

STANDARDS COMMITTEE

15 October 2007

REVIEW OF LOCAL PROTOCOLS

REPORT OF CORPORATE DIRECTOR (GOVERNANCE)

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RECENT REFERENCES:

****Members should bring with them Report ST56 (considered on 18 June 2007) which contains the Revised Code of Conduct****

EXECUTIVE SUMMARY:

The Council adopted the revised Code of Conduct on 27 June 2007.

To support the Code and provide more specific guidance in particular areas of activity, the Council has in place a number of local protocols. To ensure consistency with the revised Code, it is necessary to review the content of these protocols and amend where necessary.

The principle change necessary is to include the new provision which allows Members with a personal and prejudicial interest to address a committee (and then leave), provided the public have the same opportunity to make representations.

With regard to the Licensing Protocol, the proposed wording takes account of the current situation concerning the rights of a ward member to participate in hearings, highlighting the differences between the Licensing Act 2003 and the Gambling Act 2005. Members may recall that there was a formal Question submitted to Council, on 12 September 2007, seeking action to achieve consistency between the two Acts in this respect. It is hoped that representations made to the Local Government Association will result in the standardisation of procedures and the Protocol can then be further amended accordingly.

The main change for the Gifts and Hospitality Protocol is to have £25 as the amount above which declarations must be made and to include the additional responsibility for Members to declare, on their Register of Interests form, any gifts or hospitality received in the last three years.

With regard to the Grant Aid Protocol, as stated above the revised Code allows Members with prejudicial interests to make representations, when the public has the same right. As it is not the Council's current policy to have public participation on grant applications, this revision will not affect current procedures.

Attached as appendices are the following protocols:-

- (a) Protocol for Members of the Licensing & Regulation and Appeals & Disputes Committees
- (b) Protocol for Receipt of Gifts and Hospitality
- (c) Protocol regarding Members Participation in the Consideration of Grant Aid Applications from Local Organisations

For (a) and (c) above, tracked changes show where amendments to the wording are proposed, whereas the extent of changes to (b) makes it clearer to attach the existing and proposed versions as separate documents. The Committee is requested to consider the appendices and comment as appropriate. All three protocols will be submitted to Council for final decision.

For Members information, the Planning Protocol is not included in this report, because it will be first considered by Planning Development Control Committee Members and then referred to this Committee for comment on 3 December 2007.

RECOMMENDATIONS (to Council):

- 1 That, subject to any amendments the Committee may wish to make, the attached local protocols, as set out with track changes for Appendices A and C, together with Appendix B(ii), be approved :
- (a) Protocol for Members of the Licensing & Regulation and Appeals & Disputes Committees
 - (b) Protocol for Receipt of Gifts and Hospitality
 - (c) Protocol regarding Members Participation in the Consideration of Grant Aid Applications from Local Organisations

OTHER CONSIDERATIONS:

CORPORATE STRATEGY (RELEVANCE TO): An Efficient and Effective Council.

RESOURCE IMPLICATIONS: None

BACKGROUND DOCUMENTS: None.

APPENDICES:

Appendix A – Protocol for Members of the Licensing & Regulation and Appeals & Disputes Committees

Appendix B(i) – Protocol for Receipt of Gifts and Hospitality (current version)

Appendix B(ii) - Protocol for Receipt of Gifts and Hospitality (proposed version)

Appendix C - Protocol regarding Members Participation in the Consideration of Grant Aid Applications from Local Organisations

APPENDIX A

PROTOCOL FOR MEMBERS OF THE LICENSING & REGULATION COMMITTEE AND APPEALS & DISPUTES COMMITTEE

1. INTRODUCTION

- 1.1 The majority of the Council's decision-making processes are administrative in nature. Before arriving at a decision, Members are required to take all relevant factors into account, but the realities of political life and the existence of political groups are recognised. In such circumstances, it is entirely appropriate for wide-ranging discussion to take place between Members and others about the subject matter, and not merely in the decision-making committee itself.
- 1.2 However, the law recognises that there are certain circumstances when different procedures should apply. In some instances, the principles of natural justice have to be followed and the extent to which this is required can vary, according to the circumstances of a particular function. The basic principles of natural justice are as follows:
- (a) No person is to be a judge in his/her own cause.
 - (b) No person is to be dealt with without having the opportunity of putting his or her case.
- 1.3 The detailed application of the rules of natural justice only applies to certain decisions of a quasi-judicial or judicial character. These often relate to circumstances where an individual's legal rights and livelihood are affected. The processing of licensing applications by the Licensing ~~Sub-Committee~~ and Regulation Committee and appeals on matters affecting staff by the Appeals and Disputes Committee, are two instances where strict procedural requirements exist, because of the semi-judicial nature of the functions concerned. This note sets out guidance for Members on these Committees. The basic requirement is a duty to act fairly. Failure to comply with the principles could lead to a decision being set aside by a court or tribunal.
- 1.4 Different procedural requirements exist for Planning Development Control matters and separate guidance has been produced for this purpose.

2. PRINCIPLES FOR A FAIR HEARING

- 2.1 The overriding principle is that the Committee should be able to demonstrate that the person appearing before it has been given a fair hearing.

3. ELIGIBILITY TO SIT ON A CASE

- 3.1 In addition to the normal rules on declarations of interests, a Member has to consider whether there may be a perception of bias on their part. It does not matter whether there is actual bias – the test is “would a reasonable person think there could be bias?”. For example, in licensing cases is the Member a regular customer at the premises concerned? Ward Members will need to consider whether the public might perceive that they hold a particular view in advance of the hearing. In staffing cases,

does the Member have a particular working relationship with the individual that requires much closer liaison than with most other officers?

3.2 In such circumstances, Members should not take part in the decision-making process, and should not therefore sit on the Committee which determines the matter. However, a Member who cannot participate due to bias may (subject to the provisions on interests set out below and in Section 5) make representations to the Committee, provided the relevant procedural rules permit this.

3.3 Members should be aware that the revised Code of Conduct is also relevant to the question of whether a Member can participate in a hearing or meeting, either as a decision-maker, or as a person making representations. A Member having a personal interest in a matter should declare that at the start of the meeting. Where a Member has an interest which is personal and prejudicial, the general rule is that he/she should normally leave the room during the item.

3.4 However, provided the public has the right to address the Committee, the revised Code of Conduct allows Members with a prejudicial interest to attend the meeting for the purpose of making representations, answering questions or giving evidence ~~and address the meeting.~~ However, after making their representations or answering questions, ~~statement,~~ they must immediately leave the meeting room for the duration of the item whether or not the public are still in attendance. It should be noted here that the Appeals & Disputes Committee is always held in exempt session from the outset, so there is no public right to address the meeting. Members should not participate in that item of business. It will normally be appropriate to leave the room and will always be so in staffing cases. If the Member is advised that it is possible to remain then they should not sit with the rest of the Committee. The Member will have to leave when the Committee deliberates the merits of the case in private session.

3.3 Members who believe they may have predetermined the matter, or that they have a personal and prejudicial interest should therefore contact the Committee Administrator as soon as they are aware of it, so that another Member can be appointed to the Committee in their place. ~~Therefore, in making appointments to these Committees, regard should be had to the likely need for Members to withdraw from participation.~~ If this is likely to occur on a regular basis, then another appointment should be made.

4. OPEN MIND

4.1 Members need to show that they have come to the hearing with an open mind, and should make their decision based on the matters put before them at the meeting. They should not discuss the case before the meeting, either with the applicant, local residents or other Members (in the case of licensing hearings) or other members of staff or Members (in respect of Appeals and Disputes matters). They should not express a view on the merits of the case before the hearing. Group Meetings are not appropriate when dealing with individual cases. Members also need to be able to demonstrate that they have not influenced the way in which the officers present the cases before them. Briefings by officers in advance of the meeting are limited to either the ~~legal adviser~~ Monitoring Officer, or Head of Legal or Democratic Services, advising the Chairman on procedural points and not on the merits of the case. Finally, Members should not discuss or explain their deliberations after the meeting, save as part of the formal decision-making process where the reasons for the decision are set out.

5. LOBBYING AND THE REPRESENTATIONAL ROLE

- 5.1 Members should avoid any attempts by others to lobby them on particular cases. This could be by individuals or could arise at parish council or other community meetings. Members should normally point out the quasi-judicial nature of the proceedings and explain that they cannot enter into discussions.
- 5.2 In Appeals and Disputes cases, staff should be advised that they should approach their management, the ~~Personnel Department~~ Human Resources Division or their union.
- 5.3 With Licensing applications, Members should not accept invitations from individuals to discuss applications on site. Formal site visits should only be attended if they are arranged by the Council with officers present.
- 5.4 Licensing cases can pose a difficult problem for Ward Members and this has not been helped by the slightly different provisions about who can make representations, as set out in the Licensing Act 2003 and the Gambling Act 2005. Hopefully, the following will clarify the position.
- 5.5 For applications made under the Licensing Act 2005, representations can only be made by 'Interested Parties'. An Interested Party must live/run a business in "the vicinity". A Member who meets this criteria (e.g. a Member living very close to premises) will be an Interested Party and can therefore make written representations on application and can also appear at a Licensing Sub-Committee hearing, subject to complying with the Code of Conduct (see below). "Bodies" representing such residents/businesses are also "Interested Parties" and so chambers of commerce, parish councils, etc., would also be Interested Parties for applications in their area. Note however that as the reference is to representative bodies, individuals who represent such people (e.g. ward members) are not covered by the definition, as they are not representative bodies).
- 5.6 Guidance issued under the Licensing Act suggests that a Member can represent a person who is an Interested Party, provided that person asks the Member to do so. This representation could cover both submitting a written representation on an application on behalf of that person, as well as appearing for that person at a subsequent hearing (subject to the code of conduct rules). If a Member is acting in this capacity, they should where possible obtain a written request from the person concerned, to ensure compliance with the legislative requirements.
- 5.7 For applications made under the Gambling Act 2005, the definition of Interested Party is slightly different. It covers residents or businesses who are "sufficiently close to the premises to be affected by them, but also covers "persons representing [such residents/businesses]". The Gambling Act provisions are therefore wider, in that they include "people" representatives, as well as "body" representatives. This means that Ward Councillors can make representations and, subject to the Code of Conduct, appear at hearings, as a Ward Member (rather than a representative of a specific individual).

- 5.8 Hearings under either Act do allow an Interested Party to be represented, e.g. by a solicitor or other professional representative, or by any other person, such as a ward councillor. It is possible, therefore, in either case for a person who is an Interested Party (and who has made written representations on an application within the time limits) to ask their Ward Member to represent them at the hearing. The Member can then represent the constituent's views to the hearing (but a Member cannot use such an opportunity to make their own views known, unless these happen to be the same as the person being represented). Again, the Code of Conduct must be considered to decide how long you can remain in the room (see below).
- 5.9 With regard to the Code of Conduct, if a Member attends a hearing (either as an Interested Party, or as a representative of an Interested Party) and he/she has a personal and prejudicial interest, this must be declared. Previously, where this was the case, the Member would have had to leave the room and not take part. The revised Code allows a Member with a personal and prejudicial interest to remain in the meeting, but only for the purpose of making representations, answering questions or giving evidence relating to the business, and provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.
- 5.10 This would mean that even if a Member had a personal and prejudicial interest, they could still attend a hearing for the purpose of making representations, provided the public were also able to attend for this purpose, which is the case for Licensing Sub-Committee hearings. The Member should leave the room after they have made their representations and answered any questions.
- 5.11 As general guidance, for Licensing applications, it is considered that if a Member is an Interested Party because they live/run a business "in the vicinity", they will generally have a personal and prejudicial interest. For Gambling applications, a Member will have a personal and prejudicial interest if they are an Interested Party because they live/run a business "close to the premises". If, however, the Member is an Interested Party because they represent residents as a Ward Member (but are not otherwise affected by the application), then an interest will not exist. Where a Member has a personal and prejudicial interest (whatever their role in the proceedings), that interest should be declared, and he or she should leave the room as soon as they have completed their representations and answered any questions which the Committee may wish to ask. Normally, this would allow the Member to remain until the end of the hearing (prior to the Committee retiring "in camera" to deliberate on the application), but Members who have a personal and prejudicial interest and who are asked to represent constituents may wish to consider whether these rules would affect their ability to properly represent the Interested Party. In either case, where a Member is representing an Interested Party at a hearing, they may have a personal and prejudicial interest (depending on where the Member and/or his/her family live in respect to the premises and its effect on you/your family) but provided that interest is declared, the new rules would allow you to participate and represent the Interested Party.
- 5.12 Another option to all the above is to ask the resident to approach another Ward Member, or in the case of a single Member ward, to find a Member from another ward to help them. Alternatively, particularly, if there may be a public perception of bias or the Member has strong views on a matter, he/she may wish to present the case for the residents or applicant himself/herself.

~~In such cases the Member should give advance notice to the Chairman and City Secretary and Solicitor. The Member cannot sit on the Committee for that case but will be permitted to address the meeting in the part of the proceedings set aside for Ward Members. The Member will have to leave the meeting with the public when the decision is made.~~

~~5.65.12 Nothing in the above procedure would prevent the Member from sitting on the Committee for all other items on the agenda for that meeting, provided there was no similar interest.~~

6. PRESS STATEMENTS

6.1 In licensing applications, only the Chairman should make statements to the press prior to the hearing. Statements should be of an explanatory nature and not express a view on the merits of a particular application. After the hearing, Members should take particular care with any press statements due to the possibility of an appeal. In Appeals and Disputes cases, it will normally be inappropriate for Members to make any statements to the press because of the confidential nature of individual staff matters. Any enquiries received should be directed to the officers.

7. PROCEDURES AT MEETINGS

7.1 Detailed procedure notes exist for each Committee and these have to be followed. Members ask questions with all parties present but the debate and decision are normally held "in camera" when the parties have left the room. Members should maintain the confidentiality of the discussion and voting. The decision, and the reasons for it, will be announced by the Chairman when the parties are called back.

7.2 A Councillor must be present for the whole case. If a Member is late at a meeting then he/she will not be allowed to participate in that item. If a case is adjourned then the same Members must deal with it at a subsequent date. If a Member is not available, another Member cannot take their place.

8. WHEN IN DOUBT...

8.1 ~~Seek advice! The City Secretary and Solicitor~~Monitoring Officer or Heads of the Legal or Democratic Services or Divisions ~~his staff~~ will be happy to assist.

APPENDIX B (i)

PROTOCOL FOR RECEIPT OF GIFTS AND HOSPITALITY
(current version)

This Protocol is designed to provide local guidance for Members, when acting in their official capacity, which is in accordance with the Model Code of Conduct adopted by the Council. To provide Members with the correct context in which they should consider the advice given, the following extract from the Code is relevant:

- “1. - (1) A member must observe the authority's code of conduct whenever he -
- (a) conducts the business of the authority;
 - (b) conducts the business of the office to which he has been elected or appointed; or
 - (c) acts as a representative of the authority,

and references to a member's official capacity shall be construed accordingly.

- (2) An authority's code of conduct shall not, apart from paragraphs 4 and 5(a) below (*referring to disrepute and conferring an advantage*), have effect in relation to the activities of a member undertaken other than in an official capacity.

- (3) Where a member acts as a representative of the authority –

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

- (4) In this code, "member" includes a co-opted member of an authority.”

In summary, you must treat with extreme caution any offer or gift, favour or hospitality that is made to you personally. In all cases, you should bear in mind that the test is, would a member of the public, knowing the facts, reasonably think that you might have been influenced by the gift or hospitality received. To provide you with some additional guidance, set out below are examples of gifts and hospitality, together with the recommended response in each case:-

1 GIFTS

As a general rule, you are strongly advised to politely refuse any gift which you know or believe to be worth more than £25. If you are unable to refuse such a gift, you must record the details in the Register of Gifts and Hospitality and inform the City Secretary and Solicitor within 28 days. Any gift below this value but worth more than £10 also

should be recorded in the Register. Any gift worth less than £10 need not be recorded in the Register.

Examples of gifts could be:-

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| (i) pens, pencils, note pads, diaries and calendars (all of an inexpensive nature ie. less than £10 in value) imprinted with name of company or organisation. | If accepted these need not be recorded in the Register. |
| (ii) diaries, desk-tidy or stationery items of a more expensive nature (ie. between £10 and £25). | Caution is advised, but if accepted they must be recorded in the Register. |
| (iii) complementary tickets to events, liquor or spirits, special discounts or vouchers - all aimed at a Member in his or her official capacity. | Strongly advised that you politely decline. |

2 HOSPITALITY

This is often more difficult to assess in terms of actual cost and therefore Members will need to make a judgement, based upon common sense and reasonableness.

As a general rule, attendance in an official capacity at a function organised by a public authority or local non-profit-making organisation is acceptable, subject to the detailed guidance set out below. However, if a Member believes that the cost of providing the hospitality is over £25, it should still be declared and recorded in the Register.

In other circumstances, offers of hospitality should be treated with care. If a Member believes that the offer has been made with a view to exerting influence or to improve the standing of a private individual or firm in relation to current or future dealings with the Council, the offer should be declined. In addition, if a Member decides to accept hospitality and subsequently discovers that the reason behind such hospitality was to exert undue influence, then the Member should, as soon as practical after such hospitality has been received (but in any event within 28 days), give written notification to the City Secretary and Solicitor. Members should also, for their own protection, advise the City Secretary & Solicitor in the event that they are concerned about the underlying intention behind an offer of hospitality, even though such offers have been refused.

Examples of hospitality could be:-

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| (i) light refreshment (eg. coffee and biscuits) before, during or after site meeting, visits, presentations, opening ceremonies etc. | If accepted, there is no need to record in the Register. |
| (ii) lunch and/or evening meal provided as part of event by another local authority, Government body or body associated with the National Health Service. | If accepted, there is no need to record in the Register (unless thought to be over £25). |
| (iii) lunch and/or evening meal provided as part of a private sector sponsored conference or promotional event. | If accepted, this should be recorded in the Register. |

- (iv) as (iii) above plus overnight accommodation and additional meals.
- (v) lunch and/or evening meal as part of voluntary body AGM or committee meeting.
- (vi) as (v) above, but for a specific fund raising/lobbying purpose.

Caution is advised. If at all possible, this should be politely declined.

If accepted, there is no need to record in the Register.

Caution is advised, particularly if you sit on a committee which may be awarding grants to such bodies, but if accepted then record in the Register.

APPENDIX B (ii)

PROTOCOL FOR RECEIPT OF GIFTS AND HOSPITALITY
(proposed version)

This Protocol is designed to provide local guidance for Members - when acting in their official capacity - which is in accordance with the revised Code of Conduct adopted by the Council.

In summary, you must treat with extreme caution any offer or gift, favour or hospitality that is made to you personally. In all cases, you should bear in mind that the test is, would a member of the public, knowing the facts, reasonably think that you might have been influenced by the gift or hospitality received.

The revised Code has added an additional question to the Register of Interests form, requiring any gifts and hospitality worth £25 or over, received in connection with a Member's official duties during the past three years, to be entered on the form. A personal interest also has to be declared at any meeting when an issue arises relating to the gift donor/provider of the hospitality. As with all matters covered by the Register of Interests, any changes during the year to the information given should be notified to the Monitoring Officer or Head of Democratic Services as soon as possible by e mail, and a copy will be placed with the original Register form.

To provide you with some additional guidance, set out below are examples of gifts and hospitality, together with the recommended response in each case:-

1 GIFTS

As a general rule, you are strongly advised to politely refuse any gift which you know or believe to be worth more than £25. If you are unable to refuse such a gift, you must have the details placed in the Register of Interests, by informing either the Monitoring Officer or Head of Democratic Services within 28 days by e mail. The Code does not require any gift below this value to be recorded in the Register, although Members can still inform one of the above officers if they so wish.

If a Member also holds an office such as Mayor or Leader of the Council, it will sometimes be necessary to clarify whether the gift is made to the Member personally or to him/her as a representative of the Council. If the latter, the most appropriate course of action should be discussed with the Monitoring Officer or Head of Democratic Services.

2 HOSPITALITY

This is often more difficult to assess in terms of actual cost and therefore Members will need to make a judgement, based upon common sense and reasonableness.

As a general rule, attendance in an official capacity at a function organised by a public authority or local non-profit-making organisation is acceptable, subject to the detailed guidance set out below. However, if a Member believes that the cost of providing the hospitality is over £25, it should still be declared and recorded in the Register as set out above.

In other circumstances, offers of hospitality should be treated with care. If a Member believes that the offer has been made with a view to exerting influence or to improve the standing of a private individual or firm in relation to current or future dealings with the Council, the offer should be declined.

In addition, if a Member decides to accept hospitality and subsequently discovers that the reason behind such hospitality was to exert undue influence, then the Member should, as soon as practical after such hospitality has been received (but in any event within 28 days), give notification by e mail to the Monitoring Officer or Head of Democratic Services. Members should also, for their own protection, advise one of those officers in the event that they are concerned about the underlying intention behind an offer of hospitality, even though such offers have been refused.

Examples of hospitality could be:-

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|-------|---|---|
| (i) | light refreshment (eg. coffee and biscuits) before, during or after site meeting, visits, presentations, opening ceremonies etc. | If accepted, no need to record in the Register, as unlikely to exceed £25. |
| (ii) | lunch and/or evening meal provided as part of event by another local authority, Government body, body associated with the National Health Service, voluntary body AGM or committee meeting. | If accepted, there is no need to record in the Register (unless thought to be over £25). |
| (iii) | lunch and/or evening meal provided as part of event by voluntary body AGM or committee meeting, but for a specific fund raising/lobbying purpose. | Caution is advised, particularly if you sit on a committee which may be awarding grants to such bodies, but if accepted, no need to record in the Register (unless thought to be over £25 or if Member wishes to register). |
| (iv) | lunch and/or evening meal provided as part of a private sector sponsored conference or promotional event. | As (ii) above, but Members may still wish to register, even if below £25. |
| (v) | lunch and/or evening meal provided as part of a private sector sponsored conference, plus overnight accommodation and additional meals. | Caution is advised. If at all possible, this should be politely declined, but must register if accepted. |

APPENDIX C

**PROTOCOL REGARDING MEMBER PARTICIPATION IN THE CONSIDERATION OF
GRANT AID APPLICATIONS FROM LOCAL ORGANISATIONS**

1. Introduction

- 1.1 The Standards Board for England recognises that, from time to time, any Member who is active as part of the local community will become involved with local organisations. Indeed, the Modernisation Agenda encourages this 'cross-membership', not least because it can lead to more joined-up working to the benefit of councils, organisations and the community.
- 1.2 That involvement may range from a basic knowledge of the leading people in an organisation and its broad aims, to the Member being part of the management committee, perhaps occupying the position of chairman, secretary or treasurer.
- 1.3 Whatever the level of involvement, this Protocol aims to provide practical guidance to help Members determine the extent of their interest and the appropriate action to take in varying circumstances.

2 National Guidance

- 2.1 Firstly, reference should be made to the Members General Principles of Conduct (as contained in Part 5 of the Constitution) and particularly Numbers ~~1,2,3 and 6~~, those principles which respectively refer to serving in the public interest, situations where honesty or integrity may be questioned, decisions to be made on merit and Members making decisions based upon the issues before them.
- 2.2 Secondly, Members should have regard to the revised Code of Conduct, particularly Paragraphs 8, 9,10 and 12, which aims to balance the need to prevent conflict between public duties and private interests, whilst not unnecessarily obstructing Members in their work.
- ~~2.3 Finally, the Standards Board publication 'Lobby Groups, Dual-hatted Members and the Code of Conduct' is a useful publication which addresses a range of issues relevant to this matter.~~

3 Practical Examples

- 3.1 Having regard to the national guidance, ~~the advice in all the above documents~~, the following examples and suggested action cover some of the most likely situations in which Members will find themselves. ~~In the light of the most recent Standards Board guidance, the Protocol does not distinguish between whether or not the Member has been appointed to the body concerned as a Council representative, because it is now considered that the potential for conflict can arise in either case.~~
- 3.2 However, the revised Code of Conduct does distinguish between how certain types of personal interest are declared. ~~Another point to consider at the outset is whether~~ if the organisation(s) involved have been included in the Register of

Interests which each Member completes at the beginning of the Municipal Year then, with one exception, - At the very least, a personal interest must always be declared at the meeting in respect of these bodies. The exception is if the Member were appointed to that body by the Council, or it is a body exercising public functions (e.g. a Parish Council or NHS Trust) and there is no prejudicial interest, the Member need only declare a personal interest if he/she proposes to speak on the matter.

- 3.3 The following examples are based upon those situations where a Member sits on a committee determining applications for grant aid submitted by have been made from specific organisations for a specific project and are before a meeting for consideration/determination. They do not relate to decisions on broad policy issues (eg establishing the Council's policy on its administrative process for grants applications) as in those cases all Members may participate fully, having declared a personal interest if appropriate.
- 3.4 The first example is where an application comes before a meeting from an organisation about which a Member has knowledge in a general sense and perhaps has even met representatives of that organisation in the past whilst on other Council business (but never discussed specific grant aid). Nor does the Member belong to that organisation in any capacity. In all those circumstances, there is no need for any declaration of interest or to limit participation in the decision making process.
- 3.5 If a Member belonged to the organisation purely in an 'ordinary' capacity (eg was not an officeholder or otherwise active, and/or would not benefit more than many other local people through a grant) then it may be acceptable to participate fully in the decision. However, the test of what the reasonably informed member of the public may think must be applied. At the very least, declaring a personal (but not prejudicial) interest would be necessary if the Member wanted to speak and, in some circumstances it may be prudent to speak but not vote. If a Member was still uncertain and wished to avoid all doubt in the matter, then they should declare a personal and prejudicial interest and leave the meeting, subject to considering 3.6 below.
- 3.6 Where a Member is either an officeholder or otherwise clearly active in the organisation, then a personal and prejudicial interest exists and this should be declared. Provided the public has the opportunity to make representations to the meeting, then the revised Code allows the Member to make a statement about the application, after which they must leave the meeting, followed by leaving the meeting. It would not be acceptable for the Member to make any comments before leaving (even to clarify matters of fact), nor to sit in the public gallery, whether to speak as part of any public participation or simply to observe. However, as public participation relating to specific grant applications is currently not permitted, then this right cannot be exercised and the Member must leave the meeting without making any comment.
- 3.7 Where a Member does not sit on the committee but attends the meeting either as a Ward Member or an observer, similar considerations apply. A personal and prejudicial interest is not diluted by the fact that a Member does not sit on the committee that is hearing/determining the application – they should not be present in the meeting room in any capacity, except to make a statement should

| the public have the same right. Again, the ~~revised guidance~~ point about being a Council appointed representative making no difference should be borne in mind.

- 3.8 Members who do not sit on the committee and who have either a personal interest or no interest whatsoever, may attend to observe. At the discretion of the Chairman, they may also address the meeting regarding a grant application, having first declared any personal interest they may have—, but only if the Council's current policy explained in para 3.6 above is changed in the future.
