



**South
Cambridgeshire
District Council**



Ethical Handbook of South Cambridgeshire District Council

Protocols and Guidance

- A. Gifts, Hospitality and Sponsorship Policy for Members
- B. Gifts, Hospitality and Sponsorship Policy for Officers
- C. Procedural Guidance for Members and Officers in Planning and Licensing
- D. Code of Conduct Complaints Procedure
- E. Civic Affairs Committee – Procedure and Sanctions for Local Hearings
- F. Licensing Act 2003 Committee – Appeals Hearing Procedure

A. Gifts, Hospitality and Sponsorship Policy for Members

General Caution

Treat with extreme caution any offer or gift, favour or hospitality that is made to you personally. Your personal reputation and that of the Authority can be seriously jeopardised by the inappropriate acceptance by you of a gift or hospitality.

The acceptance of gifts and hospitality is not always unlawful or inappropriate. The decision for you in every case is whether or not it is appropriate to accept any gift or hospitality that might be offered to you, having regard to how it might be perceived.

No hard and fast rules can be laid down to cover every circumstance as to what is appropriate or inappropriate. This policy is intended to enable you to make your own decision.

Criminal Law

The Bribery Act 2010 replaces the offences at common law and the Prevention of Corruption Acts with two general offences and prohibits the offering, giving, soliciting and acceptance of money or other advantage in order to induce or reward the improper performance of public and other functions. The first offence covers the offering, promising or giving of an advantage (broadly, offences of bribing another person). The second deals with the requesting, agreeing to receive or accepting of an advantage (broadly, offences of being bribed).

Limits of Policy

This policy does not apply to:

1. The acceptance of facilities or hospitality provided to you by the Authority.
2. Gifts given to the Authority that you accept formally on the Authority's behalf and are retained by the Authority and not by you personally.

Meaning of Gifts and Hospitality

The expressions 'gifts' and 'hospitality' have wide meanings and no conclusive definition is possible. Gifts and hospitality include:

1. The free gift of any goods or services.
2. The opportunity to acquire any goods or services at a discount or at terms not available to the general public.
3. The opportunity to obtain goods or services not available to the general public.
4. The offer of food, drinks and beverages (including alcoholic beverages), accommodation or entertainment or the opportunity to attend any cultural or sporting event.

Common gifts include pens, diaries, calendars and other business stationery, articles of clothing, books, flowers and bouquets. Members should be cautious when purchasing anything when additional services, privileges or advantages are offered which might be related to their position as a member.

Appropriate Gifts and Hospitality

There are some circumstances where you may accept gifts and hospitality as being in the normal course of your duties as a member.

1. Civic hospitality provided by another public authority.
2. Normal and modest refreshments in connection with any meeting in the course of your work as a member
3. Tickets for sporting, cultural and entertainment events which are sponsored or promoted by the Authority or bodies to which you have been appointed by the Authority, and the tickets are offered in relation to that sponsorship or promotion.
4. Small low value gifts (such as pens, calendars, diaries, flowers and other mementos and tokens.).
5. Drinks or other modest refreshment in the normal course of socialising arising consequentially from Authority business (e.g. inclusion in a round of drinks after a meeting).
6. Modest meals provided as a matter of courtesy in the office or meeting place of a person with whom the Authority has a business connection.
7. Souvenirs and gifts from other public bodies intended as personal gifts (e.g. arising from twin-town and other civic events).

Principles to Apply in Relation to Gifts and Hospitality

Since the Council discharges many public functions it is essential that the public has every confidence that members try to operate fairly to everyone.

A gift by an interested party to a member can threaten this trust, regardless of whether or not the gift is intended to influence its recipient's decision and regardless of whether it actually does influence it.

In deciding whether it is appropriate to accept any gift or hospitality you shall apply the following principles:

1. Do not accept a gift or hospitality as an inducement or reward for anything you do as a member. If you have any suspicion that the motive behind the gift or hospitality is an inducement or reward you shall decline it.
2. "Reward" includes remuneration, reimbursement and fee.
3. Do not accept a gift or hospitality of significant value or whose value is excessive in the circumstances.
4. Do not accept a gift or hospitality if acceptance might be open to misinterpretation. Such circumstances shall include gifts and hospitality:
 - 4.1 From parties involved with the Authority in a competitive tendering or other procurement process;
 - 4.2 From applicants for planning permission and other applications for licences, consents and approvals;
 - 4.3 From applicants for grants, including voluntary bodies and other organisations applying for public funding;
 - 4.4 From applicants for benefits, claims and dispensations;
 - 4.5 From parties in legal proceedings with the Authority.
5. Do not accept a gift or hospitality if you believe it may put you under any obligation to the provider as a consequence.
6. Do not solicit any gift or hospitality and avoid giving any perception of so doing.

Gifts and Hospitality

The Code of Conduct for Members and Co-opted Members provides that

“You shall, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a Member from any person or body other than the authority.”

The registration should include the source and nature of the gift or hospitality, the value or a reasonable estimate and the date received. The interest shall be placed on a public register.

Whilst the registration requirement in the code is limited to gifts or hospitality over the value of £50, members are encouraged to register any significant gift or hospitality they receive below this value. There is no obligation to make a disclosure in relation to gifts and hospitality on the register which are below £50 in value.

Reporting of Inappropriate Gifts and Hospitality offered

You shall immediately report to the Monitoring Officer any circumstances where an inappropriate gift or hospitality has been offered to you. You may thereafter be required to assist the Police in providing evidence.

Enforcement

The Civic Affairs Committee has responsibility for overseeing members' compliance with this Policy.

Allegations of any failure to meet the Policy shall be made in writing to the Monitoring Officer.

Gifts Received and Donated to the Chair's Charity

Some members receiving gifts of value may prefer not to retain these personally but to pass them to the Chair for use in relation to the Chair's Charity Appeal.

Members should indicate this intention to the provider and make this clear on their register of interests.

Sponsorship

Offers of sponsorship should be referred to a Chief Officer.

B. Gifts, Hospitality and Sponsorship Policy for Officers

General Caution

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Officers should disclose any interests in Contracts to their Chief Officer and no officer should subordinate their interest to that of another group or organisation.

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Principles to Apply in Relation to Gifts and Hospitality

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In deciding whether it is appropriate to accept any gift or hospitality you shall apply the following principles:

1. Do not accept a gift or hospitality as an inducement or reward for anything you do as an officer. If you have any suspicion that the motive behind the gift or hospitality is an inducement or reward you shall decline it.
2. "Reward" includes remuneration, reimbursement and fee.
3. Do not accept a gift or hospitality of significant value or whose value is excessive in the circumstances.
4. Do not accept a gift or hospitality if acceptance might be open to misinterpretation. Such circumstances shall include gifts and hospitality:
 - 4.1 From parties involved with the Authority in a competitive tendering or other procurement process;
 - 4.2 From applicants for planning permission and other applications for licences, consents and approvals;
 - 4.3 From applicants for grants, including voluntary bodies and other organisations applying for public funding;
 - 4.4 From applicants for benefits, claims and dispensations;
 - 4.5 From parties in legal proceedings with the Authority.
- 5 Do not accept a gift or hospitality if you believe it shall put you under any obligation to the provider as a consequence.
- 6 Do not solicit any gift or hospitality and avoid giving any perception of so doing.

Gifts and Hospitality

The offer of any gift at all should be reported to your Line Manager. Minor items such as cheap biros, rulers, calendars and diaries may normally be accepted on behalf of the Council. No gifts at all shall be accepted personally. In order that the gift does not seem underhand, perhaps the gift may be acknowledged. Minor gifts of food and drink may be accepted on behalf of the Council and shared out.

Food and Drink Eaten with Other People

This is more difficult since it is offered to an officer personally. At one extreme, it is plainly acceptable to accept a cup of tea on a site visit and at the other it is definitely not acceptable to allow someone to buy you an expensive lunch in a rather nice restaurant. Perhaps a sensible compromise is to accept a lunch if you would otherwise have to claim for it or it is the most convenient way of having lunch and if its value is comparable to what you could have claimed. It is also acceptable to receive a lunch at an official opening or similar group function. This area is one where officers really have to use their own judgement. Remember, if in doubt, **REFUSE**.

Recording Hospitality

All gifts and hospitality shall be recorded.

You must either:

1. record it in the register maintained by the Council's Deputy Monitoring Officer at South Cambridgeshire Hall; or
2. record it on the Council's Gifts and Hospitalities Register. You can do this via the Modern.Gov system available on Insite by following the below steps:
 - 2.1 Open Insite
 - 2.2 Click on the three horizontal bars on the top right of the screen and then on the 'Internal Modern.gov link at the top, middle of the page
 - 2.3 Click on the Logon tab at the bottom of the left-hand side menu
 - 2.4 Under username type SCDC\ followed by your first name and surname. Ensure that there is a space between your first name and your surname, as follows: SCDC\firstname surname
 - 2.5 Insert your usual password
 - 2.6 Select the Work to do tab on the left-hand side menu
 - 2.7 Select the options tab
 - 2.8 Select Submit gift or hospitality
 - 2.9 Select add, and this should provide you with the necessary fields to complete
 - 2.10 Select finish, which saves your entry

Should you require any procedural help or guidance on the policy please contact the Deputy Monitoring Officer by e-mail: Monitoring.Officer@scambs.gov.uk.

South Cambridgeshire's Policy

The Council believes that its officers can be trusted not to accept gifts where there is a danger of an ulterior motive being suspected. It urges officers to err on the side of caution in this delicate area. If in doubt, **refuse** – it is better to offend a well-meaning giver than to jeopardise the Council's integrity. It also emphasises the importance that all gifts should be out in the open and Chief Officers should be aware of all gifts made or offered.

Gifts Received and Donated to the Chair's Charity

Some officers receiving gifts of value may prefer not to retain these personally but to pass them to the Chair for use in relation to the Chair's Charity Appeal.

Officers should indicate this intention to the provider and make this clear on their register of interests.

Sponsorship

Offers of sponsorship are likely to become more frequent, and, as a means of providing additional financial resource, sponsorship is to be welcomed. With this in mind, however, where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, where by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality shall apply.

Particular care shall be taken when dealing with contractors or potential contractors or where there may be a perceived conflict of interest with the Council's business in order to avoid compromising the integrity of Council operations. The Council shall not put itself in a position where it might be said that a sponsorship partnership might have or may be thought to have:

1. influenced the Council or its officers in carrying out its statutory functions (e.g., planning / licensing / environmental health / housing)
2. been in order to gain favourable terms from the Council in any business or other agreement
3. aligned the Council with any organisation which conducted itself in a manner which conflicted with the Council's values.

The Council retains the right to decline sponsorship from any organisation or individual which the Council in its sole discretion considers inappropriate.

Where the Authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative shall benefit from such sponsorship in a direct way without

there being full disclosure to an appropriate manager of any such interest. Similarly, where the Authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

C. Procedural Guidance for Members and Officers in Planning and Licensing – Supplemental to the Code of Conduct

This Guidance supplements the Code of Conduct for members of the Council adopted by the Council pursuant to Section 27 of the Localism Act 2011. The obligations and responsibilities contained within this Guidance shall apply to co-opted members in the same way as they do to members of the Council. Reference to the committee means the Planning Committee or the Licensing Committee and reference to the Chair shall mean the Chair of the relevant committee. Similarly, reference to the Chief Officer means an Executive Director or appropriate Director and reference to the 'officer' means the planning case officer or the licensing officer respectively.

Members

The Role of Members

1. In making decisions on applications, members of the committee shall:
 - 1.1 act fairly and openly
 - 1.2 approach each application with an open mind
 - 1.3 carefully weigh up all the material considerations
 - 1.4 avoid undue contact with interested parties
 - 1.5 ensure that reasons for decisions are clearly stated.
2. Members of the committee shall be free to vote on applications as they consider appropriate (i.e., without a Party 'whip'), deciding them in the light of all the relevant information, evidence and arguments. They shall base their decisions on the provisions of the Acts and regulations under which the applications are made and fall to be determined ("the statutory framework").
3. Members of the Council shall not give instructions to officers nor shall they place pressure on officers in order to secure a particular recommendation on an application.
4. In accordance with paragraph 3 of the Code of the Conduct for Members of the Council, a member shall use their position in the public interest and not for personal advantage.

Discussions with Applicants

5. Pre-application meetings with prospective applicants are encouraged, but, to avoid misunderstandings, they require a degree of formality. They shall normally only involve officers, except where the Monitoring Officer, in consultation with the Chair of the committee, has agreed that a pre-application meeting shall include (along with an appropriate officer) a member or members of the Council.
6. It shall be made clear at pre-application meetings that:
 - 6.1 only officers' initial provisional views can be given, based on the provisions of the statutory framework and other adopted Council policy
 - 6.2 no decisions can be made which would bind or otherwise compromise the committee of the Council or the Chief Officer if delegated to make the decision.
7. Where pre-application meetings involve a prospective applicant with a member or members of the Council, a note of the discussion shall be taken by the officer and shall be made available for public inspection, subject to the usual rules about access to information, if and when an application is submitted. At least one appropriate officer shall be present at all such meetings.
8. Members of the Council shall not take part in post-submission meetings with applicants or other parties, unless the matter has been agreed by the Monitoring Officer, in consultation with the Chair of the committee. A note of any discussions shall be taken and shall be made available for public inspection, subject to the usual rules about access to information. At least one appropriate Planning Officer shall be present at all such meetings.

Lobbying

9. It is quite common for applicants and others to wish to approach members of the Council to discuss a proposed application before an application is submitted or, if submitted, determined. This could be by way of an approach to an individual member, by telephone, or on a chance meeting, or by way of a request to see all or some of the members of the committee. It is an essential part of the democratic process that members of the public should be able to make their views known to elected members. However, to avoid compromising their position before they have received all the relevant information, evidence and arguments, members of the committee shall:
 - 9.1 do their best to avoid, in discussion with an applicant or any other person, giving their thoughts about the merits of an application or proposal so as to give the impression or commitment that they will definitely vote in favour or against a proposal or application. There is no objection to the member rehearsing comments from the officer or any of the consultees, whether in favour of or against the proposal or application or any aspect of it and the member can express their own reservations to give the proposer or applicant an opportunity of addressing them. The member may give an indication **on the**

information then available to them whether s/he supports or opposes but it would be wise to ensure beforehand that s/he is fully briefed, preferably by the officer;

- 9.2 apart from the above, restrict their response to giving procedural advice, and make it clear that that is all they are prepared to do;
 - 9.3 in suitable cases, direct lobbyists or objectors to the officer; and
 - 9.4 advise the Chief Officer as soon as possible of the existence of any substantial or abnormal lobbying activity.
10. Whilst there is no bar on members of the Council generally expressing publicly, even robustly, their views on any application, committee members will recognise the need to determine applications as a committee taking into account all material considerations at the time the application falls to be determined. Members of the committee therefore should be careful not to express publicly a final (see note 1) view on an application prior to the meeting of the committee at which a decision is to be taken however strongly they feel.

[Note 1: “Final” here means that that member’s mind is already made up, i.e., clearly pre-determined by the member such that s/he is not simply presently in favour of or against an application on the facts and circumstances then known to that member but that s/he will not be open to future argument or representations when the application falls to be considered by the committee when all the facts are known, all consultation responses are in hand and all committee debate has taken place. This can include, for example, an expression by a member of the committee that s/he as a matter of principle or conviction never votes in favour of, or against [the type of activity or proposal in the application].]

Site Visits

11. All sites are visited by officers as part of the application process. A site visit by the committee should only be necessary if the impact of the proposed development or proposed licence is difficult to visualise from the plans submitted, the written report and the officer presentation to committee. Whilst site visits involve delay in determining the applications concerned and additional cost, they should be considered if they are likely to inform better the judgement of members of the committee concerning the potential impact of proposals on, e.g., the neighbours, the countryside, the setting of a listed building or on the conservation area, i.e., where important aesthetic judgements fall to be made, the safety of road users and pedestrians, crime and disorder.
12. A decision to inspect a site shall normally be arrived at either by the officer or at the request of a local member or the Chair **in advance of any committee consideration**. Members should try to avoid proposing at the meeting itself a deferment for a site visit, although there may be exceptions where the need for a site visit becomes apparent only during the debate and consideration of the appropriate application at a committee meeting.

13. If access to private land is necessary for a site visit by members of the committee, officers shall secure the prior agreement of the landowner, explaining that members shall not hear argument from any interested party while at the site.
14. Where a site visit has been agreed by the committee, all members of the committee are encouraged to attend, accompanied by appropriate officers. The local member, if not a member of the committee, shall also be invited.
15. The purpose of the site visit is fact finding. Officers will be able to point out relevant features of the site and surroundings. Members will be able to see the physical features of the site and ask questions through the Chair or the officer to seek clarification. A written record shall be kept of the site visit by the officer and shall be reported as part of the committee papers where the application falls to be determined.
16. No discussion of the merits of the case shall be permitted and all questions from members shall be put through the Chair or officer.
17. The site visit is not part of the formal consideration of an application and therefore public rights to attend the meeting do not apply. No interested parties or local Parish councillor (who is not also the local district councillor or a member of the committee) shall be permitted to attend.
18. The visiting party shall stay together as a group. No lobbying by applicants or objectors who might be present shall be allowed. If an applicant or group persists in attempting to lobby, all members and officers shall leave the site and the site visit shall be abandoned.
19. The members of the committee when on site visits should not make any comments that could create an impression if observed by an outside party that they had already formed a view on the merits of the application. No decision on the application shall be made until the formal meeting of the committee at which the application is to be considered, when members shall have before them all necessary information to be able to make an informed decision. Members are encouraged to convey at the formal meeting all the relevant conclusions they themselves reached on any site visit to help inform the decision.
20. If a member finds it necessary to visit a site alone (perhaps because it was not possible for him or her to attend a committee visit), the member should view the site only from public vantage points, seek to avoid any discussion with interested parties, and, if there is such discussion, make it clear that no decision on the application shall be taken until it has been discussed at committee.

Material Submitted to Committee

21. A member of the Council receiving apparently new material in writing from or on behalf of an applicant or third party in connection with an application before the committee should establish from the officer whether the material has been received by that officer unless it is clear from the document itself that the officer already has it

or has been sent a copy. If it has not, the member should make it available as soon as possible to the officer.

22. Relevant documents in connection with an application should all be dealt with in the officer's report to committee. Any additional information received after the preparation of that report up to 1530 hours on the day before the committee meeting shall normally also be brought to the attention of the committee. Except when requested by the officer, papers received after that time shall usually be discounted, since time shall not be available to check their accuracy or to give consideration to their implications. Even papers received before that time may not be able to be included in the officer's oral report if they are complex or raise important new points. In such cases, the right course may be to defer the consideration of the application to another meeting.

Members of Committee who serve on County Councils and Parish Councils

23. A member may also serve as a member of the County Council or of a parish council ('dual' member) which makes representations about an application to be considered by the committee. If the member is present at a meeting of the County Council or a parish council (or one of its committees) when the attitude of the County Council or that parish council to the application is under consideration, the member should make this known when the application concerned is under discussion at the committee.
24. A local member who is also a member of the parish council may, if appointed to do so by the parish council concerned, act as the parish council's representative at a Licensing Committee (unless that member is on the Licensing Committee panel determining the application) or under the protocol which allows parish council representatives to address the Planning Committee. In such event, the member should make it clear whether s/he is addressing the committee as parish council representative only or as representative **and** on their own behalf because it is not a requirement that the views of each, upon the application, should be the same.

Voting at Committee

- 25.1 A member of the committee should only vote on an application before the committee if s/he has been present for the whole of the presentation of and discussion on the application.
- 25.2 Where an application has been the subject of a site visit, any member of the Planning Committee who has not attended the site visit should consider, before deciding whether or not to vote on the application, whether they are sufficiently informed about all relevant issues. If they are not, they should not vote.

Non-members of Committee attending Committee Meetings

- 26.1 Members of the Council who are not members of the committee may attend meetings of that committee and speak (subject to the law on declarations of interest) **but not vote** on items under the procedure laid down in Council Procedure Rules, whether as a ward councillor, or to represent the views of the County Council or a parish council, or otherwise.

- 26.2 When such members attend the Licensing Committee they shall sit with the visiting public or persons wishing to make representations. When such members attend the Planning Committee, they should not sit in the public gallery, but in the place reserved in the committee room for Members of the Council who are not members of the Planning Committee.
- 26.3 When such a member speaks at the meeting, either the Chair of the committee in calling upon the member to speak or the member in speaking should make it clear upon what basis s/he is taking part in the meeting. The guidance in paragraphs 23 and 24 regarding committee members who are 'dual' members should also be observed by other members of the Council who attend meetings of the committee.
- 26.4 Where a member not a member of the committee is attending to speak as the local member, s/he should be identified and may be asked to speak before any other member makes a contribution to the debate.
- 26.5 Unless specifically allowed by the Chair, members who are neither members of the committee nor the local member should not contribute to the debate on applications in other wards unless they have information to impart that will assist the committee in making a decision.

Decisions Contrary to Officer Recommendations or to Development Plan Policies

27. From time to time, there will be occasions when the committee disagree with the professional advice on an application given by the Chief Officer. In such cases the reasons for differing from the professional advice received should be specified in the resolution of the committee, along with the reasons for refusing an application recommended for approval or the conditions to be imposed on any approval in a case recommended by officers for refusal. The same provisions apply to relevant decisions taken contrary to Development Plan policies.
28. Where any Planning Committee decision is taken to refuse an application contrary to the recommendation by the officers for approval (with or without conditions), it shall normally be expected that a member, preferably the local member, speaking and / or voting against the application, shall offer himself or herself to give evidence to support the grounds of refusal at any appeal hearing or inquiry.
29. Where Planning Committee is minded to make a decision contrary to technical advice, its final decision should not be made until it has received, and taken into account, credible second opinion which shall be obtained for their consideration by the Chief officer.

Applications in which a Member of the Council has an interest

30. All applications which are submitted by or on behalf of a member of the Council in their private capacity or by a close friend, relative or the partner of a member (as defined in the Code of Conduct for Members) shall be drawn to the attention of the Chief Officer by the member concerned in writing, and shall be reported to the committee for a decision, rather than being dealt with in accordance with the Scheme of Delegation to Officers.

31. The member concerned shall take no part in the determination of the application unless they have obtained a Dispensation.

Training

- 32.1 Training on development control and development plan issues and procedures shall be provided and updated as necessary. All members of the Planning Committee should ensure that they have received sufficient and appropriate training to enable them to undertake the duties required of them. Training is mandatory for members who wish to sit on the Planning Committee.
- 32.2 All new members of the Licensing Committee shall be required to receive training in licensing procedures at the beginning of their term of office and all members of the committee shall be required to undertake training periodically on new regulations and as a refresher. A record shall be kept by the Chief Officer of the training undertaken by each member. Training is mandatory for members who wish to sit on the Licensing Committee

Whistle-blowing

33. A member or any officer shall, if s/he becomes aware of any conduct by another member or any officer which s/he reasonably believes involves a failure to comply with this Guidance, notify the Monitoring Officer as soon as it is practicable for them to do so.

Officers

The Role of Officers

34. In making delegated decisions on applications, officers shall:
 - 34.1 act fairly and openly
 - 34.2 approach each application with an open mind
 - 34.3 carefully weigh up all the material considerations
 - 34.4 avoid undue contact with interested parties
 - 34.5 ensure that reasons for decisions are clearly stated.
35. In reporting to committee on non-delegated applications, officers shall:
 - 35.1 provide professional and impartial advice
 - 35.2 make sure that all information necessary for a decision to be made is given

- 35.3 set the application in the context of the statutory framework and all other material considerations
 - 35.4 include the substance of objections and the views of people who have been consulted
 - 35.5 provide a clear and accurate written analysis of the issues
 - 35.6 normally give a clear recommendation.
- 36. Subject to the provisions of paragraph 22, any material information which is received after the written report has been prepared and before the cut off time shall be presented orally to the committee by officers.
 - 37. The Chief Officer, in discussion with the Chair of the committee, shall have the discretion to withdraw any item from the agenda of the committee subsequent to the preparation of the report but prior to discussion by the committee if the circumstances of the consideration of an application change within that period.
 - 38. Officers are responsible for carrying out the decisions of the committee whether or not those decisions are in line with officer recommendations.

Discussions concerning Applications

- 39. All officers taking part in pre application or post submission discussions with applicants, supporters or objectors should make it clear that decisions on applications are taken either:
 - 39.1 by the elected members in committee, or
 - 39.2 under specific circumstances by the Chief Officer or an officer specified by them using powers of delegation.
- 40. A written note shall be made of all such meetings. A follow-up letter should be sent setting out the advice given at such a meeting and the basis on which it was given. The meeting note and any follow-up correspondence should be placed on the application file, should an application materialise following initial discussions.

Disclosures of Interest

- 41. Officers (of every grade) shall play no part in the processing of any application in circumstances where there is, or would be perceived by a reasonable person with knowledge of the relevant facts to be, a conflict between their personal or financial interests, or those of their families or friends, and their professional duty. They shall openly declare the existence of any such conflict in writing by placing a note of the circumstances of the interest on the case file.

Applications Submitted by Officers

42. All applications submitted in respect of which any officer has an interest shall be reported to the committee for a decision, rather than being dealt with in accordance with the Scheme of Delegation to officers. If the officer concerned is present at the meeting of the committee at which such an application is determined, s/he will leave the room during consideration of the application.

Action on Decisions Taken Contrary to Professional Advice

43. In cases where an officer recommendation for approval has been overturned by committee and an appeal is lodged:
 - 43.1 case officers shall give full support to members and any Council appointed external witnesses in preparing evidence for any court proceedings or public inquiry, short of giving evidence themselves. Whilst members' decisions giving rise to appeals will always have officer support, whether by the Appeals Officer, Legal Officer, Environmental Health Officer or any other officer(s) selected by the appropriate Chief Officer, case officers involved in formulating the original recommendation shall only give evidence themselves in exceptional circumstances, where their Code of Professional Conduct is not breached
 - 43.2 where a hearing is to be held, with no cross examination, the case officer may give evidence, but this shall normally be an officer not involved in formulating the original recommendation
 - 43.3 officers shall give full support to member decisions which are appealed using the written representations procedures.

General

44. This Guidance shall be kept under continuous review by the Civic Affairs Committee and also reviewed whenever there is any change in the Council's Procedure Rules or the Council's Code of Conduct for Members or for Officers.

D. Code of Conduct Complaints Procedure

1. Introduction

- 1.1 Under Section 28 of the Localism Act 2011, the Council shall have in place arrangements under which allegations that a Member or co-opted Member of the authority or of a Parish Council within the authority's area has failed to comply with that authority's Code of Conduct, may be investigated and decisions made on such allegations.
- 1.2 These procedures set out how you may make a complaint and how the Council will deal with allegations that an elected or co-opted member of this Council, or of a Parish Council within its area, has failed to comply with his/her council's Code of Conduct for Councillors.
- 1.3 The Council has adopted a Code of Conduct for Members, which is published on the Council's website. Each Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council's Code of Conduct, it should be available on any website operated by the Parish Council or you may request the parish clerk to allow you to inspect a copy at their offices.
- 1.4 The following terms used in this Procedure are defined as follows:
 - (a) **Complainant:** the person making the complaint.
 - (b) **Member:** the elected councillor or co-opted member of the authority or of a Parish Council subject to the complaint.
 - (c) **Investigator:** either an officer of the Council and/or an independent investigator whom the Monitoring Officer has asked to investigate a complaint.
 - (d) **Monitoring Officer:** the Council officer (or his/her appointed Deputy) with statutory responsibilities under section 5 of the Local Government and Housing Act 1989 and as set out below in this Code.
 - (e) **Independent Person:** a person or persons appointed by the Council to advise it or the Member on the determination of complaints.
 - (f) **Determination Hearing:** the sub-committee at which a complaint is heard.

2. How to Make a Complaint

2.1 Any person may make a complaint about a Member under the Code of Conduct.

Complaints shall:

- (a) Be made in writing, i.e. by email or letter addressed to the Monitoring Officer, South Cambridgeshire District Council, South Cambridgeshire Hall, Cambourne Business Park, Cambourne, Cambridge, CB23 6EA or to monitoring.officer@scambs.gov.uk.
- (b) Include the real full name and address of the complainant and email address, so that we can acknowledge receipt of the complaint and keep him/her informed of its progress. If a Complainant wants to keep his/her name and address confidential, s/he should clearly state this in his/her complaint. In this case we would not disclose his/her name and address to the Councillor without the Complainant's prior consent. However, the Council does not normally investigate anonymous complaints or complaints where the Complainant wishes to remain confidential, unless there is a clear public interest in doing so;
- (c) Identify the Member complained of;
- (d) Set out the nature and substance of the alleged breach of the Code of Conduct for Members. It is recommended that complaints include or attach evidence to support the allegation.

2.2 Within five working days of receiving a fully evidenced complaint, the Monitoring Officer shall:

- (a) acknowledge receipt to the Complainant;
- (b) send a copy of the complaint to the Member, unless the Monitoring Officer considers that this may prejudice investigation;
- (c) send a copy of the complaint to the Clerk (if appropriate).

2.3 The Monitoring Officer shall keep the Complainant, the Member and the Clerk (if appropriate) informed of the progress of the complaint, unless the Monitoring Officer considers that this may prejudice any investigation.

3. Will the Complaint be Investigated?

- 3.1 Where possible and appropriate, the Monitoring Officer shall seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable/inappropriate and offering an apology, or other alternative action by the Council or the respective Parish Council.
- 3.2 The Monitoring Officer shall review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation.
- 3.3 In determining whether or not the complaint should be referred for investigation or not, or whether alternative resolution is appropriate, The Monitoring Officer and Independent Person shall have regard to a range of factors including the following:
 - (a) Whether there is sufficient evidence upon which to base a decision;
 - (b) Whether the alleged action relates to a breach of the code of conduct – complaints that are really about Council services, its policies or performance are not suitable for investigation under this procedure and should be dealt with in accordance with the Council's Complaints Policy;
 - (c) Whether the alleged action is considered to be serious or minor/trivial;
 - (d) Whether the complaint appears to be politically motivated, vexatious or tit for tat;
 - (e) When the action complained about occurred (was it more than 3 months ago);
 - (f) Whether the allegations relate to actions occurring whilst the Member was acting in his/her official capacity or in his/her private capacity;
 - (g) Whether it is in the public interest to investigate;
 - (h) Whether the matter is considered suitable for alternative resolution and, if so, whether the Member and the complainant are prepared to consider this alternative;

- (i) If the complaint relates to a Parish Council issue, whether a complaint has been made first to the Parish Council using the parish complaints procedure;
 - (j) If a complaint has been made to a Parish Council and they have taken action, whether the action taken would be considered reasonable in all the circumstances.
- 3.4 This decision shall normally be taken within twenty working days of receipt of the complaint. When the Monitoring Officer has taken a decision, s/he shall inform the Complainant, the Member and the Clerk (if appropriate) of his/her decision and the reasons for that decision.
- 3.5 Where the Monitoring Officer requires additional information in order to come to a decision, s/he may ask any such person as he/she sees fit for such information. Where a complaint relates to a parish councillor, the Monitoring Officer may also seek the views of the Chair of the Parish Council before deciding whether the complaint merits formal investigation.
- 3.6 If the complaint alleges criminal conduct or breach of a regulation by any person, the Monitoring Officer has the power to refer the matter to the Police and/or other regulatory agencies. In such cases it may be necessary to postpone consideration of the complaint until the Police or other action has been concluded.
- 3.7 If the Monitoring Officer decides not to investigate a complaint, s/he shall nevertheless report this to the next ordinary meeting of the Civic Affairs Committee.

4. Investigation

- 4.1 If the Monitoring Officer decides, after consultation with the Independent Person, that a complaint merits formal investigation, s/he shall appoint an Investigator.
- 4.2 The Investigator shall decide whether s/he needs to meet or speak to the Complainant to understand the nature of the complaint and so that the Complainant can explain his/her understanding of events and suggest what documents the Investigator needs to see, and who s/he need to interview.
- 4.3 The Investigator shall normally write to the Member and ask him/her to provide his/her explanation of events, and to identify what documents the Investigator needs to see and who s/he needs to interview. In exceptional cases, the Investigator may delay notifying the Member until the investigation has progressed sufficiently.

- 4.4 The Investigation shall take no longer than 2 months from the date of appointment of the Investigator and, on conclusion, the Investigator shall usually produce a draft report and shall send copies of that draft report, in confidence, to the Complainant and to the Member, to give them both an opportunity to identify any matter in that draft report which they disagree with or which they believe requires more consideration. Having received and taken account of any comments on the draft report, the Investigator shall send his/her final report to the Monitoring Officer.

5. What happens if the Investigator concludes there has not been a breach of the Code of Conduct?

- 5.1 The Monitoring Officer (after consultation with the Independent Person) shall review the Investigator's report and if satisfied that it is sufficient, the Monitoring Officer shall send a copy of the Investigator's final report to the Complainant, the Member and the Clerk (if appropriate) and notify him/her that no further action is required. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, s/he may ask the Investigator to reconsider his/her report.
- 5.2 The outcome of such investigations shall be reported to the next ordinary meeting of the Civic Affairs Committee and the relevant Parish Council (if appropriate) for information.

6. What happens if the Investigator concludes that there is evidence of a failure to comply with the Code of Conduct?

- 6.1 The Monitoring Officer shall review the Investigator's report and shall then either send the matter for a Determination Hearing by the Civic Affairs Committee or, after consulting the Independent Person, seek Summary Resolution (see 7 below).

7. Summary Resolution

- 7.1 The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a Determination Hearing. In such a case, s/he shall consult with the Chair of the Civic Affairs Committee, the Independent Person and with the Complainant and seek to agree what they consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such a resolution may include the Member accepting that his/her conduct was unacceptable/inappropriate and offering an apology, and/or other

alternative action by the Council or the relevant Parish Council (if appropriate).

- 7.2 If the Member complies with the suggested resolution, the Monitoring Officer shall report the matter to the next Civic Affairs Committee and the relevant parish council (if appropriate) for information, but shall take no further action.

8. Determination Hearing

- 8.1 If the Monitoring Officer considers that Summary Resolution is not appropriate, or the Member does not comply with any suggested resolution at 7 above, then the Monitoring Officer shall refer the Investigator's report to a Determination Hearing to decide whether or not the Member has breached the respective Code of Conduct and, if so, whether to take any action in respect of the Member. The hearing procedure is set out in the Part E of the Ethical Handbook (Civic Affairs Sub-Committee – Procedure for Local Hearings).

9. What action can the Sub Committee take where a Member has breached the Code of Conduct?

- 9.1 The sanctions available are set out in Part E of the Ethical Handbook (Civic Affairs Sub-Committee – Procedure for Local Hearings).

10. What happens after a Hearing?

- 10.1 As soon as reasonably practicable, the Monitoring Officer shall prepare a formal decision notice, in consultation with the Chair, and send a copy to the Complainant, the Councillor and the Clerk (if appropriate). S/he shall also make that decision notice available for public inspection on the Council's website after the hearing.

11. Appeals

- 11.1 There is no right of appeal for the Complainant or for the Member against a decision of the Monitoring Officer or of the Sub Committee. If you feel that the Council has failed to deal with your complaint properly, you may make a complaint to the Local Government & Social Care Ombudsman. The web address for making complaints is <https://www.lgo.org.uk/contact-us>

12. Revision of these Arrangements

12.1 The Civic Affairs Committee may amend these arrangements, and has delegated to the Chair of the Committee the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13. Contact details

13.1 The Monitoring Officer can be contacted at:

Legal Services
South Cambridgeshire District Council
South Cambridgeshire Hall
Cambourne Business Park
Cambourne
Cambridge
CB23 6EA

Tel: 01223 457092

Email: monitoring.officer@scambs.gov.uk

E. Civic Affairs Sub-Committee – Procedure for Local Hearings

General points:

- (a) The purpose of a hearing shall be to determine if the sub-committee agrees with the findings of the Investigator's report that a Member has breached the code of conduct and if so, what action should now be taken.
- (b) The hearing shall, where possible, be held within 3 months of the issue of the Investigator's report in which the Investigator has found that a Member has breached the code of conduct
- (c) The hearing shall be before a sub-committee of 3 members drawn from the Civic Affairs Committee. One of the members present shall be elected Chair.
- (d) The Independent Person [IP] appointed under section 28 of the Localism Act 2011 shall also be present to sit alongside the sub-committee. His/her view shall be requested and taken into account by the sub-committee, but by law s/he may not vote.
- (e) The Monitoring Officer, or Deputy Monitoring Officer, shall be present as advisor to the sub-committee.
- (f) The Investigator shall attend to present his/her investigation report and may invite witnesses.
- (g) The Member shall be invited to attend and may present his/her own case or s/he may be represented.
- (h) The Monitoring Officer may speak at any time to advise the sub-committee on technical matters or ask questions of any party.

Procedure

Formalities

1. The Chair of the sub-committee shall introduce the members of the sub-committee, the Independent Person, officers, the Member, the Investigator and the complainant if present.
2. The Chair shall explain the reason for the meeting and outline the procedure to be followed. The Chair may choose to vary this procedure in any particular instance

where s/he is of the opinion that such a variation is necessary in the interests of fairness.

3. The Chair shall also explain that the hearing will normally be held in public unless the sub-committee exercises its discretion to exclude the public from all or part of the hearing in accordance with the Local Government Act 1972.
4. The Chair shall then confirm that all those present understand the procedure to be followed and ask if there are any preliminary procedural issues which anyone wishes to raise before the Hearing begins.
5. If any procedural issues are raised, the sub-committee shall hear representations on them before determining them.
6. If the Member is not present at the start of the hearing, the sub-committee shall consider any reasons given by him/her for non-attendance. If the sub-committee is satisfied that there is good reason for his/her non-attendance, it may adjourn to another date, or proceed at the request of the Member.
7. If the sub-committee is not satisfied that there is good reason for the Member's non-attendance, or if the Member failed to give any reason for his/her non-attendance, the sub-committee may decide:
 - 7.1 to consider the matter and make a determination in the absence of the Member, or
 - 7.2 to adjourn the Hearing to another date.

The Determination Hearing will normally take the following order:

8. The Investigator shall present his/her report and findings and may call any witnesses. The Complainant and Member may question the Investigator and any witnesses in this order.
 - 8.1 The Complainant presents his/her evidence and calls any witnesses. The Investigator and the Member may then question the Complainant and any witnesses in this order.
 - 8.2 The Member presents his/her evidence and calls any witnesses. The Investigator and the Complainant may then question the Member and any witnesses in this order.
 - 8.3 Final Submissions – The Investigator, Complainant and Member will present their final submissions in this order.
 - 8.4 The sub-committee and the Independent Person will retire to consider what they have heard, in private, accompanied only by the clerk and legal advisor, who will advise them when required.

- 8.5 The Chair shall then announce to all present at the Determination Hearing the sub-committee's decision as to whether or not the Councillor has breached the Code of Conduct, whilst setting out the reasons for the decision.

Sanctions

9. If the sub-committee decides that the Councillor has breached the Code of Conduct, it shall consider representations from the Investigator, the Monitoring Officer, and the Member as to:
 - 9.1 whether or not the sub-committee should impose a sanction and/or recommend to Council that a sanction be imposed; and
 - 9.2 what form of sanction(s) is/are appropriate.
 - 9.3 any mitigation the Councillor wishes the sub-committee to take into account
- 10 The sub-committee and the Independent Person shall retire to consider these representations in private accompanied only by the clerk [and legal advisor if required] and decide whether or not to impose/recommend the imposition of sanctions on the Member and, if so, what type of sanction(s).
- 11 The sub-committee shall also consider whether or not it should make any recommendations with a view to promoting high standards of conduct among members of the relevant authority.

Issue of decision

12. The sub-committee shall announce its decision in public at the conclusion of the hearing and shall issue a full written decision, including reasons, within 10 working days of the hearing. A copy shall be sent to all those present at the hearing and to the Clerk of the parish council if the complaint was about a parish councillor. The written report shall be available for public inspection.

Decisions open to the Sub-Committee:

These are:

1. That the Member did not breach the Code of Conduct;
2. That the Member did breach the Code of Conduct, and that
 - 2.1 No action need be taken; or

2.2 One or more of the sanctions set out below should be applied.

The sub-committee may also make any recommendations it considers appropriate to the Council or Parish Council regarding procedural amendments or other matters that might assist members generally to follow the Code of Conduct and with the aim of promoting high standards within the authority.

Sanctions Available to the Civic Affairs Committee

The Council has delegated to the Civic Affairs Committee powers to take action to promote and maintain high standards of conduct.

The sub-committee may, when it has found that a Member has breached the Code of Conduct:

1. Censure or reprimand the Member
2. Publish its findings in respect of the Member's conduct
3. Report its findings to Council [or to the Parish Council] for information
4. Recommend to the Member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that they be removed from any or all Committees or sub-committees of the Council
5. Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities
6. Recommend to Council that the member be replaced as Leader of the Council
7. Instruct the Monitoring Officer to [or recommend that the Parish Council] arrange training for the Member
8. Remove [or recommend to the Parish Council that the Member be removed] from all outside appointments to which s/he has been appointed or nominated by the authority [or by the Parish Council]
9. Withdraw [or recommend to the Parish Council that it withdraws] facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access
10. Exclude [or recommend that the Parish Council exclude] the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and sub-committee meetings.

F. Licensing Act 2003 Committee – Appeal Hearing Procedure

1. Introduction

- 1.1 The Chair of the sub-committee shall welcome and introduce everyone present, giving explanations of roles where necessary, and outline the procedure to be followed.
- 1.2 The hearing shall take the form of a discussion to be led by the sub-committee.
- 1.3 Members of the sub-committee shall be able to ask questions of any party, or the Licensing Officer, at the hearing. They shall try, so far as possible, to ask their questions at the conclusion of each party's submission.
- 1.4 The sub-committee shall consider any requests for permission to ask questions of other parties. It shall decide if questions are required in order for it to consider the case properly. If permission is given to one party, it shall usually be given to all other parties.
- 1.5 The Chair may ask any person behaving in a disruptive manner to leave and may refuse to permit that person(s) to return or may permit him/her to return with specified conditions. Such a person may, before the end of the hearing, submit to the authority in writing any information which s/he would have been entitled to give orally had s/he not been required to leave.
- 1.6 Members of the sub-committee shall be asked to make any Declaration of Interests.

2. Witnesses

- 2.1 The sub-committee shall consider any requests from any of the parties to call witnesses.

3. New evidence / information

- 3.1 The sub-committee shall consider any requests for permission to present new evidence or information not previously disclosed to all the parties and the sub-committee prior to the hearing. The general rule is that such information or evidence shall not be considered unless all parties at the hearing agree to it being considered on the day of the hearing. A request may be made for a short adjournment to allow time for everyone to receive copies of the extra information and time to read it.

4. Allocation of time

- 4.1 Each party shall be asked for a time estimate for the presentation of their case. The sub-committee shall hear all estimates and then allocate each party an equal amount of time to speak.

5. Licensing Officer's report

- 5.1 The Council's Licensing Officer will outline details of the application and representations received

6. Applicant's case

- 6.1 The applicant will present their case first. S/he have a right to:
- (a) address the sub-committee on any points of clarification the council has sought;
 - (b) address the committee generally; and
 - (c) call any witnesses that s/he has been given permission to call. Witnesses may be cross- examined if permission is granted. If this happens, the time taken for questions shall count towards the allocated time of the party asking the questions, not the party answering them.
- 6.2 Members of the sub-committee may ask questions of the applicant.

7. Police representations

- 7.1 The Police will make any representations about the application, with the same rights as listed at section.6.
- 7.2 Members of the sub-committee may ask questions of the police representative.

8. "Responsible authorities" representations

- 8.1 Other "responsible authorities":
- (a) the relevant licensing authority and any other licensing authority in whose area part of the premises is situated;

- (b) the chief officer of police;
- (c) the local fire and rescue authority;
- (d) the relevant enforcing authority under the Health and Safety at Work etc Act 1974;
- (e) the local authority with responsibility for environmental health;
- (f) the local planning authority;
- (g) a body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm;
- (h) each local authority's Director of Public Health (DPH) in England
- (i) the local weights and measures authority (trading standards); and
- (j) Home Office Immigration Enforcement (on behalf of the Secretary of State) will then make representations, with the same rights as listed at section 6.

8.2 Members of the sub-committee may ask questions of those authorities represented.

9. Any other representations

9.1 Anybody else making representations shall go last, with the same rights listed at section 6.

9.2 Members of the sub-committee may ask questions of any person who has made a representation.

10. Legal advice

10.1 Once all parties have presented their cases to the sub-committee, and the members of the sub-committee have no more questions for any of the parties, the Council's Legal Officer shall be asked to outline any relevant legal guidance.

11. Decision-making

11.1 The sub-committee shall then retire to another room to make its decision. The Council's Legal Officer and Clerk shall accompany members to advise where necessary and take notes of the decision.

12. Notification of decision

12.1 Depending on the nature of the application, a determination of the case shall either be made at the conclusion of the hearing, or within five working days. In most cases, all parties shall be notified of the decision in writing.