

Part 5 (i)

Codes and Protocols

PART 5 (i)

Members' Code of Conduct for Mid Sussex District Council

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Part 5 Section 1

Code of Conduct

Part 1

General provisions

Introduction and interpretation

1. (1) This Code applies to **you** as a member of the Mid Sussex District Council ('the authority'). It is your personal responsibility to comply with it. You should read this Code together with the general principles of public life on which it is based and which are set out at in Part 4 of the Code.
- (2) In this Code:

 'meeting' means any meeting of:
 - (a) the authority, the executive, any committees, sub-committee, joint committee, area or local committee;
 - (b) members in formal or informal meetings with other members and/or with officers relating to the business of the authority;
 'member' includes a co-opted member and an appointed member.
- (3) If you need guidance on any aspect of this Code you should seek it from the Monitoring Officer or Deputy Monitoring Officer.

Scope and offences

2. (1) You must comply with this Code whenever you act or appear to act in your official capacity, namely when you:
 - (a) conduct the business of the authority (including the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of the authority,
- (2) Where you act as a representative of the authority:
 - (a) on another authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

- (3) It is a criminal offence to fail, without reasonable excuse, to notify the authority's Monitoring Officer of a disclosable pecuniary interest (as defined in paragraph 4(1), to fail to disclose such an interest at a relevant meeting (where it is not registered or notified), to take part in discussions or votes at meetings, or to take a decision where you have a disclosable pecuniary interest. It is also an offence knowingly or recklessly to provide false or misleading information about pecuniary interests to the authority's Monitoring Officer.

General obligations

3. (1) You must treat others with respect.
- (2) You must not do anything which may cause your authority to breach any of the equality duties (as set out in the Equality Act 2010);
- (3) You must not bully any person;
- (4) You must not intimidate or attempt to intimidate any person who is or is likely to be a complainant or a witness, or involved in any investigation or proceedings about a complaint that a member (including yourself) has failed to comply with his or her authority's code of conduct;
- (5) You must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- (6) You must not:
 - (a) disclose information given to you in confidence by anyone, or Information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, unless:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made for the purpose of obtaining professional advice and the recipient agrees not to disclose the information to any other person; or
 - (iv) the disclosure is in the public interest, made in good faith and in compliance with the reasonable requirements of the authority;
 - (b) prevent another person from gaining access to information to which that person is entitled by law.
- (7) You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- (8) You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

- (9) You must, when using or authorising the use by others of the resources of your authority:
- (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes).
- (10) You must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- (11) When reaching decisions on any matter you must have regard to any relevant advice provided to you by the authority's Chief Finance Officer or the authority's Monitoring Officer, where that officer is acting pursuant to his or her statutory duties.
- (12) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Part 2 Interests

Disclosable pecuniary interests

4. (1) You have a disclosable pecuniary interest in any business of the authority where it relates to or is likely to affect, in relation to you, your spouse, civil partner or a person living with you as if spouse or civil partner ('the relevant person')
- (i) any employment, office, trade, profession or vocation carried on for profit or gain;
 - (ii) any payment or provision of any other financial benefit (other than from the authority) made or provided within the preceding 12 months in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a);
 - (iii) any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the authority under which goods or services are to be provided or works are to be executed and which has not been fully discharged.
 - (iv) any beneficial interest in land which is within the area of the authority;
 - (v) any licence (alone or jointly with others) to occupy land in the area of the authority for a month or longer;
 - (vi) any tenancy where (to your knowledge) the landlord is the authority and the tenant is a body in which the relevant person has a beneficial interest;
 - (vii) any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the relevant authority; and
- either:
- (a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

(certain words and expressions used in this list are defined in Regulations)

- (2) You have an interest which is a disclosable pecuniary interest as defined by section 30 of the Localism Act 2011 in any business of your authority where it relates to or is likely to affect anything listed in paragraph 4(1) but any

interest which your spouse or partner may have is only treated as your interest if you are aware that your spouse or partner has the interest.

- (3) Any such interest must be disclosed at the start of any meeting at which business relevant to the interest may be discussed or considered. When such an interest arises you must not, unless you have received a dispensation from the Monitoring Officer, take part in any discussion or vote in relation to such business and you must leave the room whilst the business is discussed.

Effect of disclosable pecuniary interests on participation

- 5.** (1) Where you have a disclosable pecuniary interest in any matter in relation to the business of your authority -
- (a) you must not participate, or participate further, in any discussion of the matter at any meeting, or participate in any vote, or further vote, taken on the matter at the meeting and must withdraw from the room or chamber where the meeting considering the matter is being held.
 - (b) you must not exercise functions in relation to that matter, and
 - (c) you must not seek improperly to influence a decision about that matter.

Personal interests

- 6.** (1) You have a personal interest in any business of your authority where
- (a) it relates to or is likely to affect:
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body of which you are a member or in a position of general control or management:
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);
 - (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;

OR

- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a person described in sub-paragraph (2) to a greater extent than the majority of other council tax payers, ratepayers

or inhabitants of your electoral division;

- (2) In sub-paragraph (1)(b), a relevant person is:
- (a) a member of your family or any person with whom you have a close association;
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

- 7.** (1) Subject to sub-paragraphs (2) to (5), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent, but only where you are aware or ought reasonably to be aware of the interest.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 6(1)(a)(i) or 6(1)(a)(ii)(aa), you need only disclose that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 6(1)(a)(iii), you need not disclose that interest if it was registered more than three years before the date of the meeting.
- (4) Where you have a personal interest but, by virtue of paragraph 13, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (5) Where you have a personal interest in any business of your authority and you have made an executive decision (as defined in regulations made under the Local Government Act 2000) in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

Prejudicial interests

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

it is likely to prejudice your judgement of the public interest.

- (2) You do not have a prejudicial interest in any business of the authority where that business:
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 6;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 4; or
 - (c) relates to the functions of the authority in respect of:
 - (i) housing, where you are a tenant of the authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; or
 - (vi) setting council tax or a precept.
- (3) The determining of any approval, consent, licence, permission or registration as referred to in paragraph 8(2)(b) shall include the amendment, modification, or variation of any such approval, consent, licence, permission or registration or any condition, limitation or term to which it is subject or the revoking of any approval, consent, licence, permission or registration.

Prejudicial interests arising in relation to overview and scrutiny committees

- 9.** You also have a prejudicial interest in any business before an overview and scrutiny committee of the authority (or of a sub-committee of such a committee) where:
- (a) that business relates to a decision made (whether implemented or not) or action taken by the authority's executive or another of the authority's committees, sub-committees, joint committees or joint sub-committees; and
 - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

- 10.** (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of the authority:
- (a) you must, unless you have obtained a dispensation from the Monitoring Officer, withdraw from the room or chamber where a meeting considering the business is being held:
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
 - (b) you must not exercise executive functions in relation to that business; and
 - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose.

Dispensations

- 11** (1) The standards committee, or any sub-committee of the standards committee, or the monitoring officer may, on a written request made to the monitoring officer of the authority by a member, grant a dispensation relieving the member from either both of the restrictions in paragraph 5(1)(a) and 10(1)(a) (restrictions on participating in discussions and in voting), in cases described in the dispensation.

- (2) A dispensation may be granted only if, after having had regard to all relevant circumstances, the standards committee, its sub-committee, or the monitoring officer –
- (a) considers that without the dispensation the number of persons prohibited by paragraphs 5 and/or 10 from participating in any particular business would be so great a proportion of the body transacting of the business as to impede the transaction of the business,
 - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
 - (c) considers that granting the dispensation is in the interests of persons living in the authority's area,
 - (d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by paragraphs 5 and/or 10 from participating in any particular business to be transacted by the authority's executive, or
 - (e) considers that it is otherwise appropriate to grant a dispensation.
- 3) Paragraph 5 and/or 10 do not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph.

Registration of Members' Interests

Registration of members' interests

- 12.** (1) Subject to paragraph 13, you must, within 28 days of:
- (a) this Code coming into force after being approved by the authority; or
 - (b) your election or appointment to office (where that is later), register in the authority's register of members' interests
 - (i) details of your personal interests where they fall within a category mentioned in paragraph 6(1)(a), by providing written notification to the authority's Monitoring Officer; and
 - (ii) disclosable pecuniary interests as defined in paragraph 4.
- (2) You must, within 28 days of becoming aware of any new personal or pecuniary interest or a change to any such interest registered under paragraph (1), register details of that new interest or change by written notification to the authority's Monitoring Officer.

Sensitive information

- 13.** (1) Where you consider that the information relating to any of your personal or pecuniary interests is sensitive information, and your authority's Monitoring Officer agrees, you need not include that information when registering that interest, or a change to that interest.
- (2) You must, within 28 days of becoming aware of circumstances which mean that information excluded under paragraph (1) is no longer sensitive, notify the Monitoring Officer so that the information is included in your authority's register of members' interests.
- (3) In this Code, 'sensitive information' means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or any person may be subjected to violence or intimidation.

Part 4

The General Principles of Public Life

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Honesty

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

Leadership

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

PART 5 (ii)

Officers' Code of Conduct

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1. Introduction

The public is entitled to expect the highest standards of conduct from all employees who work for local government. This Code outlines existing laws, regulations and conditions of service and provides further guidance to assist local authorities and their employees in their day-to-day work. The Code is produced in the light of the changes that employees face in the new and more commercially orientated environment. This includes the introduction and extension of compulsory competitive tendering (CCT), market testing, changes in the management of the education and housing services, care in the community, management buyouts, etc.

2. Status of the Code

The Code is voluntary for local authorities to adopt but sets out the minimum standards that should apply. The aim of the Code is to lay down guidelines for local government employees which will help maintain and improve standards and protect employees from misunderstanding or criticism.

The Code has been approved by the local authority associations in England and Wales and the Local Government Management Board (LGMB) in consultation with those bodies listed in Appendix B.

3. Who the Code is Aimed At

The Code applies to all local government employees in England and Wales.

Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than it will others. The Code is intended to cover all employees under a contract of employment within local government, including office holders such as registrars. Activities carried out by employees acting as members of companies or voluntary organisations should be subject to the minimum standards within this Code.

1.0 Standards

- 1.1 Local government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality. Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service.

Employees must report to the appropriate manager any impropriety or breach of procedure.

2.0 Disclosure of Information

- 2.1 It is generally accepted that open government is best. The law requires that certain types of information must be available to members, auditors, government

departments, service users and the public. The authority itself may decide to be open about other types of information. Employees must be aware of which information their authority is and is not open about, and act accordingly.

- 2.2 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a councillor which is personal to that councillor and does not belong to the authority should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required or sanctioned by the law.

3.0 Political Neutrality

- 3.1 Employees serve the authority as a whole. It follows they must serve all councillors and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected.
- 3.2 Subject to the authority's conventions, employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality.
- 3.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.
- 3.4 Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in paragraphs 3.1 to 3.3.

4.0 Relationships

- 4.1 Employees are responsible to the authority through its senior managers. For some, their role is to give advice to councillors and senior managers and all are there to carry out the authority's work. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

4.2 The Local Community and Service Users

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the authority.

4.3 Contractors

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition against other

tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

- 4.4 Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to the appropriate manager.

5.0 Appointment and other employment matters

- 5.1 Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.
- 5.2 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, etc.

6.0 Outside commitments

- 6.1 Some employees have conditions of service which require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the authority's interests.
- 6.2 Employees should follow their authority's rules on the ownership of intellectual property or copyright created during their employment.

7.0 Personal interests

- 7.1 Employees must declare to an appropriate manager any non-financial interests that they consider could bring about conflict with the authority's interests.
- 7.2 Employees must declare to an appropriate manager any financial interests which could conflict with the authority's interests.
- 7.3 Employees should declare to an appropriate manager membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.

8.0 Equality issues

- 8.1 All local government employees should ensure that policies relating to equality issues as agreed by the authority are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equality.

9.0 Separation of roles during tendering

- 9.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 9.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 9.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
- 9.4 Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.

10.0 Corruption

- 10.1 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made, it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

11.0 Use of Financial Resources

- 11.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

12.0 Hospitality

- 12.1 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the local authority in the community. Offers to attend purely social or sporting functions should be accepted only when they are part of the life of the community or where the authority should be seen to be represented. They should be properly authorised and recorded.
- 12.2 When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the authority.
- 12.3 Employees should not accept significant personal gifts from contractors and outside suppliers, although the authority may wish to allow employees to keep insignificant items of taken value such as pens, diaries, etc.

- 12.4 When receiving authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the authority may be taking affecting those providing the hospitality.
- 12.5 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the authority gives consent in advance and where decisions are not compromised. Where visits to inspect equipment, etc. are required, employees should ensure that authorities meet the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

13.0 Sponsorship – Giving and Receiving

- 13.1 Where an outside organisation wishes to sponsor, or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 13.2 Where the authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must 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.

GUIDELINES

1.0 Hospitality

- 1.1 Occasions when expenditure on Hospitality can be incurred:

Directorate, and other Officer meetings within and outside the Council's Oaklands Campus including working lunches.

Meetings between Officers and other parties, i.e. Officers from other Councils, Members, Consultants, Contractors, etc.

Candidates for interview for posts graded over Grade MP02.

N.B. Where hospitality is provided to other parties this must be noted in the relevant Directorate's Register of Official Hospitality Given.

- 1.2 Each Directorate should have a Budget for Hospitality separate from Subsistence and the hospitality given should be on a scale appropriate to the circumstances, reasonably incidental to the occasion and not extravagant. All expenditure should be substantiated with either VAT receipts or Internal Invoices from the Council.

2.0 Receipt of Hospitality or Gifts by Employees of the Council

2.1 Introduction

- 2.1.1 The following guidelines supplement the law, the Council's standing orders and the code of conduct in the National Scheme of Conditions of Service. Officers are reminded of the opening sentence of paragraph 2 of the National Scheme of Conditions of Service which is as follows:
 - 2.1.1a "Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained.
 - 2.1.1b Local codes of practice will be developed to cover the official conduct and the obligations of employees and employers."
- 2.1.2 To a large extent the reputation of Local Government depends on the conduct of its officers who are expected to use common-sense in assessing any situation where improper influence could be construed. Officers should not, therefore, do anything which could give rise to accusations of improper influence and which could not be justified publicly.
- 2.1.3 These guidelines are intended to assist officers to reach the right decision in any particular case relating to the receipt of hospitality or gifts. If a member of staff is in any doubt about the right course of action to take they should always seek the advice of their Chief Officer.

2.2 Hospitality

- 2.2.1 There should be no cause for concern regarding the offer of hospitality if it is made by another non-commercial public body but in all other cases, hospitality must be treated with caution.
- 2.2.2 All offers of hospitality where any suggestion of improper influence is possible must be refused. Special caution is necessary where hospitality is offered by a person or body having business with or seeking a decision from the authority.
- 2.2.3 Hospitality should only be accepted where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion and not extravagant and where it is apparent that no cause could reasonably arise for adverse criticism about the acceptance of hospitality. The acceptance of hospitality should not be seen as placing an obligation on officers to reciprocate.
- 2.2.4 The circumstances and type of hospitality provided in such circumstances must be recorded in the relevant Directorate's Register of Gifts and Hospitality Received.
- 2.2.5 The following are examples of hospitality which is acceptable and that which is not:

Acceptable

- a. An offer of a drink following a site inspection
- b. Invitation to attend functions where you represent the Council (e.g. dinners where the member of staff is the guest speaker, opening ceremonies, trade shows, etc.) or to functions which are attended in an official capacity by virtue of professional position and/or in furtherance of good public relations locally.
- c. Hospitality offered by other public bodies, except in commercial circumstances.
- d. A working lunch of a modest standard provided to enable the parties to continue to discuss business.
- e. Invitation to join other company guests as a spectator at a cricket match, rugby match, race meeting or other sporting event.
- f. Invitations to social events offered at Conferences of local authority associations or an officer's professional body.

Unacceptable

- a. Cabarets or offers of hotel and tickets for theatre in London or elsewhere.
- b. Personal invitations to have evenings out with representatives from a company or firm who have dealing with the Council.
- c. Holidays or use of a company flat.
- d. When there is a matter at issue, then offers of hospitality should not be accepted, even though they normally would be i.e.:

Hospitality should not be accepted from a Council contractor 6/12 months prior to the re-negotiation or re-tendering of a Contract.

2.3 Gifts

- 2.3.1 There is little doubt that the acceptance of gifts by officers of the Council from persons who have, or may seek to have, dealings with the Council would be viewed by the public with grave suspicion and would make both the officer concerned and the council extremely vulnerable to criticism. Officers should, therefore, tactfully refuse any personal gift which is offered to them or to a member of their family by, or indirectly attributable to any person or body who has, or may have dealings of any kind whatsoever with the council or, who has applied, or may apply, to the Council for any planning or other kind of decision.

- 2.3.2 The only exceptions to this rule are:
- a. Small gifts of only a token value often by way of trade advertisements to a wide range of people, e.g. calendars, diaries, tape measures and similar articles, or
 - b. Small gifts of only a token value given on the conclusion of a courtesy visit, e.g. to a factory or other premises, or
 - c. Small gifts of only a token value given for the provision of some personal service, e.g. by grateful customer to Benefits Section, or
 - d. Small gifts where the officer concerned and also perhaps the officer's spouse are personal friends of the donor and where refusal would be regarded as impolite. In such cases, however, whilst the gift may be accepted it should be explained to the donor the problems of accepting such gifts so as to ensure that a difficult situation does not arise.
 - e. Small gifts of only token value given away free at conferences, etc.
- 2.3.3 If there is any doubt about whether a gift may be accepted the gift should be politely and tactfully refused.
- 2.3.4 Officers are reminded that under the provisions of Section 117 of the Local government Act 1972 they are forbidden under the colour of their office and employment to accept any fee or reward other than their proper remuneration and any person who contravenes this provision would be liable on summary conviction to a fine not exceeding £200. Proper remuneration includes any fees payable to an officer under their conditions of service as approved by the Council's Employment Committee.
- 2.3.5 In the event of an officer receiving a gift without warning, which does not fall into any of the exceptions mentioned about, the officer should immediately report this to their Chief Officer who will be responsible for deciding whether the gift should be returned or whether it could be forwarded to some charitable or other deserving cause. In such cases, the Chief Officer concerned should inform the donor what has happened to the gift and explain why and ask if he/she will kindly not send gifts in the future.
- 2.3.6 In all cases gifts received should be noted in the relevant Directorate's Register of Gifts and Hospitality Received.

PART 5 (iii)

Protocol for Member and Officer Relationships

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1. THE ROLE OF MEMBERS

1.1 Members have a complex role. They are required to act simultaneously as:

- **Politicians** – Members usually belong to a political group that is represented on the Council. Members will express their political values and support the policies of their political group;
- **Representatives** – Members must interpret and express the wishes of the electorate and account for the service priorities, allocation of resources and ultimate performance of the Council. Members may also become involved in the affairs of individual ward residents; and
- **Council members and Members of the Cabinet and of Scrutiny Committees** – Members are individually and collectively responsible for the performance, developments, continuity and overall well being of the Council. In this executive role, members should avoid becoming involved in the detail of individual cases where this is likely to compromise their collective responsibility to protect the Council's interest.

2. THE ROLE OF OFFICERS

2.1 The role of each officer is dependent upon their specific job description. However, in broad terms Council officers have the following main roles:

- **Service Managers** – Officers must manage the services for which the Council have given them responsibility. They are accountable for the efficiency and effectiveness of those services and for proper professional practice in discharging their responsibility;
- **Professional Advisors** – Officers must advise the Council, its committees and members in respect of their service area;
- **Policy Managers** – Officers may initiate policy proposals as well as being implementers of agreed policy; and
- **Legal Advisors** – Officers must ensure that the Council always acts in a lawful manner.

3. MEMBERS AND OFFICERS – THE PROFESSIONAL RELATIONSHIP

What Officers can expect from Members

3.1 Members and officers have very distinct roles. In carrying out these roles Council officers can expect that Members **will**:

- endeavour to maintain a relationship of mutual trust and respect between each other and members and officers;
- treat all Officers with dignity and courtesy;

- provide support and appropriate confidentiality;
- only ask Officers to provide advice on matters that clearly arise from being an elected Councillor; and
- at all time comply with the Mid Sussex Code of Conduct; and
- that Members **will not:**
- ask Officers to breach Council procedures or policy when acting on behalf of constituents;
- seek special treatment for themselves or any individual. For example requesting a renovation grant for a relative. (When dealing with Council officers, members must declare any special relationships with constituents);
- put pressure on an Officer on matters which have been delegated for Officer decision. A Member who behaves in this way may lead officers to make decisions that are not objective and that cannot be accounted for;
- bring undue influence to bear on an Officer to take any action that is a breach of the disciplinary code for employees or in conflict with standing orders or financial regulations; or
- raise matters relating to the conduct or capability of an individual Council Officer or Officers collectively at meetings held in public.

What Members can expect from Officers

3.2 Council officers are to provide advice and information to members and to implement Council policy, therefore members can expect that Council officers WILL:

- pursue every known lawful policy of the Council;
- serve all Members, not just those of the majority group;
- avoid close personal familiarity with Members;
- behave in a professional manner in all aspects of their job;
- deal with Member enquiries effectively and efficiently;
- be helpful and respectful to Members;
- maintain confidentiality, except where it is proper for the officer to disclose the matter;

- notify the relevant Member where the officer is unable to respect that member's wish that a matter be kept confidential;
- report to their service heads any time that a member asks or pressures the employee to deal with a matter outside of Council procedure or policy;

and that Council officers WILL NOT:

- allow their own personal or political opinions to interfere with their work;
- disrupt any Council meetings;
- seek to influence Members prior to any appointment;
- raise personal matters to do with their jobs directly with Members;
- improperly disclose information received from a Member;
- conceal any information which it is proper for them to disclose (particularly where they have a duty to reveal it); or
- raise matters of conduct or capability of a Member at a public meeting.

Council Officers shall be Politically Neutral

- 3.3 Officers will only attend political group meetings on request but cannot be instructed to do so.
- 3.4 Officers who do attend must make any information available to the majority party group also available to the minority party group on request.
- 3.5 Officers must not be asked to meet with or advise a caucus of Members who have no locus within the decision-making process.
- 3.6 Discussions between Officers and Members on policy issues are quite proper and officers may wish to seek political guidance in framing policy proposals. However when Officers write committee reports for member decision, they have a duty to give the advice dictated by their professional expertise.
- 3.7 Therefore Members must not seek to influence the content of reports to committee and party political groups have no right to rewrite Officer reports or instruct on their content.
- 3.8 Although Officers must report as they see fit, Members are equally entitled to reject proposals and recommendations which are put to them.

Chief Officers, Heads of Service, Members of the Cabinet and Chairman of Committees

- 3.9 Heads of Service and Chief Officers are expected to work closely with members of the Cabinet, committee chairman and their deputies, and to meet regularly with them.
- 3.10 Members of the Cabinet may have individual decision-making powers under the Council's scheme of delegation. Officers must only act under the delegated authority of a Member of the Cabinet where that member has followed the correct decision making procedure and can support his or her decision with an appropriate written report.
- 3.11 Committee decisions will not be made by the chairman alone but by the committee. The chairman should not seek to influence a director to reduce the options or withhold information which he should properly report to a committee.

4. MEMBERS AND OFFICERS – MEMBERS' ENQUIRIES

- 4.1 100% of members' enquiries will be dealt with and responded to within 7 working days.
- 4.2 Each Chief Officer/Head of Service is responsible for ensuring that member enquiries are dealt with promptly and accurately in their directorate.

5. MEMBERS AND OFFICERS – E-MAIL CORRESPONDENCE

- 5.1 It is important that members and officers have a clear idea of the arrangements pertaining to the use of e-mail for correspondence. Council Members are encouraged to use their computers to communicate with the Council. Officers will update Members on casework progress via e-mail.
- 5.2 E-mail correspondence will be treated in exactly the same way as formal letters. That is, enquiries by Members through e-mail will be acknowledged within 2 days and replied to within 7 working days of receipt by the officer.
- 5.3 When Members and Officers contact each other, they will afford each other the same courtesy that they would expect to receive.
- 5.4 Officer's names are listed in the global address book in exactly the same way as member's names are, i.e. first name and then surname. Unless otherwise agreed, Members names are followed by the title "Councillor".
- 5.5 The same courtesy as that when addressing letters should be used when communicating via e-mail. For example, 'Dear (Officer's name or Councillor ...' when starting the communication and finishing with an electronic signature which should state full name and contact details including the title "Councillor" in order to make officers aware of ones position.

6. PERSONAL RELATIONSHIPS

Between Members

- 6.1 Members must not seek to influence or pressure any other member to confer any advantage or benefit upon themselves or any other person.
- 6.2 Members must not sit on the same recruitment panel or disciplinary panel as another member who is their partner or relative, or otherwise where the Member's relationship with another Member would jeopardise the work of the Council.
- 6.3 Members must treat each other with respect. Robust debate on policy issues and the expression of strong political differences, which can be expected, should not extend to personal abuse or to allusions or allegations likely to give personal offence. The Chairman will intervene whenever they consider that this boundary has been crossed.

Between Members and Officers

- 6.4 Mutual respect between Councillors and Officers is essential to good local government. Close personal familiarity between individual members and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.
- 6.5 It is not enough to avoid actual impropriety. Members must avoid any occasion for suspicion and any appearance of improper conduct.
- 6.6 Members must declare to the Chief Executive any relationships with an Officer, which might be seen as influencing their work as a member. This includes any family, business or sexual relationships.
- 6.7 Officers also have a duty to declare any such relationship to their manager.
- 6.8 The Chief Executive will advise both the Member and the employee of the need to avoid creating any appearance of improper conduct on their part.

PART 5 (iv)

Codes of Practice for Planning Applications

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Protocol for Planning Applications

1. Planning applications tend to be high profile and sometimes controversial with strongly held beliefs either for or against.

Planning applications can also involve large sums of money. As a consequence of the above many of the complaints about Members being in breach of the Members' Code of Conduct arise from issues surrounding planning applications. Members should think very carefully and take advice on possible interests when an applicant is in anyway known to them or the application relates to a site close to where they or a member of their family have a land interest. Where a planning application will affect the financial position of a member or that member's family it is probable the Members' interest is a prejudicial interest and they will not be able to take part in the discussion on the planning application or vote. Members with a prejudicial interest may speak to senior officers about the planning application but should not try to affect the views of fellow councillors. A Member with a prejudicial interest can speak for 2 minutes at an Area Committee or Three Minutes at the District Committee in the same way as a Member of the public but must then leave the room. The Code of Conduct applies to all members in the room and not just to those serving on the committee.

2. Planning is a quasi-judicial function and therefore the rules about predetermination and bias apply to members of planning committees.

Those who are members of the planning committee must come to the committee with an open mind still able to take on board the advice from officers and the views of fellow members before reaching a final decision on a planning application. If a member is also a member of the relevant town or parish council they do not automatically have any interest under the Members Code of Conduct as the result of the membership of that parish council but they should ensure that any views they state at the parish council are clearly provisional views pending the receipt of all the papers and the debate of their fellow councillors at District Council level. Predetermination is when a member has decided an application before the matter reaches committee. This is not the same as predisposition. In predisposition a member might have expressed views either for or against a particular type of planning development but not in relation to any particular development. Once a planning application is with the planning section for some particular development it is best for planning committee members not to express any public view on the matter but simply to listen to the representations being made to them and inspecting the site without further comment. Bias is where a reasonable person knowing all the facts would believe that the member was either for or against an application than an ordinary member of the public by reason of their past association or past statements about a particular matter e.g. former membership of the applicant organisation.

A member taking part in a committee where they are predetermined or there are past actions indicating bias are likely to invalidate any decision taken by the committee which could cause a financial loss to the Council.

3. Controversial Planning Applications in your Ward.

Where a ward member is also a member of the relevant planning committee they must choose at an early stage in the process whether they wish to act as ward member and promote or oppose the application or whether they wish to remain silent on the application until it reaches the relevant planning committee. It is not possible

to do both because if you start expressing views in public you will have predetermined the application. A ward member who is not a member of the planning committee or who chooses to step down from the planning committee on that particular application can, with the consent of the chairman, speak for an unlimited amount of time about the application prior to the debate of the members of the committee. For the most controversial of applications this is probably a sensible course of action.

4. Delegated Decisions.

Most decisions where the net gain in the number of houses is nine or less will be delegated to planning officers for decision. Where however the applicant is closely associated with the Council those applications do have to go to committee. A member can call in planning decisions for consideration by the relevant planning committee if they think there is a relevant planning matter to discuss. This planning matter must be set out in a written submission received before the end of the public notice period supported by a second councillor. In expressing this opinion members must ensure that they simply ask the committee to consider relevant planning matters and do not indicate their particular view on the application at that stage. The rules of predetermination apply to such correspondence because it is made public on the public file of the relevant application. The Cabinet member for Housing and Planning shall have power to rule out any call in following discussion with all concerned.

5. Meetings With Applicants, Developers And Objectors and Site Visits.

Under new LGA guidance members are encouraged to be involved in pre-application discussions with developers. They should ensure that these are conducted in accordance with the training given and with officers present. Members should avoid individual meetings with developers and applicants and if such meetings do take place members should avoid expressing their own views on the application but merely listen to the views and give basic advice on the planning procedures. Similarly, members should listen to what objectors have to say and take on board this information alongside all the other information provided. At site visits members should only enter any property with the consent of the landowner and simply view the application from the site itself and from any neighbouring property without further comment.

6. Gifts.

Members should decline any gifts from applicants who have made or are about to make planning applications. If it is impossible to refuse a gift without causing offence the best course of action is to donate that gift to the Chairman's charity. Gifts received and retained over £40.00 need to be registered with the Chief Executives PA.

7. Deciding Applications.

Applications must be decided in accordance with relevant planning policy and other material planning considerations. Other material planning considerations include the site history and in particular previous inspector's decisions on the site (and in particular what is deemed to be acceptable) and the economic benefits a particular planning investment may bring new homes bonus or business rates or the contributions under a section 106 obligation. Members should balance the perceived drawbacks of an application against the perceived benefits and reach a conclusion

by weighing these factors up. Members should not refuse an application simply because there is a reason to refuse it. When deciding an application against officer advice members should be clear of the reasons for refusal or alternatively the reasons why they wish to permit the application. Applications can not be refused or permitted for non planning reasons.

8. Discussions following the Committee.

Once a planning committee has taken the decision members should avoid publicly commenting on that decision even if they do not share the view of the majority of their fellow members.

9. Officer's Advice.

Officers give their advice to the planning committee in accordance with the Royal Town Planning Institute's Code of Professional Conduct. Members should not pressurise officers to change this professional advice.

10. Planning and Licensed premises.

Members should not seek to duplicate licensing controls through the use of planning conditions. Such conditions are more appropriately imposed as conditions of the Premises Licence under the Licensing Act 2003.

Protocol for Involving Members in Pre-Application Discussions

Introduction

1. Pre-Application negotiations between applicants, their agents and the Council are encouraged in order to achieve the best planning outcome for all. These negotiations may continue after determination of an application if there are reserved or outstanding matters or amendments to be dealt with. The advice note provides guidance for Members on their role in pre-application work and is based on "Positive Engagement- a guide for planning councillors" (Planning Advisory Service). This advice note should be read in conjunction with that guide, which is attached below.
2. Some applications will benefit from the involvement of Members of the Council and this protocol provides clear guidance regarding this involvement. This will help improve the quality of planning applications and help speed up the process.
3. In addition, Members may want to be involved with smaller applications and this protocol also applies.
4. Case Officers will need to notify the relevant Members when they receive a pre-application query, in relation to a major proposal and other proposals that they consider may be of interest to Members. The relevant Members are the Ward Member(s) and Members of the Development Control Committee responsible for other areas. Members attending pre-application discussion must have attended a training session on conduct at pre-application discussions.

Attendance of Councillors at Meetings with Developers

5. Members of the Council, where necessary, can attend pre-application meetings with developers, about major applications, but only when at least one officer is present. Generally however, there will need to be more than one officer present to enable accurate notes to be made of the meeting.
6. The timing of these meetings will be carefully considered; involvement at an early stage will be essential. For certain application involvement at other stages would be beneficial and a schedule of involvement may need to be agreed with developers.
7. At the start of the meeting the officer will make it clear that the role of the Member is to listen to the discussion, identify issues that the developer will need to consider and represent community interests but that it will not be possible for the Member to enter into negotiations or express a view on the proposal as they need to balance all material considerations before reaching a decision on an application. It will be made clear that the reason for this is to ensure that a Member does not pre-determine their position at any subsequent Councillors meeting.
8. If at any point in the discussions, the developer presses the Member to take part in negotiations or express a view, the officer will remind the meeting of the role of the Member.

9. The Officer will, within 10 days of from the date of the meeting, produce detailed notes of the meeting. This will note those present, the issues identified at the pre-application discussions, and the actions to be taken. These notes will be circulated for approval to those Members who attended and after confirmation of accuracy by all those who attended, forwarded to the applicant.

Presentation of Pre-application proposals by developers to Development Control Committees.

10. If a proposal is particularly significant or has more than just local implications a developer will be invited by officers to make a presentation to Members of the Development Control Committee, together with the appropriate ward member(s). Generally this will not be a public meeting.
11. A developer will be advised of the time available for their presentation and will be expected to keep strictly to this programme. There will always be an officer(s) in attendance at the presentation.
12. At the start of the presentation, the Chairman of the Development Control Committee will make it clear that Members will listen to the presentation, will identify issues that the developer will need to consider further, represent community interests and ask questions but that it will not be possible for Members to enter into negotiations or express a view as they will need to balance all material considerations before reaching a formal decision on an application. It will be made clear that the reason for this is to ensure that a Member does not pre-determine their view.
13. If at any point the developer presses for a view from, or seeks to negotiate with Members, the Chairman will remind everyone present of the role of Members.
14. Member will each fill in the form below before leaving the presentation to state whether they have or have not pre-determined their view.
15. After the presentation the officer will make a detailed note of the presentation and discussion within 10 working days. The developer should provide the officer with any presentation material to assist with this. This minute will be placed upon a public file.

“Positive Engagement - A guide for planning councillors” (Planning Advisory Service) encourages Councillors to involve themselves in discussion with developers, their constituents and others about planning matters. Difficulties can be avoided if Councillors follow the general advice:

Councillors should

- ◆ Always involve officers and structure discussions with developers
- ◆ Inform officers about any approaches made to you and seek advice
- ◆ Familiarise yourself with your authority's Code of Conduct and follow it when you are representing your authority
- ◆ Keep your register of interests up to date and follow your local authority's planning code
- ◆ Be aware of what predisposition, predetermination and bias mean in your role – ask your monitoring or planning officer and refer to the advice on Predetermination, Predisposition and Bias if unsure
- ◆ Be prepared to hold discussions with an applicant and your officers before a planning application is made, not just after it has been submitted to your authority
- ◆ Preface any discussion with disclaimers; keep a note of meetings and calls; and make clear at the outset that discussions are not binding
- ◆ Be aware of what personal and prejudicial interests are – refer to your monitoring officer and the Standards Board's website if you are unsure
- ◆ Recognise the distinction between giving advice and engaging in negotiation and when this is appropriate in your role stick to policies included in adopted plans, but also pay heed to any other considerations relevant to planning
- ◆ Use meetings to show leadership and vision
- ◆ Encourage positive outcomes
- ◆ Ask for training from your authority in probity matters
- ◆ Recognise that you can lobby and campaign but that this may remove you from the decision making process
- ◆ Feed in both your own and your local community's concerns and issues
- ◆ Be aware that you can engage in discussions but you must have and be seen to have an open mind at the point of decision making

Councillors Should Not:

- ◆ Use your position improperly for personal gain or to advantage your friends or close associates

- ◆ Meet developers alone or put yourself in a position where you appear to favour a person, company or group – even a ‘friendly’ private discussion with a developer could cause others to mistrust your impartiality
- ◆ Attend meetings or be involved in decision-making where you have a prejudicial interest under the Model Code of Conduct – except when speaking when the general public are also allowed to do so
- ◆ Accept gifts or hospitality
- ◆ Prejudge or be seen to prejudge an issue if you want to be a decision maker on a proposal
- ◆ Seek to influence officers or put pressure on them to support a particular course of action in relation to a planning application
- ◆ Compromise the impartiality of people who work for your authority
- ◆ Invent local guides on probity in planning which are incompatible with current guidance – look for commonly held and common sense parallels in other authorities or the principles set out in national guidance

Form to be Completed by Members

Member Involvement in Pre-Application Discussions

Pre-Application reference:

Proposal

Site

Meeting/Presentation

Date

Name of member

This is to certify that **I have not pre-determined** my views on the above proposal

Signature of Member

This is to certify that **I have pre-determined** my view of the above proposal

Signature of Member

PART 5 (v)

Council's Complaints Procedure

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MID SUSSEX DISTRICT COUNCIL - COMPLAINTS PROCEDURE

1.0 INTRODUCTION

- 1.1 This complaints procedure will apply to all complaints received by the Council, irrespective of the subject of the complaint or the area of activity covered save for complaints about member conduct which should be addressed to the Monitoring officer.
- 1.2 The objective of the procedure is to ensure that all complaints are dealt with in a fair, consistent and thorough manner and where complaints are found to be justified to remedy the situation and as far as practicable resolve the issue to the satisfaction of the complainant. It is important that all responses to complainants should be written in a constructive manner, even if we cannot resolve the issue concerned.
- 1.3 A complaint for the purposes of this Complaints Procedure is an expression of dissatisfaction about the actions or lack of actions by the Council or its staff affecting an individual or group. Complaints do not cover requests for a service, requests for information or explanation of Council policy, practice or actions taken, or matters for which there is another right of appeal (an appeal within the Council or to an independent inquiry or tribunal) or a legal remedy.
- 1.4 The procedure does not cover the exercise of professional judgement by an officer in the grant or refusal of planning permission, or a decision taken by a planning Committee on a planning application. The procedure shall apply on matters relating to planning applications where it is alleged that there has been some failure of the Council's procedures. If the nature of the complaint is such that it cannot be agreed whether the complaint should be dealt with under the procedure, the Council's Monitoring Officer shall determine whether the procedure should apply. If it is decided that the procedure should not apply, the complainant will be given every assistance in pursuing his/her complaint via the Ombudsman.
- 1.5 The procedure is intended to cover the Council's relationship with those outside the organisation and will not therefore cover complaints from members of staff concerning their employment, which will be dealt with in accordance with the Council's employment policies and procedures.
- 1.6 The Complaints Officer for the purpose of this Complaints Procedure will be the Business Unit Leader for Customer Service and Communications.
- 1.7 The Complaints Officer shall maintain a register of all complaints received and shall enter in the register details of the complaints, results of the investigations and steps taken as mentioned in paragraph 5.2 below.

2.0 REGISTERING A COMPLAINT

- 2.1 Where it is not possible to immediately resolve a complaint (see paragraph 2.4 below) and to ensure that all complaints are fully investigated and that there are no misunderstandings as to the circumstances, it is important that all complaints are in writing. Complaints may be received on the complaints form issued by the Council, in the form of a letter, or received from a Member of the Council on behalf of a complainant. Complaints may also be submitted by e-mail or on-line, via the Council's website. Where requested by the

Complainant to do so, a complaint may be written out for the complainant by a member of the Council's staff (see 2.3 below).

- 2.2 Where a complaint is received orally initially, either in person or over the telephone and unless the complaint can be resolved to the satisfaction of the Complainant as described in 2.4 below, the potential complainant will be asked to put the complaint in writing. The complainant should be asked whether they would wish to be sent a complaint form to complete. If they do wish to be sent a form this should be supplied either immediately if they are complaining in person, or by the end of the next working day if it is requested over the telephone. A reply paid envelope should be supplied where a form is sent to the complainant or where the form is taken away for later completion.
- 2.3 Council staff will give every assistance to the member of the public making the complaint and will write the complaint out for the complainant if requested to do so and will submit it on behalf of the complainant. Where possible, the staff member will agree the wording of the complaint with the complainant, before it is submitted.
- 2.4 Where it appears to the person receiving an oral complaint that it may be possible to resolve that complaint without the need to take further formal steps, the staff member will take all possible action to attempt to resolve the complaint to the satisfaction of the complainant. If it is not possible to resolve the complaint in this way, the action in 2.2 above will be followed.

3.0 ACTION ON RECEIPT OF A COMPLAINT

- 3.1 On receipt of a complaint in writing, the matter will be referred to the Business Unit Leader responsible for the service concerned. The Business Unit Leader (BUL) will fully investigate the complaint and compile a report.
- 3.2 Upon the receipt of a complaint the Business Unit Leader will send a letter of acknowledgement to the complainant and will **within one working day** submit a copy of the complaint received to the Complaints Officer who will maintain a register of complaints received.
- 3.3 Where the complaint is received via the website the Complaints Officer will acknowledge the complaint on behalf of the BUL and forward the complaint to them for action as stated above.

4.0 ACTIONS TO BE TAKEN FOLLOWING REGISTRATION OF A COMPLAINT

- 4.1 Immediately upon receipt of the complaint the Business Unit Leader or Complaints Officer will acknowledge in writing that it has been registered and is being investigated. In no circumstances should this acknowledgement be given later than **three working days** following receipt of the complaint. Where the complaint has been received via a Member of the Council, a copy of the letter of acknowledgement should also be sent to that Councillor.
- 4.2 The Business Unit Leader should endeavour to ensure that the investigation is completed and report compiled **within ten working days** of the registration of the complaint. Where due to the complexity of the matter or other factors beyond the control of the Business Unit Leader it appears that it will not be possible to complete the investigation within this timescale, the officer shall

write to the complainant explaining the circumstances and the reason for the delay, giving a target date for completion. Where the complaint relates to the Freedom of Information Act, the Business Unit Leader will liaise with the Solicitor to the Council and Monitoring Officer as part of the investigation.

- 4.3 From the information obtained, the Business Unit Leader shall determine whether the complaint was justified either in whole or in part and shall decide what action, if any, is required in the circumstances. In exceptional circumstances he/she may carry out further investigation of the matter should it be considered necessary. If this will delay the result of the investigation being given, written notification shall be sent to the complainant and copied to the Complaints Officer.

5.0 NOTIFICATION TO COMPLAINANT

- 5.1 The Business Unit Leader shall inform the complainant of the result of the investigation and any steps to be taken as a result of the report within **three working days** of resolution. If the complaint was received via a Member of the Council, the Member concerned will also be notified. A copy of the letter to the complainant shall also be sent to the Complaints Officer.
- 5.2 Where steps have been taken to rectify the complaint, these steps shall be clearly specified in the written response to the complainant. Similarly if any steps have been taken to alter Council procedures or to improve service delivery as a result of the complaint these shall be clearly specified.
- 5.3 The letter sent to the complainant at this stage shall contain a paragraph to the effect that if he/she is not satisfied with the outcome of the investigation or with any steps to be taken as a result, then there is a right of appeal to an independent Head of Service not responsible for the service concerned who will further investigate the matter. The complainant will be advised that if he/she wishes to appeal that they should contact the Complaints Officer who will allocate the complaint to a Head of Service. Cases will be allocated to Heads of Service on a rotational basis.

6.0 APPEAL TO AN INDEPENDENT HEAD OF SERVICE

- 6.1 The complainant may, if he/she is dissatisfied with the result of the investigation or any steps proposed as a result, appeal against the decision to a Head of Service who does not have responsibility for the service concerned. The case will be allocated to the Head of Service as indicated in 5.3 above.
- 6.2 Upon receipt of the notification of the appeal, the Head of Service will request the Business Unit Leader concerned to supply a copy of the report on the complaint together with any relevant supporting documentation. At the same time an acknowledgement of the appeal will be sent to the complainant by the Complaints Officer.
- 6.3 The Head of Service will consider the papers submitted and determine whether further investigation is required. If the Head of Service decides that further investigation is needed, he/she may require such further steps to be taken as are considered necessary to complete a further investigation of the complaint.

- 6.4 The Head of Service will complete investigations within **fifteen working days** and they will write to the complainant to inform him/her whether the appeal has been successful in whole or in part, and of any further steps to be taken as a result of the appeal. It shall also contain the information specified in paragraph 5.2.
- 6.5 The letter from the Head of Service will contain a paragraph to the effect that there is no further right of appeal to the Council itself, but giving details of how to lodge a complaint with the Local Government Ombudsman or, in the case of a Freedom of Information Act complaint, with the Information Commissioner. A copy of the letter will be sent to the Complaints Officer, the Business Unit Leader concerned and to the Head of Service responsible for the service concerned.

7.0 ACTIONS TO BE TAKEN AT CONCLUSION OF COMPLAINTS PROCESS

- 7.1 For the purposes of this paragraph, the complaints process will be deemed to be concluded either when the appeal to an independent Head of Service has been completed or, in the case of a complaint that does not proceed to appeal, when the complainant states that he/she does not intend to pursue the complaint any further, or if no further contact is received, **after 28 days** from the date of the letter referred to in paragraph 5.1 being sent.
- 7.2 Management team will receive a quarterly report on complaints and an annual report will be prepared in June each year for consideration by the Performance and Scrutiny Committee. The Annual report will contain details of service improvements introduced as a result of complaints dealt with under this procedure.
- 7.3 The Annual Report will invite the Performance and Scrutiny Committee to call for further reports on any specific areas of concern and to make any recommendations regarding service improvements they consider to be appropriate.

PART 5 (vi)

Protocol on Responding to Consultation Documents

1. Protocol on responding to consultation documents

- (1) This protocol only applies to consultation where the view of local authorities generally are sought rather than the specific views of Mid Sussex District Council. Requests for information and informal opinions of the type frequently sought by organisations such as the Local Government Association are outside the scope of this protocol and will be dealt with administratively.
- (2) Heads of Service are authorised generally to respond on behalf of the Council to documents which seek the views of local authorities generally. The Chief Executive shall be responsible for putting in place arrangements for ensuring that any response on behalf of the Council reflects the corporate views of the Council.
- (3) If a Head of Service considers that a formal response should be sent on behalf of the Council, before any response is sent, the appropriate Cabinet Member with the relevant portfolio or appropriate Committee Chairman shall be consulted as to whether or not the documents raise sensitive issues which should be considered by the Cabinet or other appropriate Committee. If a decision is made to refer the matter to the Cabinet/appropriate Committee the consultation paper shall be the subject of a report in the normal way.
- (4) All responses to the consultation document which are not the subject of a report to the Cabinet/appropriate Committee shall be included within the Members' information bulletin and the fact that a response has been sent shall be referred to in the report which the Committee Chairman/Cabinet Member with that portfolio makes to the Council.
- (5) Additionally, there is specific authority given to the Director of Environment who may formulate responses to plans and proposals of other Authorities and Agencies where the Council's views as local planning authority are sought and when the response is in accordance with established Council policy. A copy of the response shall also be included in the Members' information bulletin.

PART 5 (vii)

A Protocol on the Discharge of the Functions of the Monitoring Officer

Functions of the Monitoring Officer

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How the Monitoring Officer carries out his/her duties

A Protocol on the Discharge of the Functions of the Monitoring Officer

The Monitoring Officer is responsible for ensuring that the authority and its members act lawfully, do not cause maladministration, and comply with the Code of Conduct for Members. He/she is the primary source of advice to the authority on law, and to members on their legal obligations including the requirements of the Code of Conduct for Members. But he/she also has specific statutory duties, such as securing the investigation of complaints of member misconduct which are referred to him/her by the Standards Sub-Committee or making a public report to the authority in cases of illegality. There is an obvious tension between his/her role as adviser and the fact that, on occasion, he/she has to act as “policeman”. The purpose of this paper is to enable members to make best use of the Monitoring Officer’s ability to provide them with practical advice on legality and conduct, by setting out how the Monitoring Officer will carry out his/her functions.

1 Introduction

- (a) The authority recognises that an effective Monitoring Officer, positively engaged in the discharge of the authority’s business, is essential to the effective running and sound corporate governance of the authority.
- (b) The law requires the authority to appoint one of its officers as the authority’s Monitoring Officer¹, and gives the Monitoring Officer personal responsibility –
 - (i) to report on actual and anticipated illegality within the authority;
 - (ii) to report cases where the Ombudsman has found maladministration on the part of the authority;
 - (iii) to maintain the Register of Members’ Interests;
 - (iv) to administer complaints of member misconduct which are referred to him/her by any persons or bodies, and
 - (v) to determine whether the disclosure of information would inhibit the effective discharge of the authority’s business under the Freedom of Information Act.
- (c) The authority has decided to extend the functions of its Monitoring Officer beyond these “statutory functions”, and the full list of his/her functions is set out in Paragraph 4, below. These functions include the provision of advice and assistance to members on the Code of Conduct for Members and local protocols adopted by the authority.
- (d) The law does not prescribe exactly how the Monitoring Officer is to carry out these functions. So this Protocol describes the manner in which the authority expects him/her to discharge these functions, and how it expects its officers and members to co-operate with the Monitoring Officer in order to enable him/her to discharge these functions effectively.

¹ Section 5(1), Local Government and Housing Act 1989

2 Appointment

- (a) The Monitoring Officer is appointed by the Council and, because the role often requires consideration of legal issues, the post is normally a part of the responsibilities of the senior legal officer of the authority.

3 A Personal Responsibility

- (a) The Monitoring Officer is required to carry out the statutory functions personally, except that –
 - (i) he/she nominates a member of staff as Deputy Monitoring Officer, with power to act as Monitoring Officer where he/she is unable to act as a result of absence or illness; and
 - (ii) in respect of the conduct of local standards investigations and hearings, he/she may arrange for any person to perform all or any of his/her functions, for example by instructing an external lawyer to conduct a particular investigation.
- (b) Whilst the statutory functions are personal to the Monitoring Officer, he/she may arrange for any member of staff to assist him/her in the discharge of any of the non-statutory functions.

4 Functions

The Monitoring Officer's functions are set out in Appendix One.

5 Advice, Decision or Both?

The Monitoring Officer's responsibilities fall into three distinct categories:

- (a) Advice:

In a number of instances, the Monitoring Officer acts as adviser, to the authority or to individual members. For example, a member may seek advice as to whether he/she has a personal or prejudicial interest in a matter which is coming before a Committee, or whether he/she needs to register membership of a particular interest group. In such cases, the Monitoring Officer will provide such advice, but must ultimately leave the individual member to take his/her own decision as to his/her conduct in the light of that advice. Where the member's enquiry discloses a wider issue, the Monitoring Officer may decide that it is appropriate for him/her to make recommendations to the authority without naming the particular member, in order to avoid a repetition of such difficulties.

- (b) Decisions:

In other cases, where the proposal, action or omission would cause the authority to act unlawfully, the Monitoring Officer may be required to take a decision as to whether there is or would be any illegality on the part of the authority, or of any member or officer of the authority, and to decide whether he/she is required to make a statutory report to

the authority which can have the effect of suspending the implementation of the action or decision until his/her report has been considered. An example of this would be where a member proposed to participate in a development control or licensing decision despite being a member of a local residents' association which opposed the proposal, so that his/her participation would leave the Committee's decision open to judicial review on grounds of the member's "apparent bias" or "predetermination".

(c) Overlaps

These categories are not mutually exclusive. In some instances the conduct of a member or members may give rise to both a failure to comply with the Code of Conduct for members, and give rise to an illegality on the part of the authority. For example, if our member's membership of a resident's association must be entered in the Register of Members' Interests as a body intended to affect public opinion, but his/her actions in speaking and voting against the proposed development could constitute a serious failure to comply with the Code of Conduct for Members, failing to disclose a personal and prejudicial interest, and the member's "apparent bias" and "predetermination" could give grounds for judicial review of the authority's determination of the planning application. Accordingly, in such overlap cases, the Monitoring Officer would advise the member concerned about the requirements of the Code, but may also need to inform the member of the actions which he/she is required to take as Monitoring Officer to address the illegality in the decision-making process.

6 Seeking the Advice of the Monitoring Officer

- (a) It is recognised that the Monitoring Officer will be most effective if he/she is able to advise on any issue at an early stage of policy formulation or implementation. Accordingly, officers and members of the authority should routinely inform and consult the Monitoring Officer in respect of new policy proposals and action programmes.
- (b) Advice on legality and maladministration
- (i) Members and officers of the authority, may consult the Monitoring Officer in confidence in respect of any proposal, decision or omission.
 - (ii) Wherever possible the Monitoring Officer will seek to avoid any illegality or maladministration by identifying alternative and legitimate means of achieving the objective of the proposal, decision, act or omission, or by rectifying any deficiency.
 - (iii) The Monitoring Officer will only need to make a public report on the matter if the proposed decision, act or omission were, in his/her opinion, unlawful and the officer or member concerned subsequently took any action to progress that proposal, decision or omission, despite having been advised to the contrary by the Monitoring Officer;

- (iv) Where the Monitoring Officer is consulted by a member in respect of possible illegality or maladministration in any proposal, action or omission of the authority (as opposed to any proposal, action or omission of the member making the enquiry) the Monitoring Officer shall advise the Council's political group leaders and the relevant Cabinet Member that he/she has been so consulted and of the advice which he/she has given.
- (c) Advice on the Code of Conduct
 - (i) The Monitoring Officer is the primary source of advice for all members on the Code of Conduct for Members and on local protocols.
 - (ii) Any member, irrespective of political party, can seek the confidential advice of the Monitoring Officer as to his/her own position. Where he/she is consulted, and subject to any conflict of interest with the authority, the Monitoring Officer will seek to provide prompt advice to the member concerned as to whether their action or proposed action constitutes a failure to comply with the Code of Conduct or a local protocol and what may be necessary to comply with the Code or protocol. Where he/she is so consulted by a member about the member's own conduct, the Monitoring Officer will not disclose the fact of consultation or the advice given unless required to do so by Law.
 - (iii) Any member, irrespective of political party, may seek the advice of the Monitoring Officer as to whether the actions of another member of the Council would amount to a failure to comply with the Code of Conduct. Members are encouraged to consult the Monitoring Officer before considering whether to make a complaint. Where he/she is so consulted, the Monitoring Officer may make enquiry of the member(s) in respect of whom the enquiry is made before providing such advice, and shall provide them with a copy of any advice provided to the member making the enquiry.

7 Investigation

- (a) Preventative investigation

On the principle that prevention is better than cure, the authority expects the Monitoring Officer to investigate matters which give him/her concern as to possible illegality, maladministration or breach of the Code of Conduct for Members.

Specifically, this arises where the Monitoring Officer receives a complaint or information which raises the possibility that a proposal, action or omission of the Council or any Committee, Sub-Committee or Joint Committee of the authority, the Cabinet or any member or officer of the authority is or would be unlawful, or give rise to

maladministration and injustice, or amount to a failure to observe the Code of Conduct for Members. In such cases, the authority expects that he/she will investigate the matter and determine whether the proposal, action or omission actually is or would be unlawful, or give rise to maladministration and injustice, or amount to a failure to observe the Code of Conduct for Members, and take appropriate action, as set out below.

(b) Breach of the Code of Conduct

Where the Monitoring Officer determines that the proposal, action or omission is or would be a failure to comply with the Code of Conduct for Members, he/she shall advise the relevant member(s) accordingly. He/she may make an appropriate report to the authority in order to prevent such difficulties recurring. Such a report would not name the member(s) concerned.

This function is quite distinct from the Monitoring Officer's statutory responsibility to secure the assessment/review/investigation and report to Standards Committee of any complaint of failure to comply with the Code of Conduct for Members. In practice, in order to avoid compromising his/her ability to provide such advice to members, the Monitoring Officer will secure that another person conducts any such investigation on his/her behalf.

(c) Established procedures

Where the Monitoring Officer receives a complaint that a proposal, action or omission is unlawful or constitutes maladministration, and the authority already operates an appeal or other mechanism for resolving such matters (for example in respect of staff grievance complaints or claims against the authority which are covered by insurance), the Monitoring Officer may deal with the matter by ensuring that it is dealt with by that existing mechanism. He/she may also intervene in such processes to identify that the particular matter potentially gives rise to illegality or maladministration and injustice, and to ensure the satisfactory resolution of the issue.

(d) Illegality

In cases where the Monitoring Officer determines that the proposal, act or omission is not unlawful, he/she shall advise any member or officer concerned of his/her determination. Where he/she determines that the proposal, action or omission is, or would be, unlawful, he/she shall wherever possible seek to agree an alternative and lawful course of action. He/she shall then advise the complainant (if any) of his/her determination and of any agreed alternative course of action, which may include an offer in settlement of any injustice suffered by any person, and/or his/her making a statutory report.

(e) Maladministration

Where the Monitoring Officer determines upon investigation that a proposal, act or omission has not caused or would not give rise to maladministration and injustice, he/she shall respond to the

complainant (if any) and advise any member or officer concerned of his/her determination.

Where he/she determines that the proposal, act or omission has caused or would give rise to maladministration and injustice, he/she shall advise any member or officer concerned of his/her determination and seek to agree an alternative lawful course of action. He/she shall then advise the complainant (if any) of his/her determination and of any agreed alternative course of action, and/or an offer in settlement of any injustice suffered by any person.

(f) Failure to observe the Code of Conduct for Members

Where the Monitoring Officer determines upon an investigation that a proposal, action or omission by a member does not amount to a failure to observe the Code of Conduct for Members, he/she shall advise the complainant (if any) of his/her determination and shall advise the member concerned of his/her determination.

Where he/she determines that the member's proposal, action or omission does amount to a failure to observe the Code of Conduct for Members, he/she shall advise the member concerned of his/her determination and seek to agree an alternative course of action which does not amount to a failure to comply with the Code of Conduct for Members. He/she shall then advise the complainant (if any) of his/her determination and of any agreed alternative course of action

8 Local Resolution

Where the Monitoring Officer receives a complaint of illegality, maladministration or failure to observe the Code of Conduct for Members or a local protocol adopted by the authority, he/she shall in appropriate cases seek to resolve the matter amicably to the satisfaction of the complainant, by securing that any illegality, failure of process or breach of code is as far as possible rectified, that the complainant is informed of the rectification, with or without a compensation payment and/or apology. However, it is recognised that the Monitoring Officer may determine that the matter is incapable of local resolution, or is of such seriousness that a statutory report is the only appropriate response.

9 Reporting

(a) Illegality

Where the Monitoring Officer is of the opinion that an unlawful action or omission has already occurred, or where the Council or any Committee, Sub-Committee or Joint Committee of the authority, the Cabinet or any member or officer of the authority seek to progress an unlawful proposal, action or omission, the Monitoring Officer shall consult as far as practicable with the Chief Executive and the Head of Finance (Section 151 Officer), and shall then determine whether to make a formal report under Section 5 of the Local Government and Housing Act 1989.

In appropriate cases, and to secure the rapid resolution of a potential

reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add his written advice to the report on the matter by any other officer of the authority, and/or to provide oral advice at any meeting of the authority.

(b) Maladministration

Where the Monitoring Officer is of the opinion that maladministration and injustice has already occurred, or where the Council or any Committee, Sub-Committee or Joint Committee of the authority, the Cabinet or any member or officer of the authority seek to progress a proposal, action or omission which would give rise to maladministration and injustice, the Monitoring Officer shall consult as far as practicable with the Chief Executive and the Head of Finance, and shall then determine whether to make a written report to the decision-taker or decision-making body.

In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add his written advice to the report on the matter by any other officer of the authority, or to provide oral advice at any meeting of the authority.

(c) Failure to observe the Code of Conduct for Members

Where the Monitoring Officer is of the opinion that the action or proposed action of a member amounts to a failure to comply with the Code of Conduct for Members. He/she may make a general report to the authority, without naming the member(s) concerned, in order to prevent a recurrence of the failure.

10 Advice to Individual Members

Wherever possible, the Monitoring Officer will provide advice to individual members to support them in the discharge of their responsibilities as a Councillor. He/she will not provide advice to a political group or party, or to a member making enquiry on behalf of a political group or party.

The Monitoring Officer is employed by the authority and owes his/her primary responsibility to the authority, rather than to any individual member or group of members. Accordingly, when he/she is of the opinion that providing advice to a member or group of members on a matter is incompatible with his/her role as adviser to the authority or any action which he/she may have to take on behalf of the authority, he/she may decline to provide such advice, but may, at his/her discretion and where there is a clear benefit to the authority, secure that such advice is provided from an independent source at the expense of the authority.

11 Monitoring and Upholding the Constitution

(a) Monitoring and Reviewing the Constitution

- (i) The Monitoring Officer will monitor and review, on a regular basis and probably once a year, the effectiveness and

operation of this Constitution so as to ensure that the aims and principles of the Constitution are given full effect and that the Constitution enables the authority to discharge its functions effectively.

- (ii) In order to conduct such monitoring and review, the Monitoring Officer may:
 - A consult any members and/or officers, and other organisations and persons having dealings with the authority
 - B observe meetings of members and/or officers at any level
 - C undertake an audit trail of a sample of decisions
 - D record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders
 - E compare practices in this authority with those in other comparable authorities, or national examples of best practice
 - F consider any relevant reports and recommendations of the District Auditor and other regulatory agencies.
- (iii) The Monitoring Officer shall consult the Chief Executive and the Head of Finance annually, or more frequently if appropriate, highlighting areas where there is potential to improve the Constitution or the effectiveness of the Constitution, before determining whether to report to the authority on any changes necessary for this purpose.

(b) Keeping the Constitution up to date

- (i) The Monitoring Officer shall maintain an up to date copy of the Constitution and ensure that it is accessible to members, officers and members of the public;
- (ii) The Monitoring Officer shall make such amendments to the Constitution as are necessary to reflect changes of fact and law, and decisions of the Council or the Cabinet of the authority, advising members of any such changes made. The Council, though, shall retain the power and responsibility to consider and determine policy changes to the Constitution

(c) Interpreting the Constitution

- (i) The Monitoring Officer shall be responsible for advising on the interpretation of the Constitution.
- (ii) In particular, the Monitoring Officer shall determine whether a proposed decision is contrary to or not wholly in accordance with the policy framework or the approved budget, and whether a proposal is sufficiently urgent to merit the use of urgency executive decision-making procedures.

12 Resources

The authority is required to provide the Monitoring Officer with the resources which the Monitoring Officer considers are necessary to enable him/her to perform his/her statutory duties.

For the purpose of carrying out these functions, the Monitoring Officer shall be provided with the following resources:

- (a) The right of access to all documents and information held by or on behalf of the authority. For the purpose of clarification, this right does not extend to documents and information held by or on behalf of any political party represented on the Council;
- (b) The right of access to any meetings of members or officers (or both) of the authority, whether or not such meetings include any other persons. For the purpose of clarification, this right does not extend to any meetings held by or on behalf of any political party represented on the Council;
- (c) The right to require any officer or member of the authority, or any contractor of the authority, to provide an explanation of any matter under investigation;
- (d) A right to report to the Council, the Standards Committee, and to the Cabinet, including a right to present a written report and to attend and advise verbally;
- (e) The right to require the assistance of any officer of the authority or to appoint any other person to carry out or assist in carrying out an investigation and to delegate to that officer or person any of the powers of the post of Monitoring Officer;
- (f) A power to agree a local resolution to any complaint of maladministration or of breach of the authority's Code of Conduct for Members, in consultation as far as practicable with the Chief Executive and the Head of Finance, including power to agree a compensation payment of up to £10,000 in any one case.
- (g) The right of access to the Chief Executive and to the Head of Finance;
- (h) The right, after consultation with the Chief Executive and the Head of Finance so far as practicable, to notify the Police, the authority's auditors and other regulatory agencies of his/her concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions;
- (i) The right to obtain legal advice at the authority's expense, either internally or from an independent external solicitor or barrister, on any matter, and sufficient financial resource to enable him/her to do so;

Appendix One

The Functions of the Monitoring Officer

The functions of the Monitoring Officer are as follows.

The “statutory functions” are in bold. All other functions are “non-statutory functions”:

- 1 **To report to the Council and to the Cabinet in any case where he/she is of the opinion that any proposal, decision or omission by the Council or any Committee, Sub-Committee or Joint Committee of the authority, the Cabinet or any member or officer of the authority has given rise to or is likely to or would give rise to any illegality²;**
- 2 **To report to the Council or the Cabinet in any case where the Ombudsman, after investigation, has reported that any proposal, decision or omission by the Council or any Committee, Sub-Committee or Joint Committee of the authority, the Cabinet or any member or officer of the authority has given rise to maladministration or injustice³ ;**
- 3 **To maintain the Register of Members’ Interests⁴ ;**
- 4 **To administer complaints of member misconduct which are referred to him/her by the persons or bodies through the assessment, review and hearing processes⁵ ;**
- 5 **To determine whether the disclosure of information by the authority in response to a request under the Freedom of Information Act would, or would be likely to, prejudice the effective conduct of public affairs⁶ ;**
- 6 To investigate any proposal, decision or omission by the Council or any Committee, Sub-Committee or Joint Committee of the authority, the Cabinet or any member or officer of the authority which he/she has reason to believe may have given rise to or is likely to or would give rise to
 - 6.1 illegality
 - 6.2 maladministration
 - 6.3 failure to observe the Members’ Code of Conduct
- 7 To act as the principal adviser to the authority’s Standards Committee;
- 8 To provide advice to members on the Code of Conduct for members and local protocols adopted by the authority;
- 9 To monitor and uphold the Constitution;
- 10 To act as the proper officer for the preparation, publication and retention of records of decisions take by or on behalf of the Council and the Cabinet;
- 11 Responsibility for Complaints, Local Commissioner and Whistle-Blowing functions of the authority;

- 12 Appointment as Proper Officer for the Data Protection Act 1998, the Freedom of Information Act 2000 and the Regulation of Investigatory Powers Act 2001;
- 13 To consult regularly with the Chief Executive, the Chief Finance Officer, Head of Human Resources and the Chief Internal Auditor to identify areas where the probity of the authority can be improved or better protected, and to take appropriate actions;
- 14 To investigate any application for a dispensation and to report and recommend to the Standards Committee;
- 15 To secure that members of the authority are fully aware of their obligations in respect of probity, particularly under the Code of Conduct for Members and any local protocols adopted by the authority;
- 16 To report to the Cabinet and to the Council on the resources which he/she requires for the discharge of his/her functions;
- 17 To report regularly to the Standards Committee on the performance of his/her functions and to make any recommendations which would better enable those functions to be performed;

² Section 5(2)(a), Local Government and Housing Act 1989

³ Section 5(2)(b) and 5(2A), Local Government and Housing Act 1989

⁴ Section 81(1) of the Localism Act 2011

⁵ Complaints are made in the first instance to the Monitoring Officer and are filtered by Assessment and Review Sub-Committees Part III of the Local Government Act 2000.

⁶ The Monitoring Officer is designated as the “qualified person” for the purpose of Section 36 of the Freedom of Information Act 2000

PART 5 (viii)

Role Descriptions

Job Title: COUNCILLOR

Key Roles

Community Leader and representative, policy maker, steward and politician

Key tasks

- To participate constructively in the good governance of the District.
- To explain and promote the need for and purpose of change to other politicians and the community so that change is well understood and supported
- To contribute actively in the formulation and scrutiny of the Authority's policies, budget, strategies and service delivery
- To participate effectively as a member of any committee, advisory group or panel to which appointed
- To balance and represent effectively the interests of the ward for which elected and the District as a whole, and deal with constituents and representations
- To champion the causes which best relate to the interests and sustainability of the community and campaign for the improvement of the quality of life for the whole community in terms of equity, economy and environment
- To develop and maintain a knowledge of the Council's services, activities and other factors which impact upon the community's well-being and identity
- To respect Council and Committee decisions
- To fulfil the statutory and locally determined requirements of an elected member of a local authority and the authority itself, including compliance with all relevant codes of conduct, and participation in the decisions and activities reserved to the Full Council and to observe the Protocol on Member/Officer relations.
- To contribute constructively to open government and democratic renewal
- To participate in the activities of any outside body and partnership to which appointed providing two-way communication between the organisations
- To participate in the activities of any political group of which the councillor is a member
- To develop relationships with stakeholders to promote and achieve a positive image of the District Council
- To be proactive and give and receive relevant information in a clear, timely and concise manner particularly to other councillors and officers
- To undertake continuous training and development by participating fully in the Council's training and development programme for members.

Job Title: CHAIRMAN OF THE DISTRICT COUNCIL

In addition to your role as Councillor the Chairman of the District Council's Role Description includes the following: -

- To act as first citizen of the District;
- To uphold and promote the purposes of the Council's Constitution, and to interpret the Constitution when necessary;
- To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet or do not hold Committee Chairs are able to hold the Cabinet and Committee Chairmen to account;
- To promote public involvement in the Council's activities;
- To be the conscience of the Council; and
- To attend such civic and ceremonial functions as the Council and he/she determines appropriate
- To network with external organisations such as County and Town and Parish Councils, Voluntary Organisations etc
- To understand and interpret the Council's Procedure Rules, structure of the Authority and the roles of responsible officers
- To be aware of local issues which affect council business
- To promote the well-being of the District
- To encourage high standards of probity.

VICE-CHAIRMAN OF THE DISTRICT COUNCIL

In addition to your role as Councillor the Vice-Chairman of the District Council's Role Description includes the following: -

- To fulfil the role of the Chairman in his/her absence from meetings of the Council
- To support the Chairman as necessary and to facilitate the effective running of meetings
- To represent the Council and the community in the Chairman's absence

Job Title: LEADER OF THE DISTRICT COUNCIL

In addition to your role of Councillor the Leader's Role Description contains the following:-

- To be the political Head of the Authority
- To provide political leadership and inspire and communicate a vision and strategy that is well understood and supported by other politicians and the community
- To represent and lead the majority group in the Council and to put forward the group's political views to the Council
- To explain and promote a need and purpose of change to other politicians and the community so that change is well understood and supported
- To develop relationships with stakeholders to promote and achieve a positive image of the District Council
- To set priorities that are well understood and supported, and to overview performance to ensure priorities are met
- To overview the use of financial and staff resources to ensure the Council's policies, priorities and plans are achieved
- To chair meetings of Cabinet
- To have primary responsibility for Corporate policy/strategy, press and public relations, corporate communications, the Council's Budget, the Corporate Plan and Value for Money
- To ensure effective Cabinet responsibility for corporate policy and strategy, customer services, procurement and service and financial planning.
- To lead and act as spokesperson for the Cabinet in its work to develop policy framework and budget and take overall political control of authority within agreed policy framework
- To nominate, and if appropriate dismiss and replace, the members of the Cabinet
- To allocate portfolio holder responsibilities between Cabinet members
- To provide briefings to all Members of the Council at meetings of full Council
- To develop and maintain a wide ranging knowledge and understanding of corporate, strategic and service issues facing the Council in order to perform effectively the Leader's role
- To contribute constructively to open government and democratic renewal through active encouragement to the community to participate generally in the governance of the District
- To understand the Council's role and place within the public sector
- To promote the interests of the Council's community partners and to broaden the environment
- To promote the Council's reputation as a Community Leader

- To keep the Members in general up to date on issues and to provide an important link between Members
- To encourage high standards of probity.
- To serve upon the County Joint Leaders Group and work constructively with the leaders of other Councils in West Sussex
- To represent the District regionally and nationally.

Job Title: CABINET MEMBER

In addition to your role as Councillor, the Cabinet Member Role Description contains the following:

Reports to: Leader of the Council

- In conjunction with Cabinet colleagues, to provide political leadership and inspire and communicate a vision and strategy that is well understood and supported by other politicians and the community
- To contribute actively to guiding the overall direction of the Council through the formulation of Council strategies, corporate plans, objectives, priorities and programmes
- To explain and promote a need and purpose of change to other politicians and the community so that change is well understood and supported
- To develop and maintain a thorough knowledge and understanding of the strategic and service issues relating to matters within your portfolio
- To develop relationships with stakeholders to promote and achieve a positive image of the District Council
- To act as the principal spokesperson for your respective functions, and act as the Council's principal political representatives in meetings with other elected members and other agencies which relate to those functions
- To set priorities that are well understood and supported, and to overview performance to ensure priorities are met
- To overview the use of financial and staff resources to ensure the Council's policies, priorities and plans are achieved
- To attend regular briefings with relevant senior officers to maintain understanding of issues, to consider draft reports to the Cabinet with the relevant officer and to engage in consultation with officers on significant decisions relating to your portfolio which fall to be taken under delegated powers
- To attend and answer on behalf of the Cabinet and be called to account on decision as an individual portfolio holder called-in by the Performance and Scrutiny Committee
- To promote the Council's reputation as a Community Leader
- To brief Members on your portfolio at ordinary meetings of the Council
- To promote and enhance the Council's vision for the community as set out in the Corporate Plan and Strategies.

Job Title: GROUP LEADER

In addition to your role as Councillor, the Group Leader's Role Description contains the following:-

- To be aware of all local issues which affect Council business
- To ensure (where Leader of a minority group) that the majority group are accountable to Council, and subsequently to the public, for decisions taken, strategies implemented and use of resources
- To carry out Public Relations duties for their Political Group to explain activities to the local people
- To nominate group members to membership of Committees, Panels, and Working Parties
- To be the main spokesperson for the group
- To encourage the personal development of members of your group
- To maintain group members adherence to Members Code Of Conduct
- To nominate group members for appointment to Outside Bodies

Job Title: CHAIRMAN OF A SCRUTINY COMMITTEE

In addition to your role of Councillor the role of Chairman of a Scrutiny Committee includes the following:

- To chair the Scrutiny Committee meetings
- To participate in the scrutiny and /or performance reviews of the services of the authority including the scrutiny of policies and budget and their effectiveness in achieving the strategic objectives of the authority and to scrutinise developing policies
- To evaluate and monitor the performance of the Authority
- To present the findings of the Committee to the Council, Cabinet, the press and public as appropriate
- To engage with Scrutiny Officers in the design of the Committee's work programme
- To consider draft reports to committee and to invite speakers to meetings of the Committee
- To determine arrangements for additional special meetings of the Committee as necessary for the effective and efficient functioning of the Committee
- To consider the training requirements of members of the committee
- To ensure the effective management of the call-in process.

VICE CHAIRMAN OF A SCRUTINY COMMITTEE

- To fulfil the role of the Chairman in his/her absence
- To support the Chairman as necessary and facilitate the effective running of meetings

CHAIRMAN OF COMMITTEES

- **Audit Committee**
- **Licensing Committee**
- **Licensing Sub-Committees**
- **Planning Committee and District Planning Committee**
- **Standards Committee**

In addition to your role as Councillor, the Chairman of Committee Role Description includes the following:

- To chair meetings of the Committee
- To develop and maintain a knowledge and understanding of policy, statutory, and procedural issues relating to matters within the Committee's terms of reference
- To engage in consultation with relevant officers on significant decisions to be taken under delegated powers and to consider draft reports to the Committee
- To present the advice of the Committee to the Council, Cabinet, the press and public as appropriate
- To ensure that Committee members adhere to proper procedures in considering and arriving at regulatory decisions
- To ensure that Committee members pay due regard to legal and other professional advice
- To determine arrangements for additional special meetings of the Committee as necessary for the effective and efficient functioning of the Committee
- To consider the training requirements of members of the Committee
- To promote a high standard of behaviour appropriate to maintain public confidence in the Committee's role and procedures

PART 5 (ix)

Sustainability and Climate Change Advisory Panel

Terms of Reference

Membership

Sustainability and Climate Change Advisory Panel – Terms of Reference

Membership

Eight Members proportionate to the political balance at the time.

Objective of the Panel

The objective of the panel is to advise the Cabinet Member for Environment and Service Delivery on policy matters and other activities relating to Climate Change and Sustainability, both in terms of the Council's operations and the wider activities of residents and businesses.

Specifically

1. To monitor actions to achieve the objectives identified in the Council's Environmental Policy '*Our Commitment to the Environment*'
2. To advise the Cabinet Member on a programme of work to achieve the objectives.
3. To advise the Cabinet Member on opportunities to promote the aims and objectives of the Mid Sussex Sustainability Partnership.
4. To act as champions in the local community for sustainability and climate change issues.
5. To receive updates on national and regional initiatives and advice on sustainability and climate change issues from officers.

Meetings

Meetings will be held quarterly.

PART 5 (x)

Petitions Scheme

Terms of Reference

1. Mid Sussex District Council wishes to enable all people resident, working or studying in the district to petition the Council and to obtain a response that meets the expectations of the petition or provides a reasoned explanation for why those expectations cannot be met.
2. The District Council provides a number of ways in which petitions may be considered - depending on the subject, the actions sought, and the number of signatories.
3. Before considering whether or not to raise a petition to Mid Sussex District Council, you may want to discuss your issue with your local district councillor (Member) who may be able to help you with it or explain how to make representations on a particular subject to the right person at the District Council.
4. All petitions sent or presented to the Council will receive an acknowledgement within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition.

Petitions should be sent to:

Petitions Officer, Member Services
Mid Sussex District Council
Oaklands
Oaklands Road
Haywards Heath
West Sussex
RH16 1SS

How to submit a petition

5. Petitions submitted to the Council **must** include:
 - a clear and concise statement of the subject of the petition
 - a statement about what action the petitioners wish the council to take
 - the name, address and signature of any person supporting the petition
6. Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition.
7. A petition **will not be accepted** where:
 - it is considered vexatious, abusive or otherwise inappropriate. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons;

- it refers to a development plan, specific planning or licensing matter;
 - it refers to a decision for which there is an existing right of appeal, for example, licensing decisions;
 - it is a statutory petition (for example requesting a referendum on having an elected mayor)
 - Licensing Applications
 - Planning Applications
8. Further information on the Council's procedures and how you can express your views are available on the Council's website:
9. The petition must refer to a matter that is relevant to the functions of the District Council. If your petition is about something over which the Council has no direct control (for example the local school or hospital) we will consider whether we can still deal with the matter. The Council works with a large number of local partner organisations and, where possible, will work with these partners to respond to your petition. If we are not able to do this for any reason then we will set out the reasons for this to you. You can find more information on the District Council's services on our website.
10. If your petition is about something that a different council is responsible for, we will give consideration to what the best method is for responding to it. It might consist of simply forwarding the petition to the other council, but could involve other steps. In any event we will always notify you of the action we have taken.

What will the Council do with your petition?

11. An acknowledgement will be sent to the petition organiser within 10 working days of receipt. It will let them know what we plan to do with the petition and when they can expect to hear from us again.
12. If we can do what your petition asks for, the acknowledgement may confirm that we have taken, or will take, the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

How will the Council respond to petitions?

13. Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:
- taking the action requested in the petition
 - considering the petition at a Council meeting
 - holding an inquiry into the matter
 - undertaking research into the matter
 - holding a public meeting
 - consulting residents about the matter
 - holding a meeting with petitioners
 - referring the petition for consideration by one or more of the Council Scrutiny Committees
 - referring the petition for consideration by any non-Executive committee
 - writing to the petition organiser setting out our views about the request in

the petition

14. Where the petition does not have the prescribed number of signatures to trigger a debate or officer attendance before a committee (see below) the Solicitor to the Council will determine the most appropriate course of action following discussion with the relevant Cabinet Member and the senior officer responsible for the service which is the subject of the petition.

Council Debates

15. If a petition contains a minimum of 1,300 signatures the Council will debate it unless it is a petition asking for a senior council officer to give evidence at a public meeting (see below). The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting.
16. If you would like to present your petition to the Council, or would like your local elected District Councillor to present it on your behalf, please contact the Petitions Officer at least 10 working days before the meeting and an officer will talk you through the process. The petition organiser will be given five minutes maximum to present the petition at the meeting.
17. The relevant Cabinet Member will be given five minutes (maximum) for a right of reply before Members discuss the petition for no more than 30 minutes with each Member allowed to speak for a maximum of three minutes.
18. The Council will debate how to respond to the petition at this meeting. It may for example recommend a relevant Cabinet Member to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter. Where the issue is one on which a Cabinet Member is required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision.
19. Dates and times of Council meetings can be found on the website.

Officer Evidence

20. Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected Members to enable them to make a particular decision.
21. If your petition contains a minimum of 500 signatures, and your petition clearly states the specific issue you want to raise, the relevant senior officer will give evidence at a public meeting of the appropriate Scrutiny Committee.
22. The senior officers that can be called to give evidence are the Chief Executive, Heads of Services and Business Unit Leaders. Their details can be found on the Council's website. You should be aware that the Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition - for instance if the named officer has changed jobs. The Committee may also decide to call the relevant Cabinet Member or another Member to attend the meeting to give evidence.

23. The Committee Members will ask the questions at this meeting, but you will be able to suggest questions to the Chairman of the Committee by contacting the Petitions Officer up to five working days before the meeting. Details will be given to you to assist with this process.

What can I do if I feel my petition has not been dealt with properly?

24. If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the relevant Committee reviews the steps that the Council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.
25. The Committee will endeavour to consider the request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation and making recommendations to the relevant Cabinet Member.
26. Once the appeal has been considered the petition organiser will be informed of the results within five working days. The results of the review will also be published on our website. There is no further right of appeal through the Council.