

## SURREY HEATH BOROUGH COUNCIL

Surrey Heath House  
Knoll Road  
Camberley  
Surrey  
GU15 3HD

Tuesday, 7 December 2021

To: The Members of the Surrey Heath Borough Council

Dear Councillor,

You are hereby summoned to attend a meeting of Surrey Heath Borough Council to be held in the Council Chamber, Surrey Heath House on Wednesday, 15 December 2021 at 7.00 pm. The business which it is proposed to transact at the meeting is set out below.

**Please note that this meeting will be recorded.**

Yours sincerely

Damian Roberts

Chief Executive

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### 1. **Suspension of Council Procedure Rules**

The Mayor to move that, due to the Covid-19 pandemic, Council Procedure Rule 21.2 (the requirement to stand) be suspended for this meeting.

### 2. **Apologies for Absence**

To report apologies for absence.

### 3. **Minutes**

To approve as a correct record, the open minutes of the meeting of the Council held on 27 October 2021.

### 4. **Mayor's Announcements**

### 5. **Leader's Announcements**

### 6. **Declarations of Interest**

Members are invited to declare any Disclosable Pecuniary Interests and non-pecuniary interests they may have with respect to matters which are to be considered at this meeting.

**7. Questions from Members of the Public**

To answer questions, if any, received under Council Procedure Rule 10 (Paragraph 3 of the Public Speaking Procedure Rules).

**8. Questions from Councillors**

To deal with questions, if any, received under Council Procedure Rule 11.

**9. Executive, Committees and Other Bodies**

To receive the open minutes of the following bodies (minutes reproduced in the Minute Book), to answer questions (if any) in accordance with Council Procedure Rule 11.5 and to consider the recommendations as set out below:

- (a) Executive – 16 November and 7 December 2021

**75/E Calculation and Setting of the Council Tax Base for 2022/23**

**At its meeting on 7 December 2021 the Executive will be advised to RECOMMEND to Full Council that**

- (i) with effect from 1 April 2022 the Empty Homes Premium is introduced at the maximum levels allowed in the legislation where the property has been empty for 2, 5 or 10 more years as detailed in paragraph 7; and**
- (ii) the Council Tax Exceptional Hardship Policy remains unchanged for 2022/23, and the fund available remain at £80,000.**

- (b) Planning Applications Committee – 28 October and 11 November 2021
- (c) Licensing Committee – 20 October 2021
- (d) Performance & Finance Scrutiny Committee – 10 November 2021
- (e) Audit & Standards Committee – 22 November 2021

**8/AS Procurement of External Audit for the Period 2023/24 - 2027/28**

**RECOMMENDED to Full Council that it accepts the invitation from Public Sector Audit Appointments to opt in to the sector led process for the appointment of external auditors to principal local**

**government and police bodies for the five financial years from 1<sup>st</sup> April 2023.**

- (f) Joint Staff Consultative Group – 25 November 2021
- (g) External Partnerships Select Committee – 30 November 2021

**10. Motions**

Councillor Sharon Galliford to move that

“this Council

- (i) believes that:
  - a. all governments (national, regional and local) have a duty to limit the negative impacts of Climate and Ecological Breakdown; local authorities should not wait for their national governments to change their policies;
  - b. all tiers of local government are well placed to lead the way in reducing carbon emissions and tackling the ecological emergency as they have closer links with their residents;
  - c. having already declared a Climate Emergency in 2019 and committed to carbon neutrality by 2030, there is also an ecological emergency;
  - d. the Climate and Ecological Emergency Bill needs the full support of local government to highlight the urgency of the twin climate and ecological emergencies;
- (ii) declares an ‘Ecological Emergency’ to accompany the Climate Emergency it has already declared;
- (iii) commits to:
  - a. leading by example and promoting the good work it is currently undertaking;
  - b. working with partners and volunteers locally and regionally to drive coordinated leadership and collaborative action to aid the recovery of nature and natural environments and identify areas for greater biodiversity;
  - c. ensuring irreplaceable habitats are protected, the biodiversity mitigation hierarchy is followed and that net biodiversity gain is fully implemented;
  - d. reviewing and implementing a borough-wide Tree Strategy;
  - e. continue to review Surrey Heath’s Green Infrastructure Strategy;
  - f. demanding that new developments contribute to increasing biodiversity and ecological improvement
  - g. register its support for the CEE Bill with the CEE Bill Alliance;
  - h. write an open letter, to be shared through local media; and

- i. write to the Member of Parliament for Surrey Heath to urge him to sign up to support the Climate and Ecological Emergency Bill.”

**11. Governance Working Group** (Pages 5 - 42)

To consider the report of the Head of Legal and Democratic Services (attached).

**12. Leader's Question Time**

The Leader to answer questions from Members in relation to the Executive functions.

**Governance Working Group**

Ward(s) Affected:	All
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**Purpose**

The Council is asked to consider recommendations from the Governance Working Group in relation to revisions to the Members' Code of Conduct, Arrangements for Dealing with Allegations of Misconduct, Planning Code of Practice for Councillors and Officers, and ICT Code of Practice for Members.

**1. Background**

- 1.1. The Working Group met on 26 November 2021. At this meeting it considered a number of issues and made recommendations which are addressed below.

**2. Review of the Constitution**

- 2.1. The Working Group considered proposed revisions to the Members' Code of Conduct, Arrangements for Dealing with Allegations of Misconduct and the Planning Code of Practice for Councillors and Officers, which formed phase 3 of the review of the Constitution.

**Members' Code of Conduct**

- 2.2. The Working Group considered a number of amendments to the Members' Code of Conduct proposed by the Monitoring Officer.
- 2.3. The Introduction and Interpretation of the Code has been updated to reflect that any assessment of a Member's capacity, in terms of acting as a councillor, is an objective assessment. This section has also been updated to reflect case law regarding every councillor's enhanced right to freedom of political expression. The section relating to General Obligations has been updated to include more positive obligations.
- 2.4. The Working Group was reminded that pecuniary interests were defined in legislation and also included those of a Member's spouse or civil partner, or a person with whom a Member was living with as a spouse or civil partner. Although the law did not extend this definition to other members of the family or close associates, it was proposed to include reference to financial interests of close family or close associates in the list of non-pecuniary interests and for the same rules to be applied in respect of participation at meetings.
- 2.5. Having discussed a proposal to include a reference to matters that directly affect a Member's wellbeing in the list of non-pecuniary interests, it was agreed to alter this to more specifically refer to planning matters.

- 2.6. The Group discussed a proposal to reduce the value set in relation to the acceptance of gifts and hospitality from £50 to £25. It was noted that this had previously been the limit and, having taken into consideration that this revised amount was in line with the Code of Conduct for Officers, the Group agreed to recommend this change.
- 2.7. The revisions to the Code also include a new requirement for a Member who has predetermined a matter to withdraw from a meeting where that item is under consideration.

### **Arrangements for dealing with allegations of misconduct under Section 28 Localism Act 2011**

- 2.8. The Working Group considered proposed changes to the procedures for dealing with allegations of misconduct by councillors, including
- clarifying that a Deputy Monitoring Officer is authorised to have conduct of complaints;
  - reflecting good practice that the Monitoring Officer and the subject member should not be advised by the same independent person;
  - ensuring the Monitoring Officer is not limited regarding consultation with third parties and clarifies what actions the Monitoring Officer may take regarding the preliminary assessment;
  - providing guidance to the Monitoring Officer on making a decision to refer any complaint for formal investigation;
  - enabling the Monitoring Officer to appoint more than one investigating officer. For some cases, it may be that an investigation would benefit from different skill sets. For example, the appointment of senior officers from Legal and HR; and
  - providing guidance on considering any complainant's request for anonymity.
- 2.9. Having considered a proposal to provide more flexibility for the Monitoring Officer to acknowledge a complaint within 5 working days of receipt, the Working Group agreed not to amend this section.
- 2.10. References to the Sub Committee of the Audit & Standards Committee which considers complaints referred by the Monitoring Officer have been changed from 'Hearing Sub Committee' to 'Standards Sub Committee', to reflect the change of name agreed in 2019.

### **Planning Code of Practice for Councillors and Officers**

- 2.11. The Working Group considered proposed changes to the Planning Code of Practice for Councillors and Officers. The changes principally reflected changes to the senior management. Amendments also included a minor change to facilitate presentations from developers and also updated the section on the management of planning appeals.

- 2.12. In addition to the changes proposed by officers, the Working Group agreed to remove ambiguous wording concerning avoiding inappropriate social contact with applicants, agents, objectors and other interested parties from paragraph 3.8 of the Code.

### **3. ICT Code of Practice for Members, Digital Storage Solution and Multifactor Authentication**

- 3.1. The Working Group received an update on of Multifactor Authentication (MFA) for councillors, to further enhanced security when accessing email and data. A pilot has been successfully undertaken with 3 councillors it is now proposed to roll this out to all other councillors.
- 3.2. Following previous conversations about digital storage solutions, the Group was updated on proposals to upgrade existing Microsoft licenses to enable access to OneDrive for Business and Office apps for iPad. ICT will conduct an initial pilot working with a small number of councillors to enable the functionality and to confirm it meets the requirements. Following a successful pilot, it is proposed to extend access to storage for any councillors requiring it.
- 3.3. The Working Group discussed proposed amendments to the ICT Code of Practice for Members, which principally related to the storage solution. Having considered the suggested revisions it was agreed to add further detail clarify what constitutes ward work and add reference to Data Protection Guidance provided to councillors. It was also suggested that the Code advises councillors to conduct annual audits of the data they are processing and storing.

### **4. Resource Implications**

- 4.1. There are no direct financial implications identified in relation to the recommendations being made by the Working Group.

### **5. Legal Implications**

- 5.1. Any amendments to the provisions of the Constitution must be made by the Council, unless they relate to Executive Functions, and within the statutory framework.

### **6. Recommendation**

- 6.1. The Council is advised to RESOLVE that
- (i) the Members' Code of Conduct at Part 5, Section A of the Constitution be updated as set out at Annex A to this report;
  - (ii) the Arrangements for dealing with allegations of misconduct under Section 28 Localism Act 2011 at Part D of the Documents Which Support the Constitution, be updated as set out at Annex B to this report;

- (iii) the Planning Code of Practice for Councillors and Officers at Part 5, Section D of the Constitution be updated as set out at Annex C to this report; and
- (iv) the ICT Code of Practice for Members at Part 5, Section C of the Constitution be updated as set out at Annex D to this report.

<b>Annexes</b>	Annex A – Revised Members’ Code of Conduct Annex B – Revised Arrangements for dealing with allegations of misconduct under Section 28 Localism Act 2011 Annex C – Revised Planning Code of Practice for Councillors and Officers Annex D – Revised ICT Code of Practice for Members
<b>Background Papers</b>	Governance Working Group Agendas and Meetings
<b>Report Author</b>	Rachel Whillis – Democratic Services Manager rachel.whillis@surreyheath.gov.uk
<b>Executive Head</b>	Gavin Ramtohal – Head of Legal & Democratic Services

# PART 5 - CODES AND PROTOCOLS

## SECTION A

### MEMBERS' CODE OF CONDUCT

#### PART 1

##### GENERAL PROVISIONS

#### 1. Introduction and Interpretation

- 1.1. This Code applies to you only when acting in your capacity either as a councillor or co-opted member of the Council or its committees and sub-committees. This Code also applies where your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor or co-opted member. In applying this Code the Monitoring Officer, or Deputy Monitoring Officer as the case may be, shall recognise and give due consideration to every councillor's right to enhanced protection in respect of political expression.
- 1.2. It is your responsibility to comply with the provisions of this Code which will assist the Council in meeting its statutory obligation to promote and maintain high standards of conduct by its councillors and co-opted members in accordance with the following principles:
- (a) **Selflessness.** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
  - (b) **Integrity.** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
  - (c) **Objectivity.** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
  - (d) **Accountability.** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
  - (e) **Openness.** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

- (f) **Honesty.** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- (g) **Leadership** Holders of public office should promote and support these principles by leadership and example.

1.3. In this Code, disclosable pecuniary interests are the interests specified in the Schedule to the Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012 (attached as Annex A ) and

- (a) it is an interest that you have personally, or
- (b) it is an interest of:
  - i. your spouse or civil partner,
  - ii. a person with whom you are living as husband and wife, or
  - iii. a person with whom you are living as if you were civil partners,

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

1.4. In this Code, “meeting” means any meeting of:-

- (a) the Council;
- (b) the Executive of the Council;
- (c) any of the Council’s or its Executive’s committees, sub-committees, joint committees, joint sub-committees or area committees, including any site visit authorised by the Council, the Executive or any of the aforementioned committees.

1.5. This Code does not cover matters in respect of which the Secretary of State may, under the Localism Act 2011, specifically provide that criminal sanctions will apply.

1.6. A failure of a councillor or co-opted member to comply with this Code is not to be dealt with otherwise than in accordance with arrangements approved by the Council under which allegations of such failure can be investigated and decisions on such allegations can be made. In particular, a decision is not invalidated just because something that occurred in the process of making the decision involved a failure by a councillor or co-opted member to comply with the Code.

## 2. General Obligations

2.1. You must:-

- (a) treat others with respect;

(b) [be transparent about conflicts of interest](#);

(c) [act lawfully](#);

(d) [act with integrity and honesty](#);

2.2. You must not:-

(a) do anything which may cause the Council to breach any of the equality enactments;

(b) bully [or harass](#) any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be:-

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,  
in relation to an allegation that a councillor or co-opted member (including yourself) has failed to comply with this code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

2.3. You must not:-

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:-

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is:-

- reasonable and in the public interest; and

- made in good faith and in compliance with the reasonable requirements of the Council; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

- 2.4. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute, or in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by councillors and co-opted members.
- 2.5. You:-
- (a) must not use or attempt to use your position as a councillor or co-opted member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
  - (b) must, when using or authorising the use by others of the Council's resources:-
    - i. act in accordance with the Council's reasonable requirements;
    - ii. ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 and to the Council's Guidance on Publicity and Conduct for Councillors and Officers Prior To an Election.
- 2.6. When reaching decisions on any matter you must have regard to any relevant advice provided to you by the Council's Chief Finance Officer or Monitoring Officer where that officer is acting pursuant to their statutory duties.
- 2.7. You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

**PART 2**  
**INTERESTS**

**1. Registration of Disclosable Pecuniary Interests**

- 1.1. As a councillor or co-opted member of the Council you must avoid participating in any decision where you could reasonably be seen as having an interest which compromises your honesty or objectivity. Equally you should avoid any action which might reasonably lead others to conclude that you were not acting selflessly or with integrity. In order to assist with this and to promote openness and accountability, the Monitoring Officer must, by law, establish and maintain a register of interests, open for inspection by the public at the Council's offices and publicly accessible on the Council's website.
- 1.2. You must, before the end of 28 days beginning with the day on which you became a councillor or co-opted member of the Council or this Code being adopted by the Council, notify the Monitoring Officer of any disclosable pecuniary interests which you have at the time when the notification is given. These interests will then be entered on the register of interests.
- 1.3. Where you become a councillor or co-opted member of the Council as a result of re-election or re-appointment, paragraph 1.2 applies only as regards disclosable pecuniary interests not entered in the register when the notification is given.

**2. Disclosure of Disclosable Pecuniary Interests and participation in decision making**

- 2.1. Subject to paragraph 4 (*dispensations*), if you are present at any meeting and you are aware that you have a disclosable pecuniary interest in any matter that will be, or is being, considered at that meeting, you must, irrespective of whether that interest has been registered:
  - (a) disclose the nature of the interest to the meeting (or, if it is a sensitive interest as described in paragraph 5 below, disclose merely the fact that it is a disclosable pecuniary interest);
  - (b) not participate in any discussion or vote regarding that matter; and
  - (c) withdraw immediately from the room or chamber (including the public gallery) where the meeting considering that matter is being held.

Where you have not previously notified the Monitoring Officer of that disclosable pecuniary interest you must also do so within 28 days of the date of the meeting at which it became apparent.

- 2.2. Subject to paragraph 4 (*dispensations*), if you are aware that you have a disclosable pecuniary interest in any matter on which either:

- (a) you are authorised to make decisions, or
  - (b) you are consulted by an officer discharging powers delegated to them,
- you must not, in relation to (a) above, take any decision on that matter or, in relation to (b) above, participate in any consultation with such officer in respect of that matter.

Where you have not previously notified the Monitoring Officer of that disclosable pecuniary interest you must do so within 28 days of the date on which it became apparent.

- 2.3. You may participate in any business of the Council where that business relates to the Council's functions in respect of:-
- (a) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - (b) 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;
  - (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (d) an allowance, payment or indemnity given to councillors or co-opted members;
  - (e) any ceremonial honour given to councillors; and
  - (f) setting Council Tax or a precept under the Local Government Finance Act 1992.

### **3. Registration and Disclosure of Non-Pecuniary Interests**

- 3.1. You have a non-pecuniary interest in any business of the Council where it relates to or is likely to affect
- (i) any body to which you are appointed or nominated to by the Council;
  - (ii) any body, of which you are a member or have a close connection with, which exercises functions of a public nature; or is directed to charitable purposes; or is one of whose principal purposes includes the influencing 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 £2550;

(iv) Where a matter arises at a meeting which directly relates to your financial interest (and is not a Disclosable Pecuniary Interest set out in Annex A) or a financial interest of a close relative or close associate.

(iii)(v) Where a matter arises at a Planning Committee meeting which may, due to proximity, have an impact on land or property you own or otherwise have a legal or beneficial interest.

3.2. Where you attend a meeting of the Council, and you have a non-pecuniary interest in any business being 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. The existence and disclosure of a non-pecuniary interest under sections 3.1 (i), (ii), (iii) or (v) does not prevent you from taking part in the debate and voting on that business unless you consider that the interest affects your judgment or impartiality. The existence and disclosure of a non-pecuniary interest under section 3.1 (iv) means you must not participate in any discussion or vote regarding the relevant matter(s) and you must withdraw immediately from the room or chamber (including the public gallery) where the meeting considering that matter is being held.

3.3. Sub-paragraph 3.2 only applies where you are aware or ought reasonably to be aware of the existence of the non-pecuniary interest.

3.4. You must, within 28 days of

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

register in the Council's register of members' interests details of your non-pecuniary interests where they fall within a category mentioned in paragraph 3.1 by providing written notification to the Council's Monitoring Officer.

3.5. You must, within 28 days of becoming aware of any changes to your non-pecuniary interests, register details of those changes in the Council's register of members' interests.

3.6. Entries in the register of interests will be removed once the person concerned no longer has the interest, or is neither a councillor nor a co-opted member of the Council.

#### **4. Dispensations**

4.1. A councillor or co-opted member with a disclosable pecuniary interest in a matter may submit a written request to the Monitoring Officer for the grant of a dispensation allowing that councillor or co-opted member to participate in any discussion and/or vote on that matter at a meeting.

- 4.2. The Monitoring Officer may, after having had regard to all relevant circumstances, grant a dispensation to the councillor or co-opted member only if, he/she considers that without the dispensation:
- (a) the number of persons prohibited from participating in any particular business in relation to the matter would be so great a proportion of the body transacting the business as to impede the transaction of that business, or
  - (b) considers that without the dispensation each member of the Executive would be prohibited from participating in any particular business to be transacted by the Executive in relation to the matter.
- 4.3. The Audit & Standards ~~Hearing and Determination~~ Committee may, after having had regard to all relevant circumstances, grant a dispensation to the councillor or co-opted member only if, the Committee considers that:
- (a) without the dispensation the representation of different political groups on the body transacting the particular business would be so upset as to alter the likely outcome of any vote relating to that business, or
  - (b) granting the dispensation is in the interests of persons living in the borough, or
  - (c) it is otherwise appropriate to grant the dispensation.
- 4.4. Any dispensation granted must specify the period for which it has effect, and the period specified may not exceed four years.

## **5. Sensitive Information**

- 5.1. Sub-paragraphs 5.2 and 5.3 apply where:
- (a) a councillor or co-opted member of the Council has an interest (whether or not a disclosable pecuniary interest), and
  - (b) the nature of the interest is such that the councillor or co-opted member, and the Monitoring Officer, consider that disclosure of the details of the interest could lead to the councillor or co-opted member, or a person connected with that councillor or co-opted member, being subject to violence or intimidation.
- 5.2. If the interest is entered in the register of interests, copies of the register that are made available for inspection, and any version of the register published on the Council's website, must not include details of the interest (but may state that the councillor or co-opted member has an interest the details of which are withheld under this provision of the Code).
- 5.3. Where a disclosable pecuniary interest is not entered on the register of interests and would otherwise require disclosure at a meeting, the councillor or

co-opted member shall be entitled to merely disclose at the meeting the fact that they have such an interest in the matter concerned.

## 6. Acceptance of Gifts and Hospitality

- 6.1. As a councillor or co-opted member of the Council you must avoid accepting any gift, hospitality or other favour which could give the impression of compromising your honesty or objectivity. In particular, you
- (a) should avoid any behaviour which might reasonably be seen as motivated by personal gain;
  - (b) should exercise caution in accepting any gifts or hospitality which are (or which you might reasonably believe to be) offered to you because you are a councillor or co-opted member;
  - (c) should never accept significant gifts or hospitality (i.e. anything with a value of £~~2550~~ or more) from suppliers or contractors seeking to acquire or develop business with the Council; and
  - (d) must register any gift you receive or hospitality you accept (of a value of £~~2550~~ or more) in the register of interests maintained by the Council.
- 6.2. The requirement to register the acceptance of hospitality of a value of £~~2550~~ or more does not apply to Councillors undertaking Mayoral duties or when representing the Council at mayoral engagements. A list of current Mayoral Engagements is published on the Council's Website.

## 7. Pre-determination or bias

- 7.1. Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as councillor, however you should not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

7.2. When making a decision, you should always consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken. When making a decision, if you are not able to consider a particular matter with an open mind you should not participate in the debate or vote notwithstanding that you may be predisposed or have expressed previous views. You must also withdraw immediately from the room or chamber (including the public gallery) where the meeting considering that matter is being held.

**The Schedule to the Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012**

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

\*Note "M" means a member or co-opted member of the Council.

	<p><b>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</b></p> <p><b>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</b></p>
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# Documents which support the Constitution

## Part D

### Surrey Heath Borough Council Members' Code of Conduct

#### Arrangements for dealing with allegations of misconduct under Section 28 Localism Act 2011

##### Context

1. These arrangements describe how the public can make a complaint that a Member of Surrey Heath Borough Council “the Council” has failed to comply with the Council’s Member Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Council’s Code of Conduct.
2. Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Member of the authority (i.e. a councillor or a co-opted member) has failed to comply with that Council’s Code of Conduct which may be investigated and decisions made on such allegations.
3. The arrangements under the Localism Act must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation and whose views can be sought by the Council at any other stage, or by a Member against whom an allegation has been made.
4. [References to Monitoring Officer in this Document include any Deputy Monitoring Officer appointed by the Monitoring Officer.](#)
- 3.5. [Any timescales referred to in this Document may be extended by the Monitoring Officer depending on circumstances and reasons for delay.](#)

##### Principles of these arrangements

- 4.6. The arrangements for dealing with allegations of a failure to comply with the Council’s Code of Conduct will abide by the following principles
  - (a) they should reassure the public that complaints will be dealt with swiftly, properly and transparently;
  - (b) they should be simple, clear and follow the rules of natural justice;
  - (c) they should not be overly bureaucratic i.e. they should follow the law and not build in unnecessary additional measures;
  - (d) they should allow the Monitoring Officer to dismiss complaints which are vexatious, frivolous, [without merit, outside the scope of the Code of Conduct](#) or politically motivated;
  - (e) they should allow the Monitoring Officer in conjunction with the Independent Person to take decisions on whether a Councillor should be investigated;
  - (f) that following investigation, the [Hearing Standards](#) Sub Committee [may will](#) decide whether that Councillor should be held in breach of the Code [or, in the alternative, the Monitoring Officer may consider a local resolution](#); and

- (g) they should allow for the Monitoring Officer to be accountable for such decisions in (e).

### **The Code of Conduct**

~~5.7.~~ The Council has adopted a Member Code of Conduct, which is available on the Council's website. The Council has tasked the Monitoring Officer to keep the Code of Conduct and the operation of these arrangements under review.

### **Making a complaint**

~~6.8.~~ Any person may make a complaint, in writing, to-  
The Monitoring Officer  
Surrey Heath Borough Council  
Surrey Heath House  
Knoll Road  
Camberley  
Surrey, GU15 3HD

Email: [monitoring.officer@surreyheath.gov.uk](mailto:monitoring.officer@surreyheath.gov.uk)

~~7.9.~~ The Council will only process complaints which are in writing. The name and address of the complainant must be given and only in very exceptional circumstances will the Council investigate anonymous complaints.

~~8.10.~~ The Monitoring Officer will acknowledge receipt of a complaint within 5 working days of receiving it, and will keep the complainant informed of the progress of the complaint at appropriate junctures.

### **Role of the Monitoring Officer**

~~9.11.~~ The Monitoring Officer's job is to oversee the complaints process, to liaise with the Independent Person and where appropriate to refer ~~the cases~~ to an Investigator and then potentially a ~~Hearing Standards~~ Sub Committee of the Audit & Standards Committee.

~~10.12.~~ The Monitoring Officer is accountable to the Audit & Standards Committee for this function.

### **Independent Person**

~~11.13.~~ The Council has appointed an Independent Person(s).

~~12.14.~~ The Independent Person is not (and has not within the last five years from 1 July 2012) been a Member or an Officer of the Council.

~~13.15.~~ The Monitoring Officer will consult the Independent Person on action to be taken under these arrangements at all ~~points~~-relevant stages of the complaints process as directed by this Document.

~~14.16.~~ A Member who is the subject of a complaint is also entitled to refer to the Independent Person for advice during the course of a complaint. Where possible, the Monitoring Officer will refer the Member to a second independent person to

help avoid a conflict of interest for the independent person liaising with the Monitoring Officer.

~~15.17.~~ The Independent Person receives expenses for undertaking this role but no other remuneration unless the Audit & Standards Committee recommends otherwise.

### **Assessment of complaints**

~~16.18.~~ The Monitoring Officer will review every complaint received and, consult with the Independent Person where required or at any other times the Monitoring Officer considers appropriate~~appropriate.~~

~~17.19.~~ The Monitoring Officer will inform the subject Member about the complaint and inform the Member that advice can be taken from the Independent Person. ~~The Monitoring Officer will inform the subject Member of any advice offered by the Independent Person.~~

~~18.20.~~ The Monitoring Officer has power to reject complaints which are vexatious, frivolous, without merit, outside the scope of the Code of Conduct or malicious or in some other way an abuse of process. Where the Monitoring Officer has taken a decision that a complaint falls into one of these categories, he/she will inform the complainant of his decision and the reasons for that decision. There is no appeal from this decision. However, the Monitoring Officer, in his annual report to the Audit & Standards Committee, ~~may~~will provide information on the numbers and nature of the complaints he/she has rejected on this basis.

~~19.21.~~ Where the Monitoring Officer requires additional information in order to come to a decision (about a vexatious etc. complaint) or a recommendation (about any complaint) he/she may seek such information from the complainant, ~~and~~ the subject Member and other relevant persons such as a Parish Clerk, but he/she will not commence an investigation prior to liaising with the Independent Person. For the avoidance of doubt, the Monitoring Officer may seek evidence and information to the extent required to demonstrate that there is merit to a complaint and whether the Monitoring Officer can accept an informal resolution; such actions do not constitute an investigation.

~~20.22.~~ In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. The Monitoring Officer ~~may~~will consult with the Independent Person ~~and the subject Member~~ where this outcome seems appropriate. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action. The Monitoring Officer will have due regard to the following when considering whether a complaint can be resolved informally or requires formal investigation.

- (a) The seriousness of the allegations
- (b) The conduct and cooperation of the subject Member during the assessment
- (c) The impact of the alleged misconduct
- (d) The intentions of the subject Member regarding the alleged misconduct
- (e) The complexity of evidence
- (f) Whether there is conflicting evidence and such evidence is material

~~21-23.~~ If the Monitoring Officer decides that the complaint concerns a service, policy or decision of the Council then he may refer it to the normal complaints procedure.

~~22-24.~~ The Council has produced a flowchart for the assessment and investigation of misconduct complaints at Annex [A6](#). The Monitoring Officer will refer to this when making a decision to refer a matter for investigation. Where there is any conflict or uncertainty between the flowchart and this Document, then this Document shall prevail.

~~23-25.~~ If the Monitoring Officer decides that a complaint merits formal investigation, he/she /she will appoint one or more Investigating Officers, depending on the complexity of the complaint, either from within the Council, from a neighbouring authority or from an external investigator ~~an Investigating Officer, who may be another officer of the Council, an officer of another Council or an external investigator.~~ For each appointment, the Monitoring Officer will give due consideration to the nature and complexity of the issues and the skill sets required for the investigation.

~~24-26.~~ If the Monitoring Officer decides not to investigate the complaint, he /she will write to the complainant outlining the reasons why. This decision is final and will be reported as part of the Monitoring Officer's annual report to the Audit & Standards Committee.

~~25-27.~~ During the investigation phase the Monitoring Officer will keep all parties informed of the progress of the case. It is expected that the complaint will be confidential during this phase. Only in very exceptional circumstances will the name of the complainant be withheld from the subject member. The Monitoring Officer will consider carefully any requests for anonymity from the complainant. In particular, if the Monitoring Officer considers that disclosing the name of the complainant to the subject Member would cause genuine harm or distress to the complainant, or prejudice the complaint process, the complainant's name should be withheld. An example might be a serious complaint about bullying or harassment.

## **The investigation**

~~26-28.~~ The Investigating Officer will complete the investigation in accordance with any policy or guidelines that the Council shall adopt.

~~27-29.~~ The investigation shall be carried out in a prompt manner.

~~28-30.~~ At the end of the investigation, the Investigating Officer(s) will produce a draft report and will send copies of that draft report, in confidence, to the complainant and to the subject Member, to give both an opportunity to identify any factual matter in that draft report which is disputed or requires further investigation within 10 days of the report being issued.

~~29-31.~~ Having received and taken account of any comments on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer as soon as is practicable.

~~30-32.~~ The Monitoring Officer will consult with the Independent Person on the outcomes or recommendations of the investigation.

[31-33.](#) If following consultation, the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer(s) to reconsider his/her report.

[32-34.](#) The Monitoring Officer will review the Investigating Officer's report in light of the Independent Person's advice and, if he/she is satisfied that the Investigating Officer's report is sufficient and that no further investigations are required, the Monitoring Officer will write to the complainant and to the subject Member concerned with a copy of the final report.

### **Findings of "No-breach"**

[33-35.](#) If the Monitoring Officer finds that there has been no breach of the Code of Conduct then he/she will write to the complainant and the subject Member and dismiss the complaint. The decision is final and there is no appeal. The Monitoring Officer will include this decision in his/her annual report to the Audit & Standards Committee.

### **Findings of "Breach"**

[34-36.](#) If the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct then the Monitoring Officer will consult with the Independent Person, the subject Member and the complainant to see if any form of local resolution is possible.

### **Local Resolution**

[35-37.](#) The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with all the parties and seek to agree a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the subject Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action.

[36-38.](#) If the subject Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Audit & Standards Committee for information, but will take no further action. Such reports should be open to public scrutiny.

### **Hearing Standards Sub Committee of the Audit & Standards Committee**

[37-39.](#) If the Monitoring Officer considers that local resolution is not appropriate, or the Member or complainant concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to a Hearing Standards Sub Committee which will conduct a local hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.

[38-40.](#) The Monitoring Officer will carry out a pre-hearing process which will be conducted by way of written correspondence or in complex cases by way of interview. As part of the pre hearing process the subject Member will be invited to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing.

~~39.41.~~ The Access to Information Rules will apply to meetings of the Sub Committee as it would apply to any other meeting of the Council. The Monitoring Officer will advise the Committee whether the press and public should be excluded during any part of the hearing process. In order to give confidence to the public it is expected that the meeting of the Committee will take place in public unless there are exceptional circumstances which dictate otherwise.

~~40.42.~~ At the hearing, the Investigating Officer(s) will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the subject Member has failed to comply with the Code of Conduct. The subject Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

~~41.43.~~ The Independent Person may be invited to attend the hearing to advise the Committee but is not required to attend.

~~42.44.~~ If the Committee concludes that the subject Member did not fail to comply with the Code of Conduct, then they will dismiss the complaint.

~~43.45.~~ If the Committee concludes that the subject Member did fail to comply with the Code of Conduct, the Chairman will inform the Member of this finding and the Committee will then consider what action, if any, should be taken as a result of the Member's failure to comply with the Code of Conduct.

#### **Powers of a Hearing Standards Sub Committee**

~~44.46.~~ In considering its response, the Sub Committee will give the Member an opportunity to make representations, but will then decide what action, if any, to take in respect of the matter. The powers of the Sub Committee are:

- (a) To formally request the Member to apologise either privately or in public.
- (b) To formally request the Member to attend training.
- (c) To censure the Member.
- (d) To send a report to Council to censure the Member.
- (e) To require the Monitoring Officer to publish a report in the newspaper or on the Council's website about the Member's conduct.
- (f) To withdraw privileges provided by the Council such as computer equipment, internet or email access.
- (g) To formally inform to the Member's Group Leader of the outcome.
- (h) To recommend to the Member's Group Leader that the Member be removed from a Committee or other body.
- (i) Where appropriate, to limit the Member's access to only designated Officers.

(j) Or a combination of any of the above.

~~45.47.~~ As a matter of law, the Sub Committee does not have the power to suspend or disqualify the Member or to withdraw allowances to which members are entitled.

### **Appeals**

~~46.48.~~ There is no right of appeal for the complainant or for the Member against a decision of a Sub Committee.

### **Post hearing**

~~47.49.~~ At the end of the hearing, the Chairman will state the decision of the **Hearing Standards** Sub Committee as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Committee resolves to take.

~~48.50.~~ As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Committee, and send a copy to all the parties, and if required, make that decision notice available for public inspection.

### **Revision of these arrangements**

~~49.51.~~ The Council may by resolution agree to amend these arrangements, and has delegated to the Monitoring Officer the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

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# **PART 5 - CODES AND PROTOCOLS**

## **SECTION D**

### **PLANNING CODE OF PRACTICE FOR COUNCILLORS AND OFFICERS**

#### **1. PURPOSE OF THE CODE OF PRACTICE**

- 1.1 This Code of Practice is intended to provide clear guidance to Councillors and officers about how they should carry out their duties in relating to planning matters so as to ensure openness, transparency and consistency in decision-making and to set standards of probity and conduct which the residents of Surrey Heath can expect.

#### **2. CONTEXT**

- 2.1 The town and country planning system involves the Council taking decisions about the development and use of land in the public interest. Planning law requires that all planning applications are determined in accordance with the approved Development Plan unless material planning considerations, such as the National Planning Policy Framework, indicate otherwise.
- 2.2 Planning is often highly contentious because its decisions affect the lives of everyone, be they applicant, objector, supporter or local resident. This is heightened by the system actively inviting public opinion on applications before decisions are taken. It is essential, therefore, that the planning process is characterised by transparent, consistent and open decision-making.

#### **3. GENERAL ROLES AND RESPONSIBILITIES**

- 3.1 Councillors and Officers have different, but complementary, roles in the planning process. Likewise members of the Planning Applications Committee have different roles from other Councillors when exercising the functions of the Local Planning Authority. All Councillors are, however, bound by the terms of the Council's Code of Conduct.

##### **Members of the Planning Applications Committee**

- 3.2 Whilst the determination of a planning application is not a 'quasi-judicial' process, it is a formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. All involved should remember the possibility that an aggrieved party may seek a Judicial Review and/or complain to the Ombudsman on grounds of maladministration or a breach of the authority's code.

- 3.3 Given the nature of decisions made at Committee meetings, Councillors will not be permitted to vote in relation to an application unless they have been present in the meeting throughout the consideration of the application in question.
- 3.4 In addition to complying with the Council's Code of Conduct, Councillors who sit on the Planning Applications Committee must: -
- (a) act fairly and openly
  - (b) avoid inappropriate social contact with applicants and their agents, objectors and other interested parties
  - (c) despite any views expressed publically, approach decision-making with an open mind, and have regard to all material planning considerations and be prepared to change their view if persuaded they should
  - (d) make decisions purely on planning grounds in the public interest and not favour, or appear to favour, any person, company, group or locality
  - (e) not decide how to vote on each application on the basis of any political "whip", but solely on the planning merits
  - (f) ensure that the reasons for their decisions are clearly stated at the meeting.

### **Other Councillors**

- 3.5 Councillors who do not sit on the Planning Applications Committee represent their wards and the Borough as a whole and may exercise their right to attend meetings of the Planning Applications Committee to speak, although not vote, on any planning matter.
- 3.6 Councillors should particularly note that they have the same duty as members of the Committee in respect of compliance with the Code of Conduct when they attend any meeting and should always declare any pecuniary or non-pecuniary interests at the appropriate stage in the proceedings.
- 3.7 In order to avoid confusion for the public attending meetings of the Planning Applications Committee, Councillors, who are not members of the Committee, must not sit with those who are and must sit in the area designated for non-members. The Chairman, at the beginning of the meeting will identify the members of the Committee and any other councillors present who are not members of the Committee.
- 3.8 Councillors who are not members of the Committee do not act in any decision making role, but shall nonetheless act fairly and openly ~~and avoid inappropriate social contact with applicants and their agents, objectors and other interested parties.~~

- 3.9 In certain circumstances, the full Council carries out the functions of the Planning Applications Committee and Councillors should be aware that in those circumstances they should comply with the provisions of this Code of Practice.

### **Officers**

- 3.10 Officers are responsible to the Council as a whole. They must always act openly and impartially and provide consistent professional advice based on planning policies and procedures and planning law, ensuring that members of the Committee are aware of all relevant material planning considerations before decisions are made. Officers must comply with any professional codes of conduct that may be applicable; for Planning Officers this is the Royal Town Planning Institute's (RTPI) Code of Professional Conduct<sup>1</sup>. Officers must also conscientiously carry out the decisions of the Committee.

## **4. CODE OF CONDUCT**

- 4.1 The Council has adopted a Members' Code of Conduct at Part 5 of this Constitution. The Code of Conduct requires the open disclosure of any Disclosable Pecuniary Interest or non-pecuniary interest in issues being considered by the Council or its Committees.
- 4.2 Training and guidance on the Code has been provided to all Councillors and will be regularly updated. Members of the Planning Applications Committee must be particularly careful to ensure that they are familiar with the requirements of the Code. It is the personal responsibility of individual Councillors to ensure they comply with the Code and make all appropriate declarations. If in any doubt, Councillors should seek advice in advance of the meeting either from the Monitoring Officer or from the legal adviser to the Committee.
- 4.3 Although "Declaration of Interests" appears as a separate item on the Agenda for every meeting of the Planning Applications Committee, the Chairman normally asks whether any Councillor wishes to make a declaration of interest prior to the consideration of each individual planning application so that it is clear for which application interests are being declared. This does not, however, preclude a Councillor declaring any interest under the specific item on the Agenda.

## **5. LOBBYING OF COUNCILLORS**

- 5.1 It is a legitimate part of the planning application process for applicants, neighbours and other interested parties to approach Members. However, the rules of natural justice mean that planning applications should be determined in an open and fair manner and taking account of all relevant information and

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<sup>1</sup> The RTPI Code of Professional Conduct requires that Planning Officers who are members of that institute do not make statements purporting to be their own, but which are contrary to their own professional opinion.

arguments. It is only at the meeting of the Committee that Members will have, and be able to consider, all the relevant information and considerations pertaining to the application.

- 5.2 It is therefore important that to maintain the integrity both of individual Councillors and of the Council as a whole that all Members should: -
- (a) if lobbied, explain the potentially conflicting position they are in. When expressing an opinion, make clear that this opinion is provisional and that they will only be able to come to a final view at the Committee meeting after hearing all the relevant information and arguments
  - (b) avoid giving constituents planning advice, save in relation to general planning procedures, for example, how the constituent can make a representation on the application, how the decision will be made (delegated or Committee) etc.
- 5.3 Members of the Planning Applications Committee often receive correspondence from constituents, applicants and developers asking them to support or oppose a particular proposal. It is good practice for Councillors to forward a copy of the correspondence to the [Executive Head of PlanningRegulatory](#). Merely forwarding the correspondence in this way does not preclude the Councillor from being involved in the determination of the application.
- 5.4 Should a member of the Planning Applications Committee be directly lobbied by any third party, they should notify the Monitoring Officer if they feel they have been exposed to undue or excessive lobbying. They should also indicate at the appropriate stage of the Committee proceedings that they have notified the Monitoring Officer of this lobbying.

## **6. LOBBYING BY COUNCILLORS**

- 6.1 If a Councillor becomes a member of, leads or represents an organisation whose primary purpose is to lobby the promotion or opposition to planning proposals, they may have an interest and may have to withdraw from the meeting during consideration of that proposal.
- 6.2 A Councillor should not lobby fellow Councillors excessively regarding their concerns or views nor attempt to persuade them that they should decide how to vote in advance of a meeting at which any planning decision is to be taken.

## **7. MEETINGS**

- 7.1 Officers frequently hold meetings with applicants and objectors to discuss applications. These are part of the normal planning process but are, and must be clearly stated to be, without prejudice to the professional recommendation that may be made to the Committee and the decision of the Committee. Councillors will not normally attend such meetings.

- 7.2 If a Councillor wishes to arrange a meeting with Planning Officers for themselves and/or a small number of constituents about a planning application, this will be arranged at the Council Offices.
- 7.3 Officers will not normally attend public meetings unless their attendance has been agreed with the ~~Executive~~ Head of ~~Planning~~ ~~Regulatory~~ and representatives of both the applicant and objector are given the opportunity to be present. Members of the Committee and Ward Councillors will be advised of any public meeting either organised by Officers or which Officers have agreed to attend.

## **8. PRESENTATIONS ON LIKELY DEVELOPMENT PROPOSALS**

- 8.1 The Council ~~may~~ will itself organise presentations to keep Councillors informed generally on matters which appear to have or are likely to have strategic importance for the Borough, ~~but will not do so in relation to any matter which is subject to a current planning application to the Council.~~ At such presentations, Councillors should maintain an impartial role, listening to what is being said and asking questions but not expressing an opinion.
- 8.2 Councillors may sometimes be invited to attend presentations/open days etc on likely development proposals by developers. Councillors should consider the appropriateness of accepting such invitations and give consideration to how their attendance might be perceived. Councillors should notify the Monitoring Officer of attendance at any such event.

## **9. OFFICER REPORTS TO COMMITTEE**

- 9.1 All applications requiring a decision by the Planning Applications Committee will be the subject of full written reports from the ~~Executive~~ Head of ~~Planning~~ ~~or such other planning officer acting under delegated authority~~ ~~Regulatory~~. The report will provide a clear outline of the site history, the relevant Development Plan policies, the response of consultees and the substance of objections. The report will include a clear recommendation with a technical appraisal justifying it. Any objections or other relevant issues arising after the Agenda has been published will be the subject of an oral report to the Committee at the meeting.

## **10. COMMITTEE SITE VISITS**

- 10.1 Committee site visits are fact-finding exercises which allow the Planning Applications Committee to make a more informed decision than would otherwise be possible from reading the Officer's report and considering the views expressed at the Committee meeting. They are not part of the formal consideration of any application and therefore public rights of attendance and speaking do not apply.
- 10.2 The Committee has adopted a procedure for site visits and this is set out at **APPENDIX A.**

## **11. PUBLIC PARTICIPATION AT THE PLANNING APPLICATIONS COMMITTEE**

- 11.1 Members of the Planning Applications Committee must not allow members of the public, applicants, agents or public speakers to communicate with them during the Committee meeting either orally or in writing, other than under the adopted public participation scheme, as this may give the appearance of bias to other observers.
- 11.2 The Public Speaking Rules at Part 4 of the Constitution provide the framework for public participation at the Planning Applications Committee.

## **12. PLANNING COMMITTEE DECISIONS CONTRARY TO OFFICER RECOMMENDATION**

- 12.1 From time to time, members of the Committee will disagree with the professional advice given by Officers and may determine an application contrary to that advice. When this happens Councillors must clearly express the planning reasons for their decision, such that a person observing the meeting would understand why the recommendation has not been followed. Officers will be given an opportunity to explain to the Committee any planning and / or legal implications arising from their intended decision before the decision is confirmed.
- 12.2 The reasons given by the Committee for the decision will be recorded in the minutes of the meeting and the ~~Executive~~ Head of ~~Planning~~ [Regulatory](#) will be asked to finalise the wording of the decision notice, normally after consultation with the Chairman and Vice Chairman of the Committee.

## **13. APPEALS AGAINST COUNCIL DECISIONS**

- 13.1 Generally, Officers will organise and appear as witnesses at planning appeals on behalf of the Council. [Officers will have overall management and responsibility for the conduct of planning appeals.](#) In giving evidence, Officers will present the best possible case on behalf of the Council, whilst complying with the RTPI Code of Professional Conduct\* [and taking into account cost/benefit analysis.](#) In some circumstances it may be necessary to appoint consultants to appear on behalf of the Council; for example, where the Committee has decided an application contrary to the Officer recommendation. [Where the overall strategy for a planning appeal is contrary to, or unsupportive of, the Planning Application Committee's decision in the first instance, the Head of Planning must consult with the Chairman and the Vice Chairman of the Planning Applications Committee and relevant ward Councillors.](#)
- 13.2 If a Councillor intends to make representations to the Planning Inspectorate on any appeal either in writing or in person at any hearing / public inquiry, they should advise the ~~Executive~~ Head of ~~Planning~~ [Regulatory](#) and indicate whether these representations will be in support of the Council's case.

## **14. COUNCILLOR AND OFFICERS AS APPLICANTS**

- 14.1 Where a Councillor is the (prospective) applicant for planning permission, he or she must appoint a professional agent to act on their behalf in dealing with Planning Officers. Whilst this might appear to place an undue financial burden on the Councillor, regard should be had to Members' Code of Conduct at Part 5 of this Constitution.
- 14.2 Any application submitted by a serving Councillor, or a partner as defined in the Members' Code of Conduct, or persons who were Councillors within the previous 4 years, will not be dealt with by Officers under delegated powers but will be the subject of a decision by the Planning Applications Committee. The Committee will be advised that that the application has been submitted by a Councillor, or former Councillor, and will also be advised whether the application is one that would normally have been dealt with under the Scheme of Delegation.
- 14.3 In the case of serving Councillors, the Monitoring Officer should be notified by the Councillor concerned in writing of the application no later than the date of its submission.
- 14.4 The same rules apply in respect of any officer, or a partner as defined in the Members' Code of Conduct, who is currently employed by the Council or who has been employed by the Council within the previous 4 years.

## **15. TRAINING**

- 15.1 Councillors may not sit on the Planning Applications Committee unless they have attended at least the annual mandatory planning training prescribed by the Council. Where the Full Council determines a major planning application, all Councillors must have attended the prescribed planning training as determined by the ~~Executive~~ Head of [PlanningRegulatory](#).
- 15.2 Suitable additional training opportunities will be arranged at regular intervals by the ~~Executive~~ Head of [PlanningRegulatory](#) and/or the Monitoring Officer.

## **16.0 REVIEW**

- 16.1 It is important that decisions, and the decision-making process, are regularly reviewed to improve the quality and consistency of decision making, thereby strengthening public confidence. Arrangements will normally be made for Councillors to visit, on an annual basis, a sample of implemented planning permissions to assess the quality of the decision. These visits will include a range of developments (major, minor, departures, upheld appeals, listed building works etc). The Committee will also receive an annual review of appeal decisions from the ~~Executive~~ Head of [PlanningRegulatory](#).

## APPENDIX A

### COMMITTEE SITE VISITS

#### General

1. The purpose of a site visit is to ascertain facts and to ask questions of the planning officers, not to debate the merits of the planning application. Members, at the site visit, must not indicate which way they intend to vote at the Planning Applications Committee meeting.
2. The applicant will be notified in advance in writing of the time and date of the visit and of any requirements in respect of the site visit (such as the pegging out of the development proposal). If applicants, or their agents, attend for site access purposes they will be advised at the start of the site visit that the purpose of the visit is to gather information and that they may not address the meeting or individual councillors.
3. The public does not have a right of attendance at the site, other than from public vantage points, and cannot address the meeting or individual councillors.
4. A Planning Officer will accompany Councillors to explain the development proposal and to answer any questions. Councillors should only allow themselves to be addressed by Officers or by fellow Councillors. Where a Councillor is approached by any other person, they should inform the Planning Officer present.
5. The Chairman of the Committee, or his representative, must maintain control over the conduct of each site visit which, whilst not part of a formal meeting of the Committee, will be conducted as a single meeting and in an orderly fashion.
6. Councillors must not normally enter planning application sites except on the formal Committee Site Visit. If a Councillor considers that a personal site visit is essential, they should contact the ~~Executive~~ Head of [PlanningRegulatory](#), who may, in exceptional circumstances, make appropriate arrangements. Councillors must at all times remember that to enter any land without the consent of the landowner is a trespass. This does not preclude the Councillor from viewing the application site from any public vantage point.

#### Site Visits Prior to Consideration of an Application by the Planning Applications Committee

7. Members of the Planning Applications Committee and local ward members may make a request for a site visit upon receipt of the agenda. Requests must be made in writing, explaining the reason for the request, to the Development Manager with a copy forwarded to the ~~Executive~~ Head of [PlanningRegulatory](#) and the Democratic Services Officer by 4 pm four clear working days before the Planning Applications Committee meeting.

### **Applications Deferred by the Planning Applications Committee for a Site Visit**

8. Only in exceptional circumstances will a request for a Committee Site Visit made at the Planning Applications Committee meeting, outside the above procedure, be entertained by the Committee.
9. Where the Planning Applications Committee has commenced the consideration of an item but decides to defer an application because it considers that a site visit is necessary in order for it to determine the application, only those members who have attended that site visit will be able to vote in relation to that application at the next meeting.
10. A site visit requested of the Planning Applications Committee will be arranged at a time to ensure that sufficient members are available to attend the site so that it is possible to achieve a quorum at the next meeting.

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# PART 5 - CODES AND PROTOCOLS

## SECTION C

### ICT CODE OF PRACTICE FOR MEMBERS

#### 1. Introduction

- 1.1 The Council is committed to e-governance and has accordingly agreed to provide tablet equipment to all members of the Council who require it to ensure this aspiration can be achieved. All members of the Council have to be readily accessible by email and be able to receive information electronically. In recognition of the importance the Council views this provision; the Council has adopted the IT Code of Practice as part of the Members' Code of Conduct.
- 1.2 The sections of this document provide important information regarding the Council's protocol for Information Management. Failure to follow the guidelines detailed in this Code of Practice could lead to a breach of the Members' Code of Conduct.

#### 2. Equipment and Software

- 2.1 The Council is only responsible for the control and maintenance of computer equipment provided by the Council. The Council provides tablets for the use by Councillors. No responsibility or work will be undertaken by ICT on computer or telephony equipment not provided by the Council. Members using their own computer equipment will be responsible for the cost and maintenance. Support for council provided equipment can only be provided at Surrey Heath Borough Council offices in Knoll Road.
- 2.2 All equipment and software provided by the Council remains the property of the Council at all times. The equipment provided is solely for the use of the Council Member for whom the equipment is provided and is not to be used by other members of the household, friends or relatives.
- 2.3 The Member is responsible for keeping the equipment provided in a good condition, subject to fair wear and tear. Due care must be undertaken to keep the provided equipment safe and secure, in accordance with the signed equipment agreement. In the event of a device being lost which has access to Council information should be reported to the ICT team as soon as possible.
- 2.4 The Member must return all the equipment supplied by the Council, if the Member ceases to be a Member of the Council, or on request by the Council, if the Audit and Standards Committee is satisfied that the Member has broken this Code of Practice. The equipment should be returned, or made available for collection as soon as possible and within one month of the above circumstances occurring.
- 2.5 Waste computer output must be disposed of with due regard to its sensitivity. Printed output with confidential or personal details must be shredded. Special

confidential waste sacks can be provided by the Council for the disposal of sensitive waste.

### 3. Training and User Guides

- 3.1 User notes are normally provided for email and iPad usage. Additional assistance and training at Surrey Heath Borough Council offices can be provided on request through the ICT Service Desk.

### 4. Passwords / Authentication

- 4.1 Passwords must be kept secure and must not be disclosed to anyone, except to staff authorised by ICT staff, where required. Passwords must not be written down or displayed in any way that would allow the password to become known to others. Multifactor Authentication (MFA) must be used in combination with a password to further enhance security.

- 4.2 Access to your Surrey Heath provided account outside of UK is restricted, should you require access outside the UK please provide at least 5 working days notice to the ICT team.

### 5. Email, Storage and Internet Usage

- 5.1 The email, storage and software facilities provided by the Council should be principally used for Council business. Council business is defined as “business which is applicable to the work officially undertaken for the Council, including any data that is provided by your constituents or the Council and is used in the same way as an officer of the Council may make use of the data and it relates to a statutory function provided by the Council applicable to the professional body associated with such work or which assists the Member with carrying out his/her duties as a Councillor”. If storing ward work which is not directly related to Council business, for example; personal details of complaints, personal data held for constituency purposes, surgery lists, charity association data, canvassing data, political party records or data that does not relate directly to the statutory function of the Council this should be stored in a separate folder so that it can be easily identified to ensure that it is not released under FOI and is not retained by the Council for longer than is necessary.

- 5.2 The Council will provide an official email account, for each Member, using the domain name of surreyheath.gov.uk. This email account should be used for all Council official and work related email sent and received by the Member. Web based personal or non-Council email accounts such as Hotmail and YahooGmail must not be used for Council business.

- 5.3 Under no circumstances should a rule be applied to your Surrey Heath provided email account to automatically forward-redirect emails. This -including includes to another Council Surrey County Council if also a Surrey County Councillor or a Parish Councillor.

- 5.4 As a Member of the Council it is important that ~~an~~ appropriate language and style of communication is used. Councillor emails, storage, Teams and written communication fall under the Freedom of Information Act and Data Protection Subject Access Rights and need to be made available for release, subject to applicable exemptions being applied, on request from the Information Governance Manager.
- 5.5 Abusive, harassing or defamatory remarks, fraudulent or obscene messages or materials must not be used within email messages or attachments. The sending or forwarding of chain letters, text jokes, joke images or other forms of mass mailing is also prohibited. Members should always be aware that material that they personally may find inoffensive could be offensive or hurtful to others. Emails should be written in a business-like manner.
- 5.6 Unacceptable uses of the Internet from council provided equipment include, but are not limited to:-
- (i) the downloading, transmission or posting of any material which is pornographic, obscene, threatening, insulting or otherwise offensive in nature.
  - (ii) personal use for product advertisement or commercial activities.
  - (iii) any unlawful or illegal activities.
  - (iv) any other activity which, under the Code of Conduct, would bring the Council into disrepute.
- 5.6 All external outgoing email will be appended automatically with the Council's standard disclaimer.

## **6. Use of Social Network Sites**

- 6.1 Members need to assess the risk posed by their individual use of social network sites such as Facebook or Twitter. If a member is unsure of whether to use a social networking or public online site, they should seek advice and guidance from the Group Leader or the Monitoring Officer. Members must be mindful that they follow the Surrey Heath Code of Conduct for Members when they represent Surrey Heath Borough Council on such sites.

## **7. Software Licensing**

- 7.1 The Council operates software-licensing controls and deliberate downloading of unauthorised software from the Internet onto Council provided equipment is strictly forbidden. Authorised downloads would normally only include Council prescribed apps and documents designed for viewing or printing. ~~Internet Browser plug-in programs are required to view the contents of some web sites and may be downloaded, but only if the site cannot be viewed without the additional software being installed.~~

## **8. Monitoring of Email, and Storage and Teams**

- 8.1 The Council reserves the right to monitor email and storage and Teams usage under the supervision of the Monitoring Officer.

## 9. Abuse of the Code of Practice

- 9.1 Breach of the Code of Practice, as determined by the Audit and Standards Committee, may result in Council owned equipment being removed.

## 10. Data Protection

- 10.1 Elected members have data protection responsibilities for personal information they process in their work. ~~They are data controllers under the General Data Protection Regulation for Ward work.~~ This means they are responsible for making sure all personal data handled by their office is done in a way that complies with the requirements of the Data Protection Act and UK General Data Protection Regulations. ~~Each councillor has been registered with the Information Commissioner's Office by Surrey Heath Borough Council for their Ward work and are given a copy of their registration.~~ Further guidance for Councillors when collecting and processing data can be found in the SHBC Data Protection Guidance for Councillors.
- 10.2 Elected members are data controllers under the UK General Data Protection Regulation for Ward work. It is the responsibility of each member to identify if they are required to register with the Information Commissioners Office.
- 10.3 Elected members should use the Councils email and storage facility provided to them by the Council for Council business, if a Councillor chooses to store ward work on the Council provided storage then as the data controller of that data they are responsible for ensuring that this is separated and clearly identified. Information stored on the Council network may be subject to the Council's Freedom of Information procedures and Data Protection policy.
- 10.4 Councillors are advised to run annual audits of the data that they are processing and storing, any data that is no longer required or has met its retention period should be securely deleted or destroyed.
- 10.5 Any data stored on the Council network by the member will be retained until such a time that the member leaves office, when the member has left office the Council will close access to the data and the data will be deleted from the network. Any members emails will be retained in line with the Councils email retention policy.
- ~~10.2~~10.6 In the event of electronic or paper medium containing Council personal, sensitive or confidential information being lost or miscommunicated, the Data Protection Officer (Monitoring Officer), Information Governance Manager or ICT Manager must be notified immediately.
- ~~10.3~~10.7 In order to protect themselves and the Council, all Members are required to undertake bi-annual training in relation to Data Protection.