

FLINTSHIRE COUNTY COUNCIL

Date of Meeting	Thursday 1 st April 2021
Report Subject	Review of Protocol for Meeting Contractors
Report Author	Chief Officer Governance

EXECUTIVE SUMMARY

The Protocol for Members in their Dealings with Contractors/Developers and Other Third Parties provides advice to Members on how to avoid inadvertently compromising required levels of impartiality and transparency required of them and the Council when awarding contracts or considering planning applications.

The protocol is due for review as part of the Council's rolling programme of reviewing the Constitution. This periodic refresh of the protocol is an opportunity to check that the document remains up to date and pertinent.

The guidance on dealings with potential contractors remains necessary and needs only minor updating. The guidance on dealings with developers does need updating. However, in addressing these matters the protocol overlaps with the Planning Code of Guidance. It would be better if the protocol did not seek to duplicate advice given elsewhere. The parts of the document relating to planning should be removed and the Planning Code of Guidance be updated instead.

RECOMMENDATIONS

1	That the parts of the Protocol for Members in their Dealings with Contractors/Developers and Other Third Parties relating to dealings with parties who might be bidding for or seeking a contract with the Council be amended as shown in the Appendix.
2	That the parts of the Protocol for Members in their Dealings with Contractors/Developers and Other Third Parties relating to Planning be transferred to the Planning Code of Guidance (to the extent that they are not already incorporated therein) and that the Planning Code of Guidance be updated.

REPORT DETAILS

1.00	EXPLAINING THE REVIEW OF PROTOCOL
1.01	The Council spends about £198m every year on contracts. It also buys and sells land/buildings. Contracts should be awarded and planning applications should be decided fairly, impartially and in a transparent manner. In addition, the Council considers planning applications, which, if granted, can generate many thousands of pounds for developers. The Protocol for Members in their Dealings with Contractors/Developers and Other Third Parties (“the Protocol”) gives advice to members on how to ensure they do not inadvertently compromise the fairness or transparency of such matters.
1.02	The Protocol explains the considerations that apply to the award of contracts and also the determination of planning applications. It gives guidance on whether Members should meet with people seeking contracts with the Council and safeguards that should be applied if they do so. This guidance remains both necessary and pertinent though some of the terminology needs updating. Some scenarios to illustrate the situations covered by the Protocol have also been included. The proposed changes are tracked in the document at Appendix 1. A “clean version” of the document is attached at Appendix 2.
1.03	The Protocol also gives advice on what Members should do if they are approached or lobbied by either planning applicants or objectors. In summary Members must declare if they have been spoken to four or more times. However, the Protocol does not then impose any obligation on Members to take any action in respect of being lobbied to this degree and further advice on the issue is needed. This is a lacuna that should be addressed. A similar requirement to declare being lobbied is included in the Planning Code of Guidance. That Code of Guidance is also similarly silent on what Members should do if they are lobbied. It would be better if the issues were handled comprehensively in the Planning Code of Guidance. That document will updated and reported to Planning Strategy Group before being coming to this Committee.
1.04	The Protocol has been considered and recommended for amendment by the Standards and Constitution & Democratic Services Committees. As a result of consideration by these committees a number of minor changes have been made, and, more importantly, an explanation of how members can appropriately be involved in matters affecting contracts has been included.
1.05	The amended protocol will be included within training and induction programmes for officers who award contracts and Members of Cabinet.
2.00	RESOURCE IMPLICATIONS
2.01	None associated with this report.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	This Protocol was reviewed at Standards Committee on Monday 1 st March and Constitution and Democratic Services Committee on Wednesday 24 th March.

4.00	RISK MANAGEMENT
4.01	The Protocol is designed to avoid or minimise the risk of Council processes being compromised by inadvertent behaviour.

5.00	APPENDICES
5.01	Appendix One – Protocol for Members in their Dealings with Contractors/ Developers and Other Third Parties showing tracked changes Appendix Two – Protocol for Members in their Dealings with Contractors/ Developers and Other Third Parties as it will look when amended.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	None. Contact Officer: Gareth Owens, Chief Officer Governance Telephone: 01352 702344 E-mail: gareth.legal@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	Planning Strategy Group – an internal working group drawn from the Planning Committee that advises the Council on procedures and other matters pertaining to the planning process.