

Proposed Changes to the Constitution

Session 2 – ethical framework:

Change proposed	Comment
<p>Briefing on private life actions reflecting on the Council.</p> <p>Add in the following to the Code of Conduct as the penultimate paragraph under “Application of the Code of Conduct”</p> <p>Although the Code applies to you only when you are acting as a Councillor, you should be aware that your actions can reflect on and damage the reputation of the Council even when you are acting in a private capacity. You should remember this in whatever you do and particularly on social media. Those who know you are a Councillor will assume that you are posting on social media or saying things as a Councillor and not as a private individual.</p>	
<p>Twin hatters and DPIs – planning training plus the Code?</p> <p>Add to the Code of Conduct as paragraph 14:</p> <p>14 Dual hatters</p> <p>If you are a Councillor at the District Council and at another Council and the second Council pays you allowances you will have a Disclosable Pecuniary Interest in relation to the second Council. This is most common where a Councillor is a County Councillor as well as a District Council. The County Council pay Members’ Allowances and therefore under the Regulations this qualifies as a Disclosable Pecuniary Interest.</p> <p>Where there is a matter that concerns the other Council you should seek advice on your position and the need to declare the interest.</p> <p>Parish Councils generally do not pay Members’ Allowances and so the issue is one of “another interest” rather than a Disclosable Pecuniary Interest.</p>	
<p>Members wished Officers to check where a planning application is in a Member’s own ward, is that Member excluded from the Planning Committee decision process making process.</p> <p>The answer is yes.</p> <p>This is in the published Constitution at Paragraph 2.5 of the Protocol on planning (Now Planning Rules) page 188 of the 2022 Constitution. So the Council has accepted this. The Councillor is allowed to speak for or against an application as</p>	

<p>[art of the public speaking. This provision expressly states that a Member should not vote on an application in their ward.</p>	
<p>Appointments to Outside Bodies by the Council. Are two sets of guidance required? One for larger more formal bodies such as the Council Companies. However Members work with a lot of small local groups as well. Which rules/Code of Conduct should be followed?</p> <p>If a Councillor is appointed by the Council as a Director of a Council Company, they will be expected to follow the Company's Code of Conduct and rules. The relationship between the Council and the Company (including the Directors) will be covered by the legal agreements between the Company and the Council.</p> <p>In relation to smaller more local bodies, these may not be incorporated and may not have their own Code of Conduct to follow. In these circumstances appointee Councillors should follow the District Council's Code of Conduct.</p> <p>If not incorporated, are Members covered by the Council's indemnity?</p> <p>All members are covered for work on outside bodies as long as they are representing the Council in an official capacity.</p> <p>The members who are on RHL and Northwood boards are covered by the relevant company's own insurance.</p>	
<p>Need to know v FOI. Is more guidance needed?</p> <p>Add as 6.12 in the Protocol for Councillor - Officer Relations:</p> <p>6.12 The "Need to Know" principle is applicable to Councillors only. The Freedom of Information legislation (FOIA) is separate from the "Need to Know Principle" and is for the public generally. In the right circumstances, the FOIA can be used by any member of the public (including Members), to ask for information from a public body. Thus Councillors can use both the "need to Know" principle and FOI in appropriate circumstances to find out information from the District Council.</p> <p>Member Officer Protocol – reference should be made to the 3 statutory officers at the end of the section.</p> <p>Add after the Head of Paid Service:</p> <p>11 SECTION 151 OFFICER</p> <p>The Section 151 Officer has a specific statutory function in relation to the management of the financial affairs of the Council and ensuring that they comply with legislation and the Council's own financial rules.</p> <p>12 MONITORING OFFICER</p>	

<p>The Monitoring Officer has a specific statutory function in relation to ensuring that the Council's actions are within the Council's powers, in relation to being the guardian of the Council's Constitution and in relation to assisting the Standards Committee in terms of dealing with complaints that District or Parish Councillors have breached the relevant Council's Code of Conduct.</p>	
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Session 3 – Procedure Rules

Change proposed	Comment
Removal of Articles as largely duplicate the rest of the Constitution and can cause confusion as to which part of the Constitution is applicable.	Any part of the Articles not covered elsewhere will be included in the rest of the Constitution.
Article 4, 4.3 Chairman of the Council, in 4.3 delete 4.3 (b) (vi) to be the conscience of the Council	
Article 5 – the Leader of the Council and the Cabinet In 5.2 The Cabinet add the Deputy Leader to (b) Membership	
Article 7 officers of the Council In 7.5 replace JAC with EAC in the heading In 7.5 (c) delete which includes the Statutory Officers and add at the end and make a recommendation to Council with regard to the Statutory Officers appointment.	
The Functions Scheme on page 32 under Training heading, change required to expected.	
General Directors and Assistant Directors delegations states in relation to land: <i>9.14 To acquire, dispose of, grant and obtain rights in land and premises on such terms and conditions as considered appropriate where expenditure is within approved budgets.</i> <i>Executive Functions (Page 34) should be changed as follows to agree with the delegation above – (y) be able to approve the purchase, sale or appropriation of land and buildings where the market value of the transaction is over £50,000 and to approve the leasing (or otherwise) of property where for the length of the lease the annual rental will be over £50,000.</i>	The 2 should match so that such matters can be dealt with either by officer delegation or by Cabinet.
Planning Protocol to become Members Planning Rules	To be consistent across the Constitution.
Members Planning Rules at page 192 – 12.1 refers to planning applications from any Member, Planning Officer, Senior Officer or Senior Manager of the Council and the removal of the Member or Officer from the processing or determination of the application. 12.2 refers applications from a Member of the Authority or an officer to Planning Committee. This should be amended to also refer to applications from any Member, Planning Officer, Senior	For consistency of approach and to ensure transparency.

<p>Officer or Senior Manager of the Council or the Partner or Relative of the same being referred to Planning Committee.</p> <p>Planning Committee Terms of Reference page 39 at 2 (e) refers applications from Members and NEDDC officers who have an involvement in the determinations of or advising on planning matters to the Planning Committee. This should be amended to include reference to applications from any Member, Planning Officer, Senior Officer or Senior Manager of the Council or the Partner or Relative of the same being referred to Planning Committee.</p> <p>Reference to the Development Plan should be deleted as this is about transparency and the public having confidence in how matters are dealt with not compliance with the Development Plan which comes at Planning Committee.</p> <p>2 (e) would then read:</p> <p style="padding-left: 40px;">A serving Councillor, Senior Officer or Senior Manager of the Council (Team Manager and above), Planning Officer or other Planning Team Member advising or determining on planning applications, who submits an application to the Authority for himself/herself or on behalf of any other person or the Partner or Relative of the same who submits their own application.</p>	
<p>Members Planning Rules at page 194 - 16 Public Participation at Committee meetings</p> <p>Add to 16.1:</p> <p>The number of speakers in relation to one application is limited to 5 in support of the application (including the applicant and their representative) and 5 against the application.</p>	
<p>Procurement Rules</p> <p>Page 150 5.3 Contracts £1 to £1000 delete oral and change to written or email quotations.</p> <p>Page 151 5.4 Contracts £1001 to £5000 add written or email quotations</p> <p>Page 151 5.5 Contracts £5001 to £25000 add written or email quotations</p> <p>Page 151 5.6 Contracts £25001 to £75000 add written or email quotations</p> <p>Page 157 Appendix A Financial Thresholds and Aggregation Rule</p>	<p>A full review is needed and will be carried out in the new corporate year. Changes here represent the minimum needed to include email quotes and Purchase Orders.</p>

<p>For contract from £0 to £1000 replace Oral quotation with one email or written quotation or a Purchase Order.</p> <p>For contract from £1001 to replace written quotation with written or emailed quotations or a Purchase Order.</p> <p>From £5001 to £25000 replace 3 written quotations with 3 written or emailed quotations or a Purchase Order.</p> <p>From £25001 to £75000 replace 3 written quotations with 3 written or emailed quotations.</p>	
<p>Politically restricted posts</p> <p>Section 3 etc. LGHA 1989 – it is now the province of the Head of Paid Service to grant exemptions and declarations in relation to politically restricted posts. It was previously Standards Committee. This should be amended in the Proper Officer list.</p>	<p>To reflect legislative change.</p>
<p>Any changes needed to delegations and proper officers and Standards Committee Terms of reference?</p>	
<p>Protocol for changing Constitution – to be added to the Council Procedure Rules.</p> <p>Add the following at 10.3:</p> <p>10.3 Changes to the Constitution</p> <p>(a) No motions to change any part or parts of the Constitution can be accepted for debate at a Council meeting until they have been considered by Standards Committee. Such a motion will stand deferred until Standards Committee has considered it. If no Standards Committee is due to meet within 30 days, an extraordinary Standards Committee will be called within 30 days of the motion being submitted.</p> <p>(b) No changes can be made to the Constitution as part of a Council debate on any motion. Such a motion or part motion will be referred to the Standards Committee in accordance with 10.3 (a).</p> <p>Alternatively:</p> <p>10.3 Changes to the Constitution can only be approved by the Council after consideration of the proposal by the Standards Committee.</p>	<p>To ensure the Constitution is amended following due consideration and not in an ad hoc way.</p>
<p>Protocol for changing Policy – to be added to the Council Procedure Rules:</p>	<p>To ensure that Council</p>

<p>10.4 Change in Policy</p> <p>(a) No motions to change Council Policy can be accepted for debate at a Council meeting until they have been considered by the relevant Scrutiny Committee and Cabinet or if the Policy is a regulatory one such as a Planning or Licensing policy, the change has been considered first by the relevant regulatory committee.</p> <p>(b) No changes can be made to Council Policy as part of a debate until the Policy and proposed change has first been considered by the relevant Scrutiny Committee and Cabinet or the relevant Regulatory Committee.</p>	<p>Policy is amended following due consideration and not in an ad hoc way.</p>
<p>Propose amending the time of Council start to 2 pm.</p>	
<p>Planning Committee Terms of Reference: – amend “planning grounds” in paragraph (c) and “Planning reasons” in (d) to say “planning issue fully explained by the Member calling it in”</p>	
<p>Planning Committee Terms of Reference: - in (e) delete final sentence and replace with “(immediate family means a relative or close associate)”</p>	
<p>Licensing and Gambling Acts Committee Terms of Reference: – change description of number of Members to “up to 15 Members”</p>	
<p>General Licensing Sub Committee Membership is 3 Members</p>	<p>Change from 5.</p>
<p>Standards Committee Terms of Reference: propose removing the 2 Parish Council Members from the Standards Committee membership.</p>	
<p>Standards Committee Terms of Reference: change “Promote and maintain high standards of conduct within Town/Parish Councils and to assist them in following their own Codes of Conduct or adopt the North East Derbyshire Code of Conduct” to “Proactively engage with Town/Parish Councils to promote and maintain high standards of conduct within Town/Parish Councils and to assist them in following their own Codes of Conduct or adopt the North East Derbyshire Code of Conduct”</p>	
<p>Standards Committee Terms of Reference: remove “Review Members’ attendance at meetings on a bi-annual basis</p>	
<p>Employment and Appeals Committee Terms of Reference: - add the word “Senior” before Management Team in the second function in the functions table.</p>	
<p>Add to the Access to Information Rules at paragraph 4.2 (b) before or “such judgement being made if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.”</p>	<p>To add in reference to the public interest test in accordance</p>

	with the legislation.
Planning Protocol paragraph 19 Gifts and Hospitality at 19.1 – change from £25 to £50.	
Delete Role Profiles of roles of Members.	