

**Central Bedfordshire Council
Ethical Handbook**

		Page
Part 1	Guidance on Gifts and Hospitality	1
1.	Introduction	1
2.	General Caution	1
3.	Criminal Law	2
4.	Limits of Guidance	2
5.	Meaning of Gifts and Hospitality	2
6.	Appropriate Gifts and Hospitality	3
7.	Principles to apply in relation to Gifts and Hospitality	3
8.	Gifts received and donated to the Chairman's Appeal	4
9.	Registration of Gifts and Hospitality	4
10.	Reporting of inappropriate Gifts and Hospitality offered	5
11.	Enforcement	5
Part 2	Members' Planning Code of Good Practice	6
1.	Background	6
2.	Introduction	6
3.	Relationship to the Code of Conduct for Councillors	7
4.	Development Proposals and Interests under the Code of Conduct for Councillors	8
5.	Fettering Discretion in the Planning Process	9
6.	Contact with Applicants, Developers and Objectors	12
7.	Presentations by Applicants/Developers	13
8.	Lobbying of Councillors	13
9.	Lobbying by Councillors	15
10.	Site Visits	16
11.	Public Participation at Meetings	17
12.	Officers	18
13.	Decision Making Process and Decisions Contrary to Officer Recommendation	19
14.	Training	20
App A	Code of Practice for Conduct of Site Inspections	21

	Page
Part 3 Licensing Code of Good Practice	22
1. Background	22
2. Introduction	22
3. Relationship to the Members' Code of Conduct	23
4. Licensing Proposals and Interests under the Members' Code	24
5. Fettering Discretion in the Licensing Process	26
6. Contact with Applicants and Objectors	27
7. Lobbying of Councillors	28
8. Lobbying by Councillors	29
9. Site Visits	30
10. Public Speaking at Meetings	31
11. Officers	31
12. Decision Making	31
13. Training	32
Part 4 Confidential Reporting Code (Also known as "Whistleblowing")	33
1. Introduction	33
2. Aims and Scope of this Policy	34
3. Safeguards	35
4. Confidentiality	35
5. Anonymous Allegations	35
6. Untrue Allegations	36
7. How to raise a concern	36
8. How the Council will respond	37
9. The Responsible Officer	38
10. How the matter can be taken further	38
Part 5 Guidance on Property Transactions and Commercial Property Management	39
1. Purpose	39
2. Relationship to the Members' Code of Conduct	39
3. General Principles	40
4. Breaches of Guidance	43
Part 6 Indemnity for Members and Officers of the Council	44-48

Part 1: Guidance on Gifts and Hospitality

1. Introduction

- 1.1 This guidance is for members of the Council and independent and co-opted members (voting and non-voting).
- 1.2 The acceptance of gifts and hospitality by Members is not merely an administrative issue. It reflects directly on the public's perception of Members and of the Council.
- 1.3 Guidance for Members on the receipt of gifts and hospitality is set out below.

2. General Caution

- 2.1 Treat with extreme caution any offer of a gift, a favour or hospitality that is made to you personally, or to your immediate family.
- 2.2 Your personal reputation and that of the Council can be seriously jeopardised by the inappropriate acceptance by you or your immediate family of a gift or hospitality.
- 2.3 The acceptance of gifts and hospitality is not always unlawful or inappropriate. The decision for you in every case is whether or not it is appropriate to accept any gift or hospitality that might be offered to you, having regard to how it might be perceived.
- 2.4 No hard and fast rules can be laid down about what is or is not appropriate in every circumstance. This guidance is intended to enable you to make your own decision.

3. Criminal Law

- 3.1 It is a criminal offence corruptly to solicit or receive any gift, reward or advantage as an inducement to doing or forbearing to do anything in respect of any transaction involving the Council. The onus would be on you to disprove corruption in relation to a gift from a person holding or seeking to obtain a contract from the Council.

4. Limits of Guidance

- 4.1 This guidance does not apply to:-
 - 4.1.1 Gifts and hospitality you may receive from family and friends (as birthday or other festival presents) that are not related to your position as a member of the Council. You should however question any such gift or hospitality offered from an unusual source.
 - 4.1.2 The acceptance of facilities or hospitality provided to you by the Council.
 - 4.1.3 Gifts given to the Council that you accept formally on the Council's behalf and which are retained by the Council and not by you personally.

5. Meaning of Gifts and Hospitality

- 5.1 The expressions "gifts" and "hospitality" have wide meanings and no conclusive definition is possible. Gifts and hospitality include:-
 - 5.1.1 The free gift of any goods or services.
 - 5.1.2 The opportunity to acquire any goods or services at a discount or at terms not available to the general public.
 - 5.1.3 The opportunity to obtain goods or services not available to the general public.
 - 5.1.4 The offer of food, drink, accommodation or entertainment or the opportunity to attend any cultural or sporting event.
- 5.2 Common gifts include pens, diaries, calendars and other business stationery, articles of clothing, books, flowers and bouquets.
- 5.3 Members should be cautious when purchasing anything, if additional services, privileges or advantages are offered, which might be related to their position as a Member.

6. Appropriate Gifts and Hospitality

6.1 There are some circumstances where you may accept gifts and hospitality as being in the normal course of your duties as a Member:-

6.1.1 Civic hospitality provided by another public authority.

6.1.2 Normal and modest refreshment in connection with any meeting in the course of your work as a Member (e.g. tea, coffee and other normal beverages and refreshments).

6.1.3 Tickets for sporting, cultural and entertainment events which are sponsored or promoted by the Council or bodies to which you have been appointed by the Council, and the tickets are offered in relation to that sponsorship or promotion.

6.1.4 Small low value gifts (such as pens, calendars, diaries, flowers and other mementos and tokens).

6.1.5 Drinks or other modest refreshment in the normal course of socialising arising consequentially from Council business (e.g. inclusion in a round of drinks after a meeting).

6.1.6 Modest meals provided as a matter of courtesy in the office or meeting place of a person with whom the Council has a business connection.

6.1.7 Souvenirs and gifts from other public bodies intended as personal gifts (e.g. arising from twin-town and other civic events).

7. Principles to apply in relation to Gifts and Hospitality

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

7.1.1 Do not accept a gift or hospitality as an inducement or reward for anything you do as a Member. If you have any suspicion that the motive behind the gift or hospitality is an inducement or reward you must decline it.

7.1.2 "Reward" includes remuneration, reimbursement and fee.

- 7.1.3 Do not accept a gift or hospitality of significant value or whose value is excessive in the circumstances.
- 7.1.4 Do not accept a gift or hospitality if acceptance might be open to misinterpretation. Such circumstances will include gifts and hospitality:-
 - 7.1.4.1 from parties involved with the Council in a competitive tendering or other procurement process.
 - 7.1.4.2 from applicants for planning permission and other applications for licences, consents and approvals.
 - 7.1.4.3 from applicants for grants, including voluntary bodies and other organisations applying for public funding.
 - 7.1.4.4 from applicants for benefits, claims and dispensations.
 - 7.1.4.5 from parties in legal proceedings with the Council.
- 7.1.5 Do not accept a gift or hospitality if you believe it will put you under any obligation to the provider as a consequence.
- 7.1.6 Do not solicit any gift or hospitality and avoid giving any perception of so doing.

8. Gifts received and donated to the Chairman's Appeal

- 8.1 Some Members receiving gifts of value may prefer not to retain these personally but to pass them to the Chairman's Office for use in relation to the Chairman's Appeal. Members should indicate this intention to the provider and make this clear in the register of interests.

9. Registration of Gifts and Hospitality

- 9.1 The Code of Conduct for Members and Co-opted Members provides (Part F1 paragraph 5.5) that:-

As an over-riding obligation, Members are required to abide by the law and the Nolan Committee Seven Principles of Public Life in determining whether any additional interests should be disclosed.

- 9.2 You have an interest in any business of the Authority where it relates to or is likely to affect the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25.
- 9.3 This interest must be registered in the register of Members' interests. You should register the interest as soon as possible after acceptance of the gift or hospitality. The registration should include the source and nature of the gift or hospitality.
- 9.4 You must disclose the existence and nature of the interest arising from a gift or hospitality at a meeting of the Council at which business is considered to which the interest relates (i.e. business relating to the interests of the person or body giving the gift or hospitality.) The disclosure requirement does not however apply to gift and hospitality interests registered more than 3 years ago.
- 9.5 Whilst the registration requirement is limited to gifts or hospitality over the value of £25, Members are encouraged to register any significant gift or hospitality they receive below this value. There is no obligation to make a disclosure in relation to gifts and hospitality on the register which are below £25 in value.

10. Reporting of inappropriate gifts and hospitality offered

- 10.1 It is a criminal offence for a person corruptly to give or offer any gift, reward or advantage as an inducement or reward to you for doing or forbearing to do anything as a member of the Council.
- 10.2 You must immediately report to the Monitoring Officer any circumstances where an inappropriate gift or hospitality has been offered to you.
- 10.3 You may thereafter be required to assist the Police in providing evidence.

11. Enforcement

- 11.1 The General Purposes Committee has responsibility for ethical standards matters.
- 11.2 Allegations of any failure to meet the guidance must be made in writing to the Monitoring Officer.

Part 2: Members' Planning Code of Good Practice

1. Background

- 1.1 This Code of Good Practice has been prepared in the context of:-
- the Local Government Association's Guidance Note "Probity in Planning"
 - the Model Code produced by the Association of Council Secretaries and Solicitors 2007 and
 - the codes operated by Central Bedfordshire Council's legacy Authorities which were drafted in consultation with the District Audit Service, the Local Government Ombudsman and Standards for England.
- 1.2 Planning has a positive and proactive role to play at the heart of local government. It helps the Council achieve the ambitions of its communities. Good planning stimulates growth and promotes innovation. The planning system works best when the roles and responsibilities of all those involved in the process are clearly understood. It is vital that members and officers of the Council understand their roles and the context and constraints in which they operate.
- 1.3 Planning decisions involve balancing the needs and interests of individual constituents and the community with the need to maintain an ethic of impartiality in decision making.
- 1.4 The LGA Guidelines provides refreshed advice on achieving this balance. It also better reflects the local authority role as a place shaper and the enhanced role of members as champions of their local communities. It recognises Members' ability to participate in discussions prior to the receipt of a planning application on behalf of their communities and engage in spatial planning.

2. Introduction

- 2.1 **The aim of this Code of Good Practice:** To ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 2.2 **The key purpose of Planning:** To control development in the public interest.
- 2.3 **Your role as a member of the Planning Authority:** To make planning decisions openly, impartially, with sound judgement and for justifiable reason and as an applicant, objector or interested party, to make representations and act in line with the Members' Code of Conduct and this Code of Good Practice.

- 2.4 **When the Code of Good Practice applies:** This Code applies to Members at all times when they are involved in the planning process. (This includes, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies to planning enforcement matters and site specific policy issues as well as to planning applications.
- 2.5 Observance of this Code applies not only to members of the Council's Development Management Committee but to all the Council's members.. Some provisions apply specifically to Members when they are involved in the planning process as a ward Member or in a personal capacity, for instance when they or organisations to which they belong submit planning applications to the Council.
- 2.6 **If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his/her staff, and preferably well before any relevant meeting takes place.**
- 2.7 At certain points the Code refers to "the Planning Authority", to "the Development Management Committee" and to "the Committee". In each case, these references are to the Council or a committee of the Council exercising the Council's functions as local planning authority.

3. Relationship to the Code of Conduct for Councillors

- 3.1 First, apply the principles in the Council's Code of Conduct for Members which must always be complied with.
- 3.2 Then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Council's Code of Conduct for Members.

If you do not abide by this Code of Good Practice, you may :-

- 3.2.1 put the Council at risk of proceedings on the legality or maladministration of the related decision; and
- 3.2.2 put yourself at risk of being the subject of a complaint being made against you.

4. Development Proposals and Interests under the Members' Code of Conduct

- 4.1 The Localism Act 2011 places requirements on Members to register and declare disclosable pecuniary interests. The requirements must be followed scrupulously and Members should review the registration of their disclosable interests regularly. Planning proposals (be they planning applications or development plan proposals) submitted by Members to the Council can give rise to suspicions of impropriety although it is perfectly legitimate for such proposals to be submitted. However it is vital to ensure that they are handled in such a way that gives no grounds for accusations of nepotism.
- 4.2 **Do** disclose the existence and nature of any disclosable, formerly undeclared or unregistered interest, at any relevant meeting, including informal meetings or discussions with officers and other Members. If possible such interests should be declared at the beginning of the meeting at the relevant time when the agenda deals with interests and not just at the commencement of discussion on the pertinent matter.
- 4.3 Where you have a disclosable pecuniary interest:-
- 4.3.1 **Do not** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.
- 4.3.2 **Do not** try to represent ward/local views; arrange instead for another ward/local member to do so.
- 4.3.3 **Do not** involve yourself in the processing of the application.
- 4.3.4 **Do not** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are seeking/receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable pecuniary interest in a proposal, using your position to discuss that proposal with officers or Members when members of the public would not have the same opportunity to do so.

- 4.3.5 **Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a disclosable pecuniary interest to an appropriate officer, in person or in writing, the Code of Conduct places greater limitations on you in representing that proposal. You may make use of the Public Participation Scheme to address the meeting on a proposal in the same manner that would apply to a member of the public, after which you must leave the room whilst the meeting considers the matter. You may not remain to observe the meeting's considerations on the matter from the public gallery.
- 4.3.6 **Do** notify the Monitoring Officer in writing of your own applications and note that:-
- 4.3.6.1 notification to the Monitoring Officer should be made no later than the submission of the application;
 - 4.3.6.2 the application will always be reported to the committee as a main item and not dealt with by officers under Delegated Powers; and
 - 4.3.6.3 it is advisable that you employ an agent to act on your behalf on the application in dealing with officers and any public speaking at committee.

5. Fettering Discretion in the Planning Process

5.1 When you are involved in determining a planning application:

- 5.1.1 **Do not** fetter your discretion and therefore your ability to participate in planning decision making processes by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides.
- 5.1.2 **Fettering your discretion** in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

5.1.3 **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. Through your personal involvement in preparing or advocating the proposal you will be, or may be perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.

5.1.4 **Do** also be aware that, whilst the Code of Conduct for Councillors provides generally for a presumption that you may regard yourself as not having a disclosable pecuniary interest in matters which relate to the organisations mentioned below, you must exercise much greater caution when you are taking part in a meeting of the planning authority that is determining any approval or consent. In such cases, where:-

5.1.4.1 you have been significantly involved in the preparation, submission or advocacy of a planning proposal on behalf of:-

5.1.4.1.1 another local or public authority (including a town or parish council) of which you are a Member; or

5.1.4.1.2 a body to which you have been appointed or nominated by the Council as its representative; or

5.1.4.2 you are a Trustee or Company Director of the body submitting the proposal and were appointed by the Council;

You should always declare a disclosable pecuniary interest and withdraw from the meeting.

5.1.5 **Do** consider yourself able to take part in the debate on a proposal when acting as a member of a consultee body (for example, where you are also a member of a parish council,), provided:-

5.1.5.1 that the proposal does not substantially affect the well being or financial standing of the consultee body; and

5.1.5.2 you make it clear to the consultee body that:-

- 5.1.5.2.1 your views are expressed on the limited information before you only;
 - 5.1.5.2.2 you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the planning authority and you have considered all of the relevant information; and
 - 5.1.5.2.3 you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.
- 5.1.5.3 you disclose a disclosable pecuniary interest regarding your membership of the consultee body or role when the planning authority comes to consider the proposal.
- 5.1.6 **Do not** speak and vote on a proposal where you have fettered your discretion. You are recommended to withdraw from the meeting.
- 5.1.7 **Do** explain that you do not intend to speak or vote because you have or you could reasonably be perceived as having judged (or reserved the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
- 5.1.8 **Do** take the opportunity to exercise your separate speaking rights as a ward/local Member where you have represented your views or those of local electors and fettered your discretion, but do not have a disclosable pecuniary interest. Under these circumstances:-
- 5.1.8.1 advise the Monitoring Officer or Chairman that you wish to speak in this capacity before commencement of the item;
 - 5.1.8.2 remove yourself from the Members' seating area for the duration of that item ; and
 - 5.1.8.3 ensure that your actions are recorded in the minutes of the meeting.

6. Contact with Applicants, Developers and Objectors

- 6.1 Discussions between potential applicants and the Council prior to submission of an application can be of considerable benefit to both parties and are encouraged. However it would be easy for such discussions to become or to be considered by objectors as becoming part of a lobbying process on the part of the applicant. With the recognition of the need to allow and encourage Members to be champions of their local communities there is a realisation that Member engagement in pre-application discussions on major developments may be necessary to allow members to fulfill this role. In this context member involvement in pre-application discussions can be beneficial provided it is conducted within carefully established limits to protect the Council and its members.
- 6.2 **Do** refer those who approach you for planning, procedural or technical advice to officers.
- 6.3 **Do not** agree to any formal meeting with applicants, developers or groups of objectors without an appropriate officer present or where you consider it inappropriate to meet. Where you feel that a formal meeting would be useful in clarifying the issues, you should not seek to arrange that meeting yourself but should request the Assistant Director of Planning to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the planning authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the committee.
- 6.4 **Do not** give separate advice on the development plan or material considerations unless you are aware of all the issues at an early stage. Do not become drawn into any negotiations. These should be dealt with by officers to ensure the Council's position is coordinated.
- 6.5 Otherwise:-
- 6.5.1 Do follow the rules on lobbying (see paragraph 8 below);
- 6.5.2 Do consider whether or not it would be prudent in the circumstances to make notes when contacted; and
- 6.5.3 Do report to the Assistant Director of Planning any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

7. Presentations by Applicants/Developers

- 7.1 **Do not** attend a planning presentation unless an officer is present and/or it has been organised by officers.
- 7.2 **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- 7.3 **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the Development Management Committee.
- 7.4 **Do** be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other members might vote.

8. Lobbying of Councillors

- 8.1 Lobbying is a normal and perfectly proper part of the political process. Those who may be affected by a planning decision will often seek to influence it through an approach to their ward member or to a member of the Development Management Committee. However lobbying can lead to the impartiality and integrity of a Member being called into question unless care and common sense are exercised by all the parties involved. When being lobbied Members should avoid expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before being exposed to all the evidence and arguments.
- 8.2 Members of the Development Management Committee in particular need to avoid bias and predetermination and take account of the public's (and the Ombudsman's) expectation that a planning application will be processed and determined in an open and fair manner. To do this, Members taking the decision will take account of all the evidence presented to them before arriving at a decision and will avoid committing themselves one way or another before hearing all the arguments. To do otherwise makes them vulnerable to an accusation of partiality, bias or the appearance of bias.
- 8.3 **When you are or may be involved in determining a planning application:-**
 - 8.3.1 **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the planning authority's determination of the matter if you express an intention to vote one way or another or express such a firm point of view that it amounts to the same thing.

- 8.3.2 **Do** remember that your overriding duty is to the whole community not just to the people in your ward/local area and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 8.3.3 **Do not** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and remember to register the gift or hospitality where its value is £25 or more in accordance with the authority's rules on gifts and hospitality.
- 8.3.4 **Do** copy or pass on any lobbying correspondence you receive to the Assistant Director of Planning at the earliest opportunity.
- 8.3.5 **Do** promptly refer to the Assistant Director of Planning any offers made to you of planning gain or constraint of development, through a proposed Section 106 Planning Obligation or otherwise.
- 8.3.6 **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- 8.3.7 **Do** note that, unless you have a disclosable pecuniary interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:-
- 8.3.7.1 Listening to or receiving viewpoints from residents or other interested parties;
 - 8.3.7.2 Making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
 - 8.3.7.3 Seeking information through appropriate channels; or

8.3.7.4 Being a vehicle for the expression of opinion or speaking at the meeting as a ward/local member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

8.4 Do not vote on a matter where there is a real risk of perceived bias such as where you have decided to “go public” in support of a particular outcome.

9. Lobbying by Councillors

9.1 **Do not** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and are likely to have a disclosable pecuniary interest. You will only be entitled to make use of the Public Participation Scheme to address the meeting on a proposal in the same manner that would apply to a member of the public, after which you must leave the room whilst the meeting considers the proposal.

9.2 **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local Civic Society, but disclose an interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.

9.3 **Do not** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

9.4 **Do not** decide or discuss how to vote on any application at any sort of political group meeting, or approach any other Member to do so. Political group meetings should never dictate how Members should vote on a planning issue.

10. Site Visits

The advice contained in this section has particular relevance to members of the planning authority who are or may be involved in determining an application for planning permission.

10.1 It is often desirable before determining a planning application that members of the planning authority visit an application site to view it in its surroundings and have relevant features drawn to their attention. The Council has adopted a Code of Practice for such inspections with which it will comply. This is attached at Appendix "A" to this Code. Debate and decisions on applications must take place in a committee meeting, therefore any discussion that does take place during these site visits should not lead into a debate on the merits of the application.

10.2 Remember

10.2.1 **Do not** request a site visit if you have a disclosable pecuniary interest in the matter. For the avoidance of doubt the principles in paragraph 4 of this Planning Code of Good Practice shall apply.

10.2.2 **Do not** attend a site visit where you have a disclosable pecuniary interest in the site or the matter in hand.

10.2.4 **Do** attend site visits organised by the Council, where possible, where you plan to attend the Development Management Committee meeting considering the application.

10.2.5 **Do** ensure that any information which you gained from the site visit is reported back to the planning authority, so that all Members have the same information.

10.2.6 **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.

10.2.7 **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.

10.2.8 **Do not** hear representations from any other party with the exception of the ward/local Member(s) whose comments must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.

- 10.2.9 **Do not** express opinions or views to anyone.
- 10.2.10 **Do not** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:-
 - 10.2.10.1 you feel it is essential for you to visit the site other than through attending the official site visit; and
 - 10.2.10.2 you have first spoken to the Assistant Director of Planning about your intention to do so and why (which will be recorded on the file); and
 - 10.2.10.3 you can ensure you will comply with these good practice rules on site visits.

11. Public Participation at Meetings

- 11.1 The Council recognises that it can make better decisions and respond to people's aspirations if it involves others in its decision making process. It has therefore developed a scheme which provides the opportunity for those involved in any particular planning application to address the meeting(s) at which the proposal is being considered. This scheme seeks to balance the need to expedite the administration of the system with the aspirations of objectors, applicants/supporters, other local authorities and the Council. The scheme is attached at Annex 3 to Appendix A of Part A4 of the Council's constitution. A leaflet explaining the scheme is supplied to all applicants and is also available on request.
- 11.2 Where you are involved in determining a planning application:-
 - 11.2.1 **Do not** allow members of the public to communicate with you during the committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
 - 11.2.2 **Do** ensure that you comply with the Council's procedures in respect of public speaking.

12. Officers

- 12.1 **Do not** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Assistant Director of Planning, which may be incorporated into any committee report).
- 12.2 **Do** recognise that officers are part of a management structure and you should only discuss a proposal, outside of any arranged meeting, with a Director or an officer who is authorised by his/her Director to deal with the proposal at Member level.
- 12.3 **Do** recognise and respect the fact that officers involved in the processing and determination of planning applications must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, Planning Officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its members.

13. Decision Making Process and Decisions Contrary to Officer Recommendation

- 13.1 Prior to the consideration of any planning application the Assistant Director of Planning will tell the Committee of any relevant information received since his/her report was prepared. If the Council has circulated letters or other information at or shortly before the meeting to councillors those will be referred to by the Assistant Director of Planning or by the chairman. If Members are aware of any other letters or information which they believe have been circulated to all councillors and which have not been referred to, they should disclose that fact to the meeting in order that all are aware of relevant information and on which information any decision may be made. Any information to be considered by the Committee should be presented to officers by midday, no later than three working days prior to the meeting, to allow for the information to be considered. No new information will be allowed to be presented later than this or during the meeting.
- 13.2 The Development Management Committee has full delegated powers to approve applications.
- 13.3 The Council is required by law to state clearly and precisely its full reasons for refusing any application or imposing conditions to which a planning permission is subject thus allowing all interested persons to understand the reasons for the decision. A disappointed applicant will therefore know why his/her application was refused.
- 13.4 In order to explain the Council's decision when approving an application contrary to advice, the reasons for that decision should be clearly recorded.
- 13.5 When acting as a member of the Planning Authority:
- 13.5.1 **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your reasons are recorded and repeated in the report to the Committee.
 - 13.5.2 **Do** come to meetings with an open mind and demonstrate that you are open-minded.
 - 13.5.3 **Do** make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

- 13.5.4 **Do** come to your decision only after due consideration of all the information you need to make your decision. If you feel there is insufficient time to digest new information or that the information you need is not provided, ask for that information. If necessary, you can vote to defer the decision or refuse the application.
- 13.5.5 **Do not** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- 13.5.6 **Do** be aware of the reasons for the Committee's decision to defer any proposal which will be a matter of record.
- 13.5.7 **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan, you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded.
- 13.5.8 **Do** give the officer an opportunity to explain the implications of a decision and be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

14. Training

- 14.1 **Unless you have** attended a mandatory training session on decision making at meetings dealing with planning matters as prescribed by the Council, you will not be permitted to participate in Development Management Committee decision-taking.
- 14.2 **You are expected** to attend other specialised training sessions provided, at least once during the course of a municipal year, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and Local Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- 14.3 **You should** participate in the annual review of a sample of planning decisions to ensure that Members' judgement has been based on proper planning considerations.

Code of Practice for Conduct of Site Inspections

1. A site inspection will be carried out for all planning applications to be determined by the Development Management Committee, unless agreed otherwise by the Chairman or Vice-Chairman.

(a) Prior to Consideration by Committee

A Member with a disclosable pecuniary interest in the site or the matter in hand should not request a site visit. Do not try to represent ward/local views, but ask another ward/local member to do so instead. Always act in accordance with paragraph 10 of the Planning Code of Good Practice.

(b) Following Consideration at Committee

2. A Member with a disclosable pecuniary interest in the site or the matter in hand must not attend the site visit.
3. No lobbying or debate on issues relating to determination of the application shall take place during the site visit (any such discussion could be regarded as prejudicial to the committee's decision on the matter).
4. The timing and arrangements for the conduct of site inspections shall be agreed by the Monitoring Officer and the Assistant Director of Planning, in consultation with the chairman of the Committee. Site visits will normally be undertaken from public vantage points and the land and premises the subject of the application. Only in exceptional circumstances will the visit take place on private third party land. If it is considered exceptional circumstances exist the site visit request must include a specific reference to the third party land and the reasons why it is necessary to visit that land.
5. Members of the Development Management Committee undertaking the site inspection are encouraged to share transport wherever possible, as long as drivers who provide shared transport hold adequate insurance cover.
6.
 - (a) No person other than officers of the Council, or invited representatives of consultee bodies, shall accompany Members during an inspection;
 - (b) If a person with an interest in land to be inspected or his/her representative accompanies Members to enable access or ensure safety, no lobbying or discussion with that person will be permitted.

Part 3: Licensing Code of Good Practice

1. Background

- 1.1 The Council has appointed a Licensing Committee and a Licensing Sub-Committee to exercise various functions on its behalf under the Licensing Act 2003 and the Gambling Act 2005. When exercising these functions, Members are acting in a quasi-judicial capacity.
- 1.2 This Code of Good Practice is designed to apply the principles contained in the Code of Conduct for Members to Members' licensing responsibilities and to support and maintain high ethical standards in local government. For the purposes of this Code, the Council is collectively described as the licensing authority.
- 1.3 This Code has regard to both the Members' Planning Code of Good Practice previously adopted by the Council and LACORS' guidance on the role of elected members in relation to Licensing Committee hearings under the Licensing Act 2003, the Rules of Natural Justice and the Human Rights Act 1998 (the right to a fair hearing and the rule against bias).

2. Introduction

- 2.1 The aim of the Code is to ensure that in the operation of the licensing process their decisions are unbiased, impartial, well founded and in accordance with the law.
- 2.2 The key purpose of licensing is to regulate certain activities in the public interest and to promote the licensing objectives defined in the legislation. In addition, the authority must have regard to statutory guidance issued by the Secretary of State and the Gambling Commission, and to the Council's own Licensing Policy Statement.
- 2.3 Your role as a member of the licensing authority is to make decisions openly, impartially, with sound judgement and for justifiable reasons.

- 2.4 The Code does not only apply to members of the Council's Licensing Committee and the Licensing Sub-Committee's hearings. Some aspects of the Code apply generally to Members in whatever capacity they may be acting. Other aspects may apply to Members acting as ward/local members. Some provisions apply specifically to Members when they are involved in the licensing process in a personal capacity, for instance when they or organisations to which they belong submit applications to the Council.
- 2.5 This Code of Good Practice applies to Members at all times when involving themselves in the licensing process. It applies equally to licensing enforcement and licensing policy issues as it does to licensing applications. This includes taking part in decision-making meetings of the licensing authority and when involved in less formal occasions, such as meetings with officers or the public and consultative meetings.
- 2.6 References to officers in this Code of Good Practice relate to employees of the Council.
- 2.7 If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his/her deputies, preferably well before any meeting takes place.

3. Relationship to the Council's Code of Conduct for Members

- 3.1 First, apply the principles in the Council's Code of Conduct for Members. These must always be complied with.
- 3.2 Then apply the rules in this Licensing Code of Good Practice, which seek to explain and supplement the Code of Conduct for Members for the purpose of dealing with all licensing matters. If you do not abide by this Code of Good Practice, you may :-
 - 3.2.1 put the licensing authority at risk of proceedings as to the legality or maladministration of the related decision; and
 - 3.2.2 put yourself at risk of either being named in an Ombudsman's report made to the Council or, if the failure is also likely to be a breach of the Code of Conduct, a complaint to and possible sanction by the Council's Standards Sub- Committee.

4. Licensing Proposals and Interests under the Members' Code

4.1 Your interest in a licensing matter may take a variety of forms:-

- 4.1.1 As a member of the Executive or a committee, you may have either collective or individual responsibility for premises in the Council's ownership or a licensable activity which the Council is promoting for which a licence is required or has already been granted.
- 4.1.2 You may be a member of another organisation or body that is applying for a licence or is carrying out a licensable activity.
- 4.1.3 You may be an employee of a responsible authority defined in the legislation or you may be an interested party because you live or have business premises in the vicinity of an application site or licensed premises.
- 4.1.4 You may be a member of a lobby group or campaign.
- 4.1.5 You may be the applicant for a licence or the provider of a licensable activity yourself or a member of a registered club that is doing so.
- 4.1.6 You may be a supplier of goods to an applicant or an existing licensee or club or you may act in some capacity on their behalf.
- 4.1.7 You may also be an existing licensee or a member of a club whose business may be affected if a licence or club premises certificate is granted for a similar activity elsewhere.

4.2 The above examples are non-exhaustive and are for guidance only.

4.3 Whatever your interest:-

- 4.3.1 **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with employees and other members.
- 4.3.2 **Do** then act accordingly by complying with the Code of Conduct for Members and this Licensing Code of Good Practice.

4.4 Where you have a disclosable pecuniary interest:-

- 4.4.1 **Do** disclose the interest and withdraw immediately from the room or chamber where a meeting is being held for the duration of any discussion and/or voting in the matter.
- 4.4.2 **Do not** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the licensing authority.
- 4.4.3 **Do not** represent an applicant or responsible authority at a Licensing Sub-Committee hearing.
- 4.4.4 **Do not** try to represent an interested party if you have played an active role in supporting or opposing an application for a licence. Ask another Member to do so in your place.
- 4.4.5 **Do not** get involved in the processing of the application or the review of a licence or certificate that has already been issued.
- 4.4.6 **Do not** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable pecuniary interest in an application, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
- 4.4.7 **Do** be aware that, whilst you are not prevented from seeking to explain and justify an application in which you have a personal and prejudicial interest to an appropriate officer, in person or in writing, the Code places greater limitations on you in representing that proposal. You may make use of the Public Participation Procedure to address the meeting on a proposal in the same manner that would apply to a member of the public, after which you must leave the room whilst the meeting considers the matter. You may not remain to observe the meeting's considerations on the matter from the public gallery.
- 4.4.8 **Do** notify the Monitoring Officer in writing of your own applications or interests and note that:-
 - 4.4.8.1 Notification to the Monitoring Officer should be made no later than submission of the application; and

4.4.8.2 It is advisable that you employ an agent to act on your behalf on the proposal in dealing with officers.

5. Fettering Discretion in the Licensing Process

5.1 **Do not** fetter your discretion and therefore your ability to participate in licensing decision making by making up your mind, or appearing to have made up your mind (particularly in relation to an external interest or lobby group), as to how you will vote on any licensing matter prior to its formal consideration at a hearing or meeting of the licensing authority and hearing the representations and evidence on both sides.

Note: Fettering your discretion in this way and then taking part in the decision would put the licensing authority at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

5.2 **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for an application. This is more than a matter of membership of both the proposing and licensing determination bodies, but because through your significant personal involvement in preparing or advocating the proposal you will be, or could be perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its licensing merits.

5.3 **Do** also be aware that, whilst the Code of Conduct for Members provides for a presumption that you may regard yourself as not having a disclosable pecuniary interest in matters which relate to the organisations mentioned below, you must exercise your discretion in deciding whether or not to participate in each and where:-

5.3.1 You have been significantly involved in the preparation, submission or advocacy of a licensing proposal on behalf of:-

5.3.1.1 Another local or public authority of which you are a member; or

5.3.1.2 A body to which you have been appointed or nominated by the Council as its representative.

5.3.2 You must exercise your discretion in deciding whether or not to participate in each case and where:-

5.3.2.1 You have been significantly involved in the preparation, submission or advocacy of a licensing proposal or in an activity that has been licensed on behalf of such a body; or

5.3.2.2 You are a trustee or company director of the body submitting the proposal and were appointed by the Council.

5.4 You should always disclose a disclosable pecuniary interest and withdraw.

5.5 **Do not** sit as a member of a Licensing Sub-Committee hearing where you have fettered your discretion. Due to the limited size of the licensing sub-committee(s), you should advise officers as soon as it becomes apparent to you that you have fettered your discretion and certainly before the meeting commences, to enable a substitute Member to be appointed. You do not have to withdraw from the room where the meeting is taking place, but it would be preferable for you to do so.

6. Contact with Applicants and Objectors

6.1 **Do** refer those who approach you for licensing, procedural or technical advice to officers.

6.2 **Do not** attend any meeting with applicants or interested parties if you are a member of a Licensing Sub-Committee hearing. Pre-application discussions, if held for clarification purpose will involve officers only who will ensure that those present are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Sub-Committee.

6.3 **Do** otherwise meet with an applicant or interested party if you are considering representing their interests or speaking on their behalf at a hearing of the Sub-Committee of which you are not a member.

7. Lobbying of Councillors

- 7.1 If you are a member of a Licensing Sub-Committee hearing, do explain to those who may be attempting to lobby you that whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the decision making process if you express an opinion on the application.
- 7.2 If you are a member of the Licensing Committee, remember that you will probably be unaware whether an application will be determined by a Sub-Committee hearing or whether you will be a member of that determining body until you have been notified by officers. If you have been lobbied by an applicant or interested party, you should notify officers as soon as it comes to your attention that you have been invited to sit on a relevant Sub-Committee hearing. In such circumstances, you should not take part in that hearing or meeting and officers will make arrangements for another member to take your place on the Sub-Committee.
- 7.3 If you are a member of a Sub-Committee hearing, remember that your overriding duty is to the whole community and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 7.4 If you are **not** a member of a Licensing Sub-Committee hearing, you are not constrained to receive an approach from an applicant or interested party and, having considered the information that they have supplied, to agree to speak or make representations on their behalf at a meeting of the Sub-Committee.
- 7.5 **Do not** accept gifts or hospitality from any person involved in or affected by a licensing application or who may be providing a licensable activity. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum; its acceptance is declared as soon as possible and remember to register the gift or hospitality with the Monitoring Officer where its value is over £25 in accordance with the Code of Conduct for Councillors.
- 7.6 **Do** copy or pass on any lobbying correspondence you receive if you are a member of a Sub-Committee hearing to the Assistant Director of Environmental Services or the Licensing Manager at the earliest opportunity in order that it can be placed on the appropriate licensing file and is open for inspection before a decision is made.

- 7.7 If you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), you should inform the Monitoring Officer who will advise the appropriate officers to follow the matter up.
- 7.8 **Do** note that, unless you are a member of a Licensing Sub-Committee hearing or you have a disclosable pecuniary interest, you will not have fettered your discretion or breached this Licensing Code of Good Practice by:-
- 7.8.1 Listening or receiving viewpoints from residents or other interested parties as long as you make yourself equally available to those of differing viewpoints if requested to do so;
 - 7.8.2 Making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
 - 7.8.3 Seeking information through appropriate channels;
or
 - 7.8.4 Being a vehicle for the expression of opinion or speaking at the meeting in support of an application or in expressing representations on behalf of an interested party.

8. Lobbying by Councillors

- 8.1 **Do not** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose licensing proposals. If you do, you will have fettered your discretion and are likely to have a disclosable pecuniary interest. You will only be entitled to make use of the Public Participation Procedure to address the meeting on a proposal in the same manner that would apply to a member of the public, after which you must leave the room whilst the meeting considers the proposal.
- 8.2 **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular licensing proposals, such as a local civic society, but disclose an interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the licensing authority that you have reserved judgement and the independence to make up your own mind on each separate proposal.

- 8.3 **Do not** excessively lobby fellow Members regarding your concerns or views nor attempt to persuade them how they should vote in advance of the meeting at which any licensing decision is to be taken.
- 8.4 **Do not** decide or discuss how to vote on any licensing application or policy matter at any sort of political group meeting, or lobby any other member to do so. Political group meetings should never dictate how Members should vote on any licensing issue.

9. Site Visits

- 9.1 If you are a member of the Licensing Sub-Committee, you should try to attend relevant site visits organised by the licensing authority. If you are unable to take part in a site visit, you will be unable to take part in the Sub-Committee hearing. You should therefore notify officers of the Committee Services Team as soon as it comes to your attention that you are unable to attend a site visit that has been organised. Where a site visit takes place, Members will be accompanied by officers of the authority.
- 9.2 **Do** ensure that you treat the site visit only as an opportunity to observe the site.
- 9.3 **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- 9.4 **Do not** hear representations from the applicant or an interested party at the site visit. Where you are approached by the applicant or an interested party, direct them to or inform the officer present.
- 9.5 **Do not** express opinions or views to anyone.
- 9.6 **Do not** request a site visit if you have a disclosable pecuniary interest in the matter. For the avoidance of doubt the principles in paragraph 2 of this Code of Good Practice shall apply.
- 9.7 **Do not** attend a site visit where you have a disclosable pecuniary interest in the matter or in the site.

- 9.8 If you are **not** a member of the Licensing Sub-Committee, you should consider carefully whether it is appropriate for you to accept an invitation to visit a site which is the subject of an application or provides a licensable activity. Where you do accept an invitation, do exercise caution and ensure you comply with these good practice rules.

10. Public Speaking at Meetings

- 10.1 **Do not** allow members of the public to communicate with you in isolation if you are a member of the Sub-Committee during the hearing or meeting proceedings (orally or in writing) as this may give the appearance of bias.

11. Officers

- 11.1 **Do not** put pressure on officers to put forward a particular recommendation. This does not prevent you from asking questions or submitting views to the Assistant Director of Environmental Services or the Licensing Manager, but hearing or meeting reports will contain only representations that have been submitted in the manner prescribed by the legislation. Your attention is drawn to the danger of fettering your discretion on a matter which is covered in paragraph 3 of this Code.
- 11.2 **Do** recognise that officers are part of a management structure and the discussion of any application, outside of any arranged meeting, should be only with the Assistant Director of Environmental Services or the Licensing Manager or those officers who are authorised by them to deal with the proposal at a Member level.
- 11.3 **Do** recognise and respect that officers involved in the processing and determination of licensing matters must act in accordance with the Council's Terms and Conditions of Employment and the requirements of the licensing legislation. As a result, licensing officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence and the promotion of licensing objectives, which may on occasion be at odds with the views or opinions of Members.

12. Decision-Making

- 12.1 **Do** come to meetings with an open mind and demonstrate that you are open-minded.

- 12.2 **Do** comply with the licensing legislation and make decisions in accordance with statutory licensing objectives, having regard to guidance that has been issued under the relevant legislation and the authority's statement of licensing policy.
- 12.3 **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is insufficient information on which to base your decision before you, request the information that you need and, if necessary, ask to adjourn the hearing or meeting until the information has been provided and you have had an opportunity to consider it.
- 12.4 **Do not** vote or take part in the hearing or meeting on an application unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- 12.5 **Do** make sure that if you are proposing, seconding or supporting a decision contrary to the licensing objectives or the statutory guidance issued by the Secretary of State or the authority's statement of licensing objectives, that you clearly identify and understand the reasons leading to this conclusion/decision. These reasons must be given prior to the vote being taken and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

13. Training

- 13.1 **Do not** participate in decision making at hearings and meetings dealing with licensing matters unless you have attended suitable licensing training provided by the Monitoring Officer and Assistant Director Environmental Services.
- 13.2 **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of licensing law, regulations, procedures, statutory guidance and licensing policy beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

Part 4: Confidential Reporting Policy (Also known as “Whistleblowing” Policy)

1. Introduction

- 1.1 Central Bedfordshire Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees and others that we deal with who have serious concerns about any aspect of the Council’s work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.2 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.3 The Public Interest Disclosure Act 1998 encourages individuals to raise concerns about malpractice in the workplace and this policy document makes it clear that employees can raise serious concerns without fear of victimisation, subsequent discrimination or disadvantage and is intended to encourage and enable employees to raise those concerns within the Council, rather than overlooking a problem.
- 1.4 The Policy applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders, and drivers. It also covers suppliers and those providing services under a contract with the Council in their own premises, for example care homes. Members of the public are also encouraged to raise concerns, which will be responded to in accordance with this Policy.
- 1.5 These procedures are in addition to the Council’s complaint procedures and other statutory reporting procedures applying to some service areas. Service managers are responsible for making service users aware of the existence of these procedures if and when necessary.
- 1.6 This Policy has been discussed with the relevant trade unions and professional organisations and has their support.

2. Aims and Scope of this Policy

2.1 This Policy aims to:-

- encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice
- provide avenues for you to raise those concerns and receive feedback on any action taken
- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
- reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.

2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment. The Confidential Reporting Policy is intended to cover major concerns that fall outside the scope of other procedures. These include:-

- conduct which is an offence or a breach of law
- disclosures related to miscarriages of justice
- health and safety risks, including risks to the public as well as other employees
- damages to the environment
- the unauthorised use of public funds
- possible fraud and corruption
- sexual or physical abuse of clients, or
- other unethical conduct

2.3 Thus any serious concerns that you have about any aspect of service provision or the conduct of officers or members of the Council or others acting on behalf of the Council can be reported under the Confidential Reporting Policy. This may be about something that:-

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribe to; or
- is against the Council's Standing Orders and policies; or
- falls below established standards of practice; or
- amounts to improper conduct.

2.4 This policy does not replace the corporate complaint procedure.

3. Safeguards

3.1 Harassment or Victimisation

- 3.1.1 The Council is committed to good practice and high standards and wants to be supportive of employees.
- 3.1.2 The Council recognises that the decision to report a concern can be a difficult one to make. If you make an allegation in good faith you will have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.
- 3.1.3 The Council will not tolerate any harassment or victimisation (including informal pressure) and will take appropriate action to protect you when you raise a concern in good faith.
- 3.1.4 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

4. Confidentiality

- 4.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, if and when the matter goes to an investigatory stage and a disciplinary hearing, you may need to come forward as a witness.

5. Anonymous Allegations

- 5.1 This policy encourages you to put your name to your allegation whenever possible.
- 5.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.
- 5.3 In exercising this discretion the factors to be taken into account would include:-
 - the seriousness of the issues raised
 - the credibility of the concern; and
 - the likelihood of confirming the allegation from attributable sources.

6. Untrue Allegations

- 6.1 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If however, you make an allegation maliciously or for personal gain, disciplinary action may be taken against you. (The Council will manage such situations using its agreed Disciplinary Procedure).

7. How to raise a concern

- 7.1 As a first step, you should normally raise concerns with your immediate manager or their superior. This depends however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved you should approach the Chief Executive, Chief Finance Officer, Monitoring Officer or the Head of Audit and Risk.

- 7.2 Concerns may be raised verbally or in writing. Staff who wish to make a written report are invited to use the following format:-

- the background and history of the concern (giving relevant dates)
- the reason why you are particularly concerned about the situation.

- 7.3 All concerns received will be registered immediately with the Monitoring Officer.

- 7.4 The earlier you express the concern the easier it is to take action.

- 7.5 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

- 7.6 Advice and guidance on how matters of concern may be pursued can be obtained from:-

- Monitoring Officer
- Chief Finance Officer
- Head of Audit and Risk
- Assistant Chief Executive (People and Organisation)

- 7.7 You may wish to consider discussing your concern with a colleague or your trade union representative first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns. *However, once you have raised a concern under the Confidential Reporting Policy you should be mindful that any further discussions with other parties may impede the maintenance of confidentiality.*
- 7.8 You may invite your trade union or friend to be present during any meetings or interviews in connection with the concerns you have raised.

8. How the Council will respond

- 8.1 The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.
- 8.2 Where appropriate the matters raised may:-
- be investigated by management, internal audit, or through the disciplinary process
 - be referred to the police
 - be referred to the external auditor
 - form the subject of an independent inquiry
- 8.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle, which the Council will have in mind, is the public interest. Concerns or allegations, which fall within the scope of specific procedures (for example, child protection or discrimination issues), will normally be referred for consideration under those procedures.
- 8.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 8.5 Within ten working days of a concern being raised, the Monitoring Officer will write to you:-
- acknowledging that the concern has been received
 - indicating how we propose to deal with the matter
 - giving an estimate of how long it will take to provide a final response
 - telling you whether any initial enquiries have been made
 - supplying you with information on staff support mechanisms, and
 - telling you whether further investigations will take place and if not, why not.

- 8.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.
- 8.7 Where any meeting is arranged, off-site if you so wish, a union or professional association representative or a friend can accompany you.
- 8.8 The Council will take steps to minimise any difficulties, which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.
- 8.9 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcomes of any investigation.

9. The Responsible Officer

- 9.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer maintains record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.

10. How the matter can be taken further

- 10.1 This policy is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council, possible contact points are set out in *paragraph 10.3*.
- 10.2 Before taking matters outside the Council you may wish to take independent advice and the charity Public Concern at Work (telephone 0171 404 6609) offers such facilities to employees.
- 10.3 The following are possible external contact points:-
- the Council's external auditor
 - your trade union/professional association representative
 - your local Citizens Advice Bureau
 - relevant professional bodies or regulatory organisations
 - a relevant voluntary organisation
 - the police.
- 10.4 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information.

Part 5: Guidance on Property Transactions and Commercial Property Management

1. Purpose

- 1.1 The Council undertakes a wide range of property transactions ranging from short-term licences to sales of land bringing in capital receipts of £1 million or more.
- 1.2 The Local Government Act 1972 imposes a statutory duty on local authorities (subject to either the exceptions, set out in the General Disposal Consent 2003 or any specific consent from the Secretary of State) to obtain the best consideration reasonably obtainable for property transactions. Professional officers comply with this when they conduct negotiations on the Council's behalf. In so doing they protect and best serve the financial and other interests of council taxpayers.
- 1.3 The purpose of this Guidance is to assist all Council members in respect of any Council property transactions and commercial property management.

2. Relationship to the Council's Code of Conduct for Members

- 2.1 The requirement under paragraph 3.1 of the Council's Code of Conduct for Members to observe its provisions whenever they are acting in their official capacity as a member of the Council or as a representative of the Council, applies to any involvement Members might have with the property transactions or the commercial property management of the authority. In this connection the following paragraphs of the Council's Code of Conduct are particularly relevant.
 - 4.2 *Members must never use their position as a member of the Council improperly to secure for themselves or any other person, an advantage or disadvantage.*
 - "4.4 *Members must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.*
 - 4.5 *Members must not disclose information given to them in confidence.*

3. General Principles

- 3.1 The Council recognises that Members' involvement in property and commercial transactions is not limited to taking decisions in committee meetings (eg: whether to enter into contracts and arrangements) or in exercising their scrutiny functions to ensure that such arrangements have complied with the Council's policies and procedures and achieve the best possible consideration for the Council. Their involvement may also extend to their role within the community and making the public aware of the services which the Council can make available and advising interested parties of the contact details of the officers who are responsible for administering and delivering those services.
- 3.2 It is a natural part of a political process that those who may be affected by a proposed decision of a local authority may seek to influence that decision. In many cases they will approach their local councillor as the interface between the Council and the local community, as the person who is seen as being responsible for the processing of the decision. Specifically, Members may be approached from time to time by parties undertaking or contemplating negotiations with the Council such as either:-
- 3.2.1 to acquire, sell or lease premises or land; or
 - 3.2.2 to seek guidance or assistance in relation to such matters.
- 3.3 Members should note that their overriding duty as a Member both fiduciary and otherwise is to the Council and its taxpayers as a whole. In responding to such requests therefore Members should have regard to the following principles:-
- 3.3.1 Members should not initiate any negotiations on behalf of the Council.
 - 3.3.2 Members should not:-
 - 3.3.2.1 Act on behalf of parties wishing to acquire, sell or lease land or premises or land to/from the Council; or
 - 3.3.2.2 Represent or take other action to assist a party in negotiations or proceedings against the Council;
 - 3.3.3 **unless** the Member has:-

- 3.3.3.1 Given a written notification of such a business or employment in the Council's register maintained under section 81(1) of the Local Government Act 2000;
 - 3.3.3.2 Given a further written notification of the specific matter to the Monitoring Officer;
 - 3.3.3.3 Had no previous involvement in the decision making process relating to the matter; and
 - 3.3.3.4 Had no access to any confidential information concerning the matter.
- 3.3.4 Members should not seek to influence negotiations or to change officers' professional views. Guidance on good practice by the Local Government Ombudsman on "disposal of land" states:-
- "Councillors should not, however, themselves be directly involved in negotiating the disposal of land. The Local Government Ombudsman's experience is that accusations of unfairness and impropriety are more likely to be made where Councillors have been involved, or have involved themselves, than where negotiations have been left to the Council's professional officers or independent advisors."*
- 3.3.5 If a Member wishes to raise a query, or to refer complaints made to him/her in relation to a property transaction, this should in the first instance be addressed to the Assistant Director of Assets or the relevant Executive Member. If a Member has concerns or receives a complaint specifically relating to officers' actions in respect of property transactions, then he/she should follow the relevant procedures set out within the Protocol for Member/Officer Relations. Where a Member wishes to raise an issue concerning policies and procedures relating to land and property matters, he/she should contact the Monitoring Officer who will advise on how the issue can be raised through the Council's democratic structures.
- 3.3.6 Members should not give any impression that they might be able either to secure a particular property or that specific terms might be approved.

- 3.3.7 In discussions with officers, Members will often be given confidential information relating to matters such as property values or negotiations. It is a breach of paragraph 4.5 of the Council's Code of Conduct for Members if this confidentiality is not respected and confidential information is passed to any third party. It would be a very serious matter if the Council's interests were prejudiced in any way by the disclosure of such information in breach of paragraph 6.1.1. If uncertain, Members should clarify with the officer concerned the extent of the information that may be released.
- 3.3.8 As a general rule the Council is not obliged or required to sell or lease land to any party or amend the terms of existing leases. However the Council will consider requests, provided there are no overriding reasons not to do so. Members should appreciate that the Council has the statutory duty to obtain best consideration (see paragraph 1.2 above) and it is required to consider the interests of council taxpayers in all instances.
- 3.3.9 A Member might be asked to intercede in a dispute between a tenant and the Council as landlord. The general principles of this guidance apply to such situations and Members are advised that there are occasions when officers have no choice but to take the action proposed or conversely are not in a position to take action requested.
- 3.3.10 Members may be asked to influence land or property transactions, whether acquisitions, disposals or reviews. In many, but not all instances, there will be a legal document such as a lease, setting out the relevant terms. In the interests of the Council and its taxpayers overall, officers must seek to obtain the best consideration for the Council and to ensure compliance with the terms of the document.
- 3.3.11 The Council expects all parties to comply with the terms of its leases. Members should not pressure officers to undertake or authorise works that are not the Council's responsibility or are not in the Council's interests or, more specifically, are the tenant's responsibility.

3.3.12 If approached on a matter in which a Member considers he or she has a disclosable pecuniary interest, they should explain that they are unable to assist and refer the party to another Member who is able to assist.

4. Breaches of Guidance

4.1 This Guidance is provided to assist all members of Central Bedfordshire Council in observing the requirements of the Council's Code of Conduct when dealing with property management.

4.2 Failure to act in accordance with this guidance could make Members vulnerable to a complaint that they have breached the Council's Code of Conduct for Members.

Part 6: Indemnity for members and officers of the Council

1. **This indemnity is effective from 1 April 2009.**

2. **In this indemnity:-**

“the Council” means Central Bedfordshire Council whether acting by its Council or its Executive; or by any of its committees, sub-committees or executive members or officers acting under delegated power.

“Members” includes the co-opted members of the Children’s Services Overview and Scrutiny Committee and of any committee or sub-committee discharging the same or similar functions.

“Employees” includes any person employed by the Council and any other person engaged or appointed to be an officer of the Council.

“Part III Proceedings” means any investigation, report reference, Case Tribunal hearing, Standards Committee hearing, Appeals from Case Tribunal or Standards Committee decisions or other proceedings in relation to allegations of breach of the Council’s Code of Conduct for Members under Part III of the Local Government Act 2000.

3. The Council hereby indemnifies its Members and employees, whether elected or appointed at 1 April 2009 or at any time thereafter, against the costs, claims and expenses (including costs awarded) set out in paragraph 6 of this indemnity, subject to the exceptions set out in paragraph 7 of this indemnity. It will not itself make any claims against them in relation to any costs or expenses for which they are hereby indemnified.

4. Notwithstanding any limitation on the powers of the Council, the indemnity is effective to the extent that the Member or employee in question:-

4.1 Believed that the action, or failure to act, in question was within the powers of the Council, or

4.2 Where the action or failure to act in question comprises the issuing or authorisation of any document containing any statement as to the powers of the Council, or any statement that certain steps have been taken or requirements fulfilled, believed that the contents were true,

and it was reasonable for that Member or employee to hold that belief at the time when he/she acted or failed to act.

5. The indemnity is also effective in relation to any act or omission which is subsequently found to be beyond the powers of the employee or member in question but only to the extent that he/she reasonably believed that the act or omission in question was within his/her powers at the time at which he/she acted.
6. The costs, claims and expenses (including costs awarded) which are the subject of this indemnity are those which arise from, or in connection with any action of, or failure to act by, the member or employee in question, which:-
 - 6.1 Is or has been authorised by the Council; or
 - 6.2 Forms part of, or arises from, any powers conferred, or duties placed, upon that member or employee, as a consequence of any function being exercised by the member or employee (whether or not when exercising that function he/she does so in his/her capacity as a member or employee of the Council):-
 - 6.2.1 At the request of, or with the approval of the Council; or
 - 6.2.2 For the purposes of the Council.
7. The exceptions are that:-
 - 7.1 No indemnity is given in relation to any action by, or failure to act by, any member or employee which:-
 - 7.1.1 Constitutes a criminal offence; or
 - 7.1.2 Is the result of fraud, or other deliberate wrongdoing or recklessness on the part of that employee or member.
 - 7.2 Notwithstanding paragraph 7.1.1, members and employees are indemnified in relation to:-
 - 7.2.1 (Subject to paragraph 5) the defence of any criminal proceedings brought against the employee or member; and
 - 7.2.2 Any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.

7.3 No indemnity is given in relation to the making by any member or employee of any claim in relation to an alleged defamation of that member or officer without the prior approval of the Chief Executive or the Monitoring Officer but for the avoidance of doubt the indemnity does include the defence by that employee or member of any allegation of defamation made against him/her.

8. This indemnity is also subject to the following terms:-

8.1 Where the indemnity has effect in relation to the defence of any criminal proceedings; or any Part III proceedings then:

8.1.1 In the case of criminal proceedings, if the employee or member in question is convicted of a criminal offence and that conviction is not overturned following any appeal; and

8.1.2 In the case of Part III proceedings:-

8.1.2.1 If a finding is made in those proceedings that the member in question has failed to comply with the Member's Code of Conduct and that finding is not overturned following any appeal; or

8.1.2.2 If the member admits that he/she has failed to comply with the Member's Code of Conduct,

The employee or member shall reimburse the Council for any sums expended by it in relation to those proceedings pursuant to the indemnity, and those sums shall be recoverable by the Council as a civil debt.

8.2 This indemnity will not apply if the member or employee without the express permission of the Council admits liability or negotiates or attempts to negotiate any claim falling within the scope of this indemnity.

8.3 Members and employees are under a general duty to mitigate all losses, which arise in connection with their performance of functions of the authority.

8.4 Members and employees shall have a duty to inform the Monitoring Officer immediately he/she become aware of any circumstances likely to form the basis of a claim against him/her or the Council and will follow the advice of the Council's Monitoring Officer and Chief Finance Officer.

- 8.5 Members and employees shall be under a duty to co-operate with the Council in the conduct of the legal proceedings.
- 8.6 Members and employees who recover their legal costs on an award of costs or otherwise, shall reimburse the Council in respect of monies paid under this indemnity to the extent that the costs have been recovered by them.
- 8.7 The Council shall have the right to:-
 - 8.7.1 Have full access to all legal advice given to the member or employee by their respective legal advisers;
 - 8.7.2 Withdraw the indemnity in respect of the cost of defending further legal proceedings from the Member or employee in the event that legal advice to the member or employee in question from their legal advisers is that the defence of the claim or proceedings is unlikely to succeed;
 - 8.7.3 In the event that legal advice to the member or employee in question from their legal advisers is that the claim should be settled in a specified sum, to limit the indemnity in respect of the amount of any damages or compensation to that specified sum unless that sum has been offered by way of settlement and has been rejected by the claimant.
- 8.8 In pursuance of this indemnity, the Council undertakes not to sue (or join others in an action as co-defendant versus) a Member or employee in respect of any neglect, error or omission by the Member or employee in his/her capacity as Member or employee, but subject to the same exceptions as above.
- 8.9 This indemnity does not extend to any fine imposed upon a Member or employee personally by any court or any award made against him/her personally by any tribunal.
- 8.10 The above indemnity and undertaking shall be without prejudice to the right of the Standards Sub-Committee or any person appointed under the relevant procedures of the Council to investigate a Member's conduct and to institute action as a result of that investigation under the provisions of section 27 of the Localism Act 2011.
- 8.11 This indemnity shall be without prejudice to the right of the Council to take disciplinary action against any employee.

- 8.12 The above indemnity shall apply after the retirement of any such Member as well as during his/her membership of the Council and in the case of employees, after the retirement or resignation of the employee concerned as well as during his/her employment by the Council.
- 8.13 All references to statutory provisions in this indemnity apply to such provision as it may be amended from time to time, or to any enactment, which replaces it.
- 8.14 This indemnity does not apply to the employee disciplinary or grievance matters.
- 8.15 The indemnity will only extend to cover actual loss and expense incurred and evidenced by the employee or Member to the satisfaction of the Monitoring Officer.
- 8.16 The indemnity will not cover any loss or expense in respect of which the employee or Member can obtain reimbursement from any other source, including any policy of insurance whether taken out by the Council or the employee or Member or by any other person.