

CONSTITUTION AND DEMOCRATIC SERVICES COMMITTEE

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| Date of Meeting | Thursday 11 th April 2019 |
| Report Subject | The Council's Planning Code of Practice |
| Report Author | Deputy Monitoring Officer |

EXECUTIVE SUMMARY

The Council's Planning Code of Practice (PCP) forms part of the Council's Constitution and covers a wide range of matters relating to the Council's planning functions. As part of the Standard Committee's role to review the operation of the Members' Code of Conduct and to promote and maintain high standards of conduct by Councillors, the PCP was taken to that Committee to ensure that it provides appropriate and clear advice to Members in respect of their conduct as it relates to planning matters, and to recommend revision to the PCP where it can be improved in this regard. The Standard's Committee recommended some amendments to the PCP as detailed in this report and as shown in tracked changes to the PCP in the appendix to this report.

RECOMMENDATIONS

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| 1 | That the PCP is fit for purpose regarding the advice relating to the Members' Code of Conduct, the Protocol on Officer/Member relations, and the procedural advice relating to planning matters, subject to the proposed amendments referred to in paragraph 1.05 of this report and the other amendments shown in tracked changes in the appendix to this report. |
| 2 | That the PCP be reported to full Council with advice from this Committee that it be amended in accordance with recommendation 1 above. |

REPORT DETAILS

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| 1.00 | BACKGROUND |
| 1.01 | The PCP covers a wide range of matters relating to planning applications and other planning issues, including providing advice to Councillors on how to best ensure that their involvement in such matters is in accordance with |

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| | the Members' Code of Conduct and the Protocol on Officer/Member relations. |
| 1.02 | As set out at paragraph 1.2 of the PCP, the PCP is supplementary to the Members' and Officers' respective Codes of Conduct and the Protocol on Officer/Member relations, and these aspects of the PCP were reviewed by the Standards Committee to make sure it is fit for purpose in this regard. The PCP should provide clear advice to Members on how to deal with planning issues in accordance with the Members' Code of Conduct and the Protocol on Officer/Member relations. |
| 1.03 | The main areas of the PCP that relate to these matters are Part 2 (Role of Members and Officers), Part 4 (Registration and Declaration of Interests), Part 5 (Lobbying) and Part 6 (Applications Submitted by Members and Officers). However, the advice relating to the Members' Code of Conduct also pervade the PCP. For example, Part 9 of the PCP relates to Site Visits and at paragraph 9.3.2 the PCP states "Any Member with a personal and prejudicial interest must not take part in the site visit". |
| 1.04 | The PCP is a clear document which gives detailed advice on personal and prejudicial interests and other rules contained in the Members' Code of Conduct, such as avoiding the perception of predetermination in respect of planning applications, including how to deal with both representations received directly from applicants or objectors to a development proposal. In terms of the Protocol on Officer/Member relations the PCP provides clear advice in this regard, including advice on the respective roles of Officers and Members. For example, at paragraph 2.4.4 it is made clear that Members should never put Officers under pressure to make a particular recommendation and this advice accords with paragraph 4(d) of the Members' Code of Conduct. |
| 1.05 | The Chief Officer of Planning, Environment and Economy, the Executive Member for Planning, Environment and Economy and the Chair of the Council's Planning Committee were asked to provide comments on how, if at all, the PCP may be improved in their view. The main concern that has been raised is that it is not sufficiently clear in the PCP whether or not applications that have some connection with Members' Portfolio as Cabinet Members may give rise to personal or personal and prejudicial interests in respect of planning decisions. As a potential conflict of interests for County Councillors only arise where their interests as a County Councillor coincide with their interests outside of the Council, there would not be a personal interest arising by virtue of a Members' Cabinet position. However, this situation may, in certain circumstances, give rise to a perception of predetermination. In the circumstances, it may be appropriate to add a new paragraph to the PCP to make the position clear in this regard. A proposed additional paragraph for the PCP is shown in tracked changes as a new paragraph 4.7 to the PCP in the appendix to this report. The Standards Committee agreed that this paragraph should be added and resolved to recommend the same to this Committee. |
| 1.06 | In addition to this amendment the Standards Committee also recommended some additional corrections be made, as shown in tracked changes to the |

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| | PCP in the appendix to this report. Perhaps the most substantive additional proposed change is that where Members were previously advised, under the PCP, that they “should” or “should not” engage in certain conduct, the Standards Committee considered that this advice should be altered to state that Members “must” or “must not” engage in such conduct. The Standards Committee considered that this change emphasises the importance of this advice. |
| 1.07 | Subject to the above addition and amendments, the PCP appears fit for purpose in respect of the advice to Members regarding the Members’ Code of Conduct, the Protocol on Officer/Member relations and the general procedural advice in respect of how planning matters are dealt with by the council. |

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| 2.00 | RESOURCE IMPLICATIONS |
| 2.01 | N/A |

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| 3.00 | CONSULTATIONS REQUIRED / CARRIED OUT |
| 3.01 | The Chief Officer (Planning, Environment and Economy), Executive Member for Planning Environment and Economy, the Chair of the Planning Committee and the Standards Committee have been consulted on the PCP. |

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| 4.00 | RISK MANAGEMENT |
| 4.01 | N/A |

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| 5.00 | APPENDICES |
| 5.01 | App 1 - The PCP with proposed amendment shown in tracked changes. |

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| 6.00 | LIST OF ACCESSIBLE BACKGROUND DOCUMENTS |
| 6.01 | Members’ Code of Conduct and the Protocol on Officer/Member relations. |
| 6.02 | Contact Officer: Matthew Georgiou, Deputy Monitoring Officer Telephone: 01352 702330 E-mail: matthew.georgiou@flintshire.gov.uk |

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| 7.00 | GLOSSARY OF TERMS |
| 7.01 | N/A |