii) Ensure appropriate public transparency of certain transactions to maintain public confidence in Council services and the conduct of its Councillors; and
- (iii) Ensure appropriate confidentiality to relevant transactions.

The application of this guidance will require additional scrutiny outside of normal service delivery to ensure public sector standards are upheld, but its application should ensure Councillors receive the same consideration as any resident / service user, albeit with additional safeguards and transparency.

3. Process

1. Where a Councillor interacts with the Council in respect of non-simple, non-routine transactions they should highlight this, in writing, to the Chief Executive.
2. The Councillor should also advise the relevant Council officer handling the transaction that this process applies and that they should notify their line manager and highlight this guidance.
3. The Chief Executive shall, in consultation with the Monitoring Officer and Chief Internal Auditor, oversee the relevant decision, service delivery, etc., and nominate a specific senior officer to liaise and support the relevant service to progress the issue properly and to avoid delays arising from the application of this guidance.
4. Where the issue involves ongoing service provision/engagement with a Councillor, oversight shall extend to periodic reviews of the transaction/support at least annually.
5. In all instances the normal transactional processes shall be applied (see item (6) below), and in addition:
 - (i) The Chief Executive, in consultation with the Monitoring Officer or Chief Internal Auditor, shall determine whether the decision-making processes shall be anonymised.
 - (ii) Where the identity of the Councillor is known to the service providing the decision/service support all communications between the Councillor and the service shall copy the named officer as at (3) above and the Monitoring Officer;
 - (iii) Where the identity of the Councillor has not been made known to the service providing the decision/service support as per the above process;
 - (a) The service decision shall NOT be implemented until reviewed and confirmed through this process by the person(s) designated by the Chief Executive;
 - (b) The decision shall be communicated to the Councillor by the person(s) designated by the Chief Executive, together with any communication to confirm rights of appeal etc.;

(iv) Where the identity can be anonymised, the decision shall be taken and implemented with the outcome communicated to the Chief Executive. In seeking to anonymise the information, such data as is required to take an informed decision shall be provided.

6. The normal decision-making process shall be applied including governance structures and schemes of delegation. For clarity:

- (i) If the service decision would normally be taken by an officer, that officer shall take the decision, but it shall be reviewed by that officer's line manager.
- (ii) If the decision would normally be taken by a Committee, that decision shall be submitted to the Committee within a formal report that:
 - (a) Clearly sets out the relevant service criteria applicable to the decision;
 - (b) Clearly sets out (but if possible anonymised) the potential undue influence that could be perceived and how the recommended decision has both:
 - 1. Applied the relevant rules, and
 - 2. Where necessary, mitigated against any perception of undue influence.
 - (c) Contains the Chief Executive and Monitoring Officer's recommendations

7. Where, in the opinion of the Chief Executive, Monitoring Officer and Chief Internal Auditor, the normal decision-making process cannot provide the required transparency, the decision will be escalated as below. For example, where the Councillor's identity is known and that knowledge could be perceived by a reasonable person to have the potential to influence the decision.

- (i) Where the decision was to be taken by officers, such decision would be escalated to a more senior officer.
- (ii) Where a decision cannot be escalated to a more senior officer it may be escalated to either:
 - (a) A relevant decision-making committee of the Council, or
 - (b) A joint consideration of the matter by the Chief Executive, Monitoring Officer and s151 Officer. The views of the Chief Internal Auditor may also be invited.

Such decision may be taken with the exclusion of press and public where an individual's personal information would otherwise be publicised (together with a redacted public decision paper).

(iii) In all above situations the decisions (when taken) shall be:

(a) Recorded within a central register maintained by the Monitoring Officer; and

(b) Copied to the Council's Chief Internal Auditor and External Auditor.

If in doubt Councillors should always request guidance from either the Council's Chief Internal Auditor or Monitoring Officer.

