

Members' Code of Conduct

PART 1

General Provisions

Introduction

1. (1) Gedling Borough Council is committed to promoting and maintaining high standards of conduct by Members and co-opted Members of the Council. The actions of those who represent the Council impact on how the Council as a whole is viewed. Misconduct can seriously damage the effectiveness and reputation of the Council and will not be tolerated. Those serving their communities must adhere to the high standards expected of them to promote public confidence in local democracy.
- (2) This Code of Conduct has been adopted by the Council under Section 27 of the Localism Act 2011 and sets out the standards that Members are expected to observe.

Interpretation

2. (1) This Code applies to you as a Member of the Council.
- (2) It is your responsibility to comply with the provisions of this Code. Failure to do so may result in a sanction being imposed by the Council. Failure to take appropriate action in respect of a disclosable Pecuniary Interest may result in a criminal conviction.
- (3) In this Code:
"meeting" means any meeting of:
 - (a) the Council;
 - (b) the executive of the Council;
 - (c) any of the Council's or its Executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

"Member" includes a co-opted member or an appointed member.

Scope

3. (1) Subject to sub-paragraphs (2) and (3), you must comply with this Code whenever you:
 - (a) Conduct the business of the Council (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of the Council;and references to your official capacity are construed accordingly.

- (2) Where you act as a representative of the Council:
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's Code of Conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with this Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- (3) This Code does not have effect in relation to your conduct other than where it is in your official capacity.

The Seven Principles of Public Life

4. You must observe the following general principles:

Selflessness

You should take decisions solely in terms of the public interest. You should not do so in order to gain financial or other material benefits for yourself, your family or your friends.

Integrity

You should not place yourself under any financial or other obligation to outside individuals or organisations that might influence you in the performance of your official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make choices on merit.

Accountability

You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate to your office.

Openness

You should be as open as possible about all the decisions and actions that you take. You should give reasons for your decisions and restrict information only when the wider public interest clearly demands.

Honesty

You have a duty to declare any private interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

You should promote and support these principles by leadership and example.

General Obligations

5. (1) You must:

- (a) treat others with respect, including the organisations and public you engage with and those you work alongside.
- (b) value your colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect between you that is essential to good local government.

(2) You must not:

- (a) do anything which may cause the Council to breach the Equality Act 2010;
- (b) bully or harass any person.

The definition of bullying and harassment and examples of behaviour which amounts to bullying and harassment are set out in Appendix 1 to the Code of Conduct;

- (c) intimidate or attempt to intimidate any person who is or is likely to be:
 - (i) a complainant;
 - (ii) a witness;
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with the Code of Conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

6. You must not:

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the Council; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

7. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

8. You must not make trivial or malicious allegations that another Member has

failed to comply with the Code of Conduct.

9. You must comply with any formal standards investigation carried out in relation to an allegation that you have failed to comply with the Code of Conduct.
10. You must:
 - (a) not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
 - (b) when using or authorising the use by others of the resources of the Council:
 - (i) act in accordance with the Council's reasonable requirements; and
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes);
 - (c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986;
 - (d) behave in accordance with all legal obligations, alongside any requirements contained within the Council's policies, protocols and procedures.
11. (1) When reaching decisions on any matter you must listen to the interests of all parties and have regard to relevant advice provided to you by:
 - (a) The Council's Chief Finance Officer; or
 - (b) The Council's Monitoring Officer;(where that officer is acting pursuant to his or her statutory duties) and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- (2) You must:
 - (a) exercise independent judgement and not compromise your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties as a member.
 - (b) contribute to making the Council's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other members to account.
 - (c) be accountable for your decisions and co-operate when scrutinised internally and externally, including by local residents.
12. You must:
 - (a) champion the needs of residents – the whole community and your constituents, including those who did not vote for you – and put their interests first.
 - (b) deal with representations, or enquiries from residents, members of our

communities and visitors fairly, appropriately and impartially.

- (c) not allow other pressures, including your financial interests or others connected to you, to deter you from pursuing constituents casework, the interests of the Council's area or the good governance of the Council in a proper manner.

13. You must provide leadership by behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the Council.

PART 2

Interests

Disclosable Pecuniary Interests

12.(1) You have a disclosable pecuniary interest in any business of the Council where it is of a description set out in paragraph 12(2) and either:

- (a) it is an interest of yours; or
- (b) it is an interest of your spouse or civil partner and you are aware that the other person has the interest; or
- (c) it is an interest of a person with whom you are living as husband and wife and you are aware that the other person has the interest; or
- (d) it is an interest of a person with whom you are living as if you were civil partners and you are aware that the other person has the interest.

(2) Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

Interest

Employment, office, trade, profession or vocation

Prescribed description

Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship

Any payment or provision of any other financial benefit (other than from the Council) made or provided within the previous 12 months (up to and including the date of notification of the interest) in respect of any expenses incurred by you carrying out duties as a member, or towards your election expenses.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts

Any contract which is made between you, your spouse or civil partner or person with whom you are living as a spouse or civil partner (or a body in which you or they have a beneficial interest) and the Council:

(a) under which goods or services are to be provided or works are to be executed; and

(b) which has not been fully discharged.

For this purpose “body in which you or they have a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest.

“Director” includes a member of the committee of management of an industrial and provident society.

Land

Any beneficial interest in land which is within the Council’s area.

For this purpose “land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you, your spouse, civil partner or person with whom you are living as a spouse or civil partner (alone or jointly with another) to occupy the land or to receive income.

Licences

Any licence (alone or jointly with others) to occupy land in the Council’s area for a month or longer.

Corporate tenancies

Any tenancy where (to your knowledge):

(a) the landlord is the Council; and

(b) the tenant is a body in which you, your spouse or civil partner or a person you are living with as a spouse or civil partner has a beneficial interest

Securities

Any beneficial interest in securities of a body where:

(a) that body (to your knowledge) has a place of business or land in the Council’s area; and

(b) either:

i) The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

ii) If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, your spouse or civil partner or

person with whom you are living as a spouse or civil partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose, "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Disclosable Pecuniary Interests in matters considered at meetings

13.(1) Subject to sub-paragraph (2) and (3), where you are:

- (a) present at a meeting of the Council; and
- (b) have a disclosable pecuniary interest in any matter to be considered, or being considered at the meeting; and
- (c) you are aware that you have such an interest, you must:
 - (i) disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent, whether or not such interest is registered in the Council's register of interests of members and co-opted members or for which you have made a pending notification; and
 - (ii) not participate or participate further, in any discussion of the matter at the meeting; or participate in any vote, or further vote, taken on the matter at the meeting; and
 - (iii) in accordance with the Council's Standing Orders, withdraw from the room or chamber where a meeting considering the business is being held:
 - aa) in the case where sub-paragraph (3) applies, immediately after making representations, answering questions or giving evidence;
 - bb) in any other case, wherever it becomes apparent that the business is being considered at that meeting;unless you have obtained a dispensation from the Council's Standards Committee or Monitoring Officer.

(2) Where you have a disclosable pecuniary interest which by virtue of paragraph 19 is considered to be a sensitive interest, you must indicate to the meeting that you have a disclosable pecuniary interest in the matter concerned, but need not disclose the details of the interest to the meeting.

(3) Where you have a disclosable pecuniary interest in any business of the Council, you may attend a meeting (including a meeting of the overview and scrutiny committee of the Council or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a

statutory right or otherwise.

- (4) Where the interest is not entered in the Council's register of interests of members and co-opted members and is not the subject of a pending notification, you must notify the Council's Monitoring Officer of the interest in writing before the end of 28 days beginning with the date of the meeting.

Disclosable Pecuniary Interests in matters considered by a single member

14.(1) Where:

- (a) a function of the Council may be discharged by you acting alone;
- (b) you have a disclosable pecuniary interest in any matter to be to be dealt with, or being dealt with, by you in the course of discharging that function; and
- (c) you are aware that you have such an interest,
you must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).

- (2) Where the interest is not entered in the Council's register of interests of members and co-opted members and is not the subject of a pending notification, you must notify the Council's Monitoring Officer of the interest in writing before the end of 28 days beginning with the date when you became aware that the condition in sub-paragraph 14(1)(c) is met in relation to the matter.

Criminal offences relating to Disclosable Pecuniary Interests

15.(1) You will commit an offence if, without reasonable excuse, you –

- (a) Fail to notify the Council's Monitoring Officer within 28 days of your election of any disclosable pecuniary interests which you have at the time when the notification is given.
- (b) Fail to disclose a disclosable pecuniary interest in any matter to be considered, or being considered, to the meeting where that interest is not entered in the Council's register of interests of members and co-opted members.
- (c) Fail to notify the Council's Monitoring Officer of any disclosable pecuniary interest that you have disclosed to a meeting, where that interest is not already entered in the Council's register of interests of members and co-opted members or subject to a pending notification, before the end of 28 days beginning with the date of the meeting.
- (d) Are an executive member and you fail to notify the Council's Monitoring Officer of any disclosable pecuniary interest that you have in any matter to be to be dealt with, or being dealt with, by you in the course of discharging

that executive function, where that interest is not entered in the Council's register of interests of members and co-opted members or subject to a pending notification, before the end of 28 days beginning with the date that you became aware of such an interest.

- (e) participate, or participate further, in any discussion of a matter in which you have a disclosable pecuniary interest, or participate in any vote, or further vote, taken on any such matter.
- (f) Are an executive member and you take any steps, or any further steps, in relation to any matter to be to be dealt with, or being dealt with, by you in the course of discharging that executive function in which you have a disclosable pecuniary interest (except for the purpose of enabling the matter to be dealt with otherwise than by you).
- (g) Provide information that is false or misleading when notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting and you:
 - i. know that the information is false or misleading, or
 - ii. are reckless as to whether the information is true and not misleading.

Interests other than Disclosable Pecuniary Interests

Non-pecuniary Interests

16.(1) You have a non-pecuniary interest in any business of the Council where either:

(a) It relates to or is likely to affect:

- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
- (ii) any body:
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

of which you are a member or in a position of general control or management;

- (iii) any employment, office, trade, profession or vocation carried on by you not for profit or gain;
- (iv) any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income;

- (v) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;

or

- (b) A decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of:
 - (i) a member of your family or any person with whom you have a close association;
 - (ii) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (iii) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - (iv) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

Disclosure of Non-pecuniary Interests

- 17.(1) Subject to sub-paragraph (2) to (6), where you have a non-pecuniary interest in any business of the Council and you attend a meeting of the Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a non-pecuniary interest in any business of the Council which relates to or is likely to affect a person described in paragraph 16(1)(a)(i) or 16(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the non-pecuniary interest.
- (4) Where you have a non-pecuniary interest but, by virtue of paragraph 19 it is considered to be a sensitive interest, you must indicate to the meeting that you have a non-pecuniary interest in the matter concerned, but need not disclose the details of the interest to the meeting.
- (5) Where you have a non-pecuniary interest in any business of the Council and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (6) In this paragraph “executive decision” is to be construed in accordance with any regulations made by the Secretary of State under Section 22 of the Local Government Act 2000.

- (7) Subject to paragraphs (8) and (9) below, if you have a non-pecuniary interest in any business of the Council you may participate, vote and remain in the room or chamber where a meeting considering the business is being held unless your interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (8) If you have a non-pecuniary interest in any business of the Council you may participate, vote and remain in the room or chamber where a meeting considering the business is being held where that business relates to the functions of the Council in respect of:
- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iii) an allowance, payment or indemnity given to members;
 - (iv) any ceremonial honour given to members; and
 - (v) setting council tax or a precept under the Local Government Finance Act 1992.
- (9) Where you have a non-pecuniary interest in any business of the Council in the circumstances set out in paragraph (7) above, you may remain in the room or chamber where a meeting considering the business is being held for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Gifts and Hospitality

- 17.(1) You must, within 28 days of receipt, notify the Council's Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50.00 which you have accepted as a member from any person or body other than the authority.
- (2) Any gifts or hospitality notified to the Monitoring Officer will be included in the register of interests of gifts and hospitality.
- (3) The duty to notify the Monitoring officer does not apply where the gift or hospitality comes within any description approved by the Council for this purpose.

PART 3

Register of interests of members and co-opted members

18.(1) Subject to paragraph 19, you must, within 28 days of:

(a) this Code being adopted by the Council, or

(b) your election or appointment to office (where that is later),

register in the Council's register of interests of members and co-opted members (maintained under Section 29(1) of the Localism Act 2011) details of all disclosable pecuniary interests and non-pecuniary interests you have at the time the notification is given by providing written notification to the Council's Monitoring Officer.

(2) Where you become a member or co-opted member of the Council as a result of re-election or re-appointment, sub-paragraph (1) applies only as regards interests not entered in the Council's register of interests of members and co-opted members when the notification is given.

(3) You must, within 28 days of becoming aware of any new interests or change to any interests registered under paragraph (1), register details of that new interests or change by providing written notification to the Council's Monitoring Officer.

(4) You are obliged to register details of disclosable pecuniary interests in accordance with paragraphs 13(4) and 14(2).

(5) Any interests notified to the Monitoring Officer will be included in the register of interests of members and co-opted members.

(6) A copy of the register will be available for public inspection and will be published on the Council's website.

Sensitive Interests

19.(1) This paragraph applies where you have an interest (whether or not a disclosable pecuniary interest) and the nature of the interest is such that you and the Council's Monitoring Officer, consider that disclosure of the details of the interest could lead to you or a person connected with you being subject to violence or intimidation ("sensitive interest").

(2) If the sensitive interest is entered in the Council's register of interests of members and co-opted members, copies of the register that are made available for inspection, and any published version of the register, will not include details of the interest (but may state that you have an interest the details of which are withheld under Section 32(2) of the Localism Act 2011).

(3) You must, within 28 days of becoming aware of any change of circumstances which means that an interest excluded under paragraph 19(2) is no longer a sensitive interest, notify the Council's Monitoring Officer asking that the interest be included in copies of the register that are made available for inspection, and any published version of the register.

Definitions and examples of behaviour which amount to bullying or harassment

Bullying may be characterised as behaviour, or an abuse or misuse of power in a way that undermines, humiliates, unfairly criticises or injures someone.

A non-exhaustive list of behaviour which amounts to bullying includes:

- spreading malicious rumours, or insulting someone by word or behaviour
- copying correspondence that is critical about someone to others who do not need to know
- ridiculing or demeaning someone - picking on them or setting them up to fail
- exclusion - deliberately excluding someone from meetings or written correspondence in matters for which they have a responsibility or professional interest or deliberately excluding someone from events or celebrations that it would ordinarily be expected that they might legitimately attend
- victimisation - taking action detrimental to someone as a result of them raising a complaint or issue of concern in good faith through formal and correct procedure whether or not the complaint was upheld or proven
- unfair treatment
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances-touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
- making threats or comments about job security without foundation
- publicly criticising the work or efficiency of someone where the issue has not been formally raised with that person through proper process and the right of explanation or appeal has not been made available
- deliberately undermining a competent worker by overloading and constant criticism
- preventing individuals progressing by intentionally blocking promotion or training opportunities

Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.

A non-exhaustive list of behaviour which amounts to harassment includes:

- frequent unwanted contact, including texts, letters, phone calls, emails and communication via social media or any other electronic communication
- sending unwanted gifts
- driving past an individual's home or visiting them at work without legitimate purpose or following or watching an individual
- sharing humiliating information, lies or gossip about an individual
- making inappropriate comments, critical remarks or offensive jokes
- threatening behaviour
- excessive demands that are impossible to deliver
- making sexual comments or jokes or inappropriate sexual gestures
- making jokes or degrading or patronising comments or teasing an individual about their race, religion, age, gender, sexual orientation or disability. This would also amount to an offence under the Equality Act.

Officers Code of Conduct

The officers' code of conduct will be re-determined following publication of Government Guidance.

Protocol on Member/Officer Relations

1. Purpose

The purpose of this protocol is to assist officers and Members in understanding their respective roles and to create a working relationship which enhances the provision of services to the borough.

2. Principles

- The relationship between Members and officers should be based on mutual trust and respect.
- The behaviour of Members and officers at all times should demonstrate this respect and behaviours such as bullying, harassment or manipulation will not be acceptable. Members and officers will not undermine each other's roles through personal attack or comment.
- Members and officers should respect their respective roles and support these.
- When either Members or officers have concerns about the behaviour or actions of another they should feel able to raise these in the appropriate way without fear of reprisal.

3. Roles

The distinct responsibilities of officers and Members are as described in the constitution of the Council.

Members may also have specific responsibilities within their overarching role. These include:

- Executive member
- Scrutiny committee member
- Standards committee member
- Ward representative
- Committee (sub-committee) member

All officers are employed by the Council as a whole, they are bound by a contract of employment and the terms and conditions therein. There are also specific roles whose responsibilities are covered by statute:

- Monitoring Officer
- Chief Executive
- Chief Financial Officer

4. Officer Support to Individual Members

Officers will provide politically impartial advice to Members in any of their roles defined above.

Officers may be called upon to give advice to political party groups, however this will always be impartial and consistent with any advice given to other political party groups.

Officers will resource and support Members in discharging their roles as defined above, this includes providing relevant information,

attending/arranging meetings and problem solving. No resources will be used for campaigning or other party political activities.

5. Publicity and Media Relations

The Council officers will provide a publicity and media relations service to promote the Council's activities and services. Officers will liaise with the media in respect of dealing with queries or issuing press releases. The requirements of the Local Government Act 1986 and the Code of Recommended Practice on Local Authority publicity will be complied with.

Normally, the Chief Executive, Directors and the Communications Officer will speak to the press. However other officers may be authorised by their Director to speak to the press on appropriate occasions. Normally the Chair of the relevant committee or portfolio holder will be the spokesperson quoted in press releases.

6. Advice from Officers

Officer advice to Members in any of their roles will always be given in the following contexts:

- agreed Council policy
- in accordance with national legislation and guidance
- best professional practice
- appreciation of local and national priorities.

Where Members are unhappy with advice received they should refer this to the relevant Director who will then provide further advice. Any disagreement should be referred to the Chief Executive. Officers are not expected to change advice once given unless subsequent information changes the situation. Members may decide not to accept advice given but will need to be advised of the consequences of this, possibly in writing.

7. **Decision Making**

Officers and Members (under the new political arrangements) have delegated decision-making powers. These are set out in the Council's Standing Orders. Members will exercise their delegated authority through the computerised decision making system. Officers will ensure that the relevant information has been recorded on the system including advice given. Members will be asked to authorise this computerised system and no action can be taken by officers until this is completed.

Where decisions are to be made through the committee or executive functions, it is the role of Members to reach a decision, whether by majority vote or consensus. Officers will be able to provide information on alternative options including costs, feasibility and professional advice to all Members in order to facilitate a decision making process.

8. **Scrutiny Committees**

The function of Scrutiny Committees has the potential to cause difficulties between Members and officers and between officers. This conflict should be minimised by everyone involved respecting the purpose of scrutiny and using it to provide better services for the public not as a mechanism for promoting personal agendas.

Officers supporting the scrutiny function will seek information from other officers and this will be provided in a full and timely manner in order to ensure the scrutiny function runs effectively.

Members may call officers to attend a scrutiny committee to answer questions relating to a specific decision or policy. No officer below Principal Officer level (band 10) will be required to attend a scrutiny committee.

Members will treat officers attending a scrutiny committee with respect. The questioning may be probing but not aggressive. Members will acknowledge that the officer is acting in a professional capacity and personal comments will not be acceptable.

9. **Access to Information**

Members have the same right to access to information in accordance with legislation as all members of the public have. They are able to have access to any information which will help them carry out their role(s). Members will use any information given only within this context. Use of information inappropriately may be a breach of the data protection act or other legislation and Members should be aware of this and take advice. Members will treat information given with an appropriate level of confidentiality.

Officers will make every effort to provide full and relevant information to enable Members to fulfil their role(s). If there is any doubt about releasing information, officers will take advice from the Monitoring Officer.

10. **Access to Officers**

Members are welcome to visit any offices, sites or properties and to meet officers to discuss services or plans. However, it must be recognised that officers have commitments and it is not always possible to be available at short notice to meet Members.

Members should therefore ensure they pre-plan any visits by contacting officers in advance at convenient times. Officers will make every effort to be available at convenient times. It is recognised that if an urgent situation arises Members may not be able to give prior notice but such situations will be avoided as far as possible.

Officers tend to work within standard office hours. It is recognised that Members may need to contact officers outside of these times and officers recognise the nature of their work can not always be contained within this framework. However it is important that undue workload and pressure is not placed on officers to respond in the evenings and at weekends. Respect must be given to minimising the impact of work on the individual's private life. Except in emergency situations, as far as possible, Members will not contact officers at home.

11. **Monitoring**

If an officer feels this protocol has been breached they should discuss their concerns with the Chief Executive and/or Monitoring Officer. As far as possible there should be an informal resolution to the concerns by discussion with the relevant Member(s) and Group Leader(s). However, if on initial investigation by the Chief Executive and/or Monitoring Officer, the situation appears to be a potential breach of the Members Code of Conduct, it should be referred to the Standards Board who will investigate this within their terms of reference.

If a Member feels an officer has breached the protocol this should be referred to the relevant Director. The Directors as line managers are responsible for ensuring officers follow the protocol. Any concerns will be dealt with either informally or within the current employment procedures, eg Disciplinary, Performance and Development Review, Harassment etc.

In doing this the general principles and procedures in the Harassment Procedure should be followed. Although not originally intended for complaints against Members, this procedure follows best practice and outlines the issues relating to harassment and provides a guide for resolving any conflict.

12. Gedling Borough Council Code of Practice for Councillors in Dealing with Planning Applications

12.1 Introduction

12.1.1 This Code is based upon the Guidance Note issued by the Local Government Association on Probity in Planning for Councillors and Officers. It has been prepared by the Planning Committee and has been adopted by the Council. Failure on the part of any Councillor to comply with this Code may comprise conduct which could reasonably be regarded as bringing his office or the Council into disrepute and may accordingly be a breach of Paragraph 7 of the Members' Code of Conduct.

12.2 The General Role of Councillors and Officers

12.2.1 Councillors and Officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate, whilst Officers are responsible to the Council as a whole. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors. A successful relationship between Councillors and Officers will be based upon mutual trust, understanding and respect of each other's positions and roles.

12.2.2 Officers who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct, breaches of which may be subject to disciplinary action by the RTPI. Similarly Officers who are Solicitors are subject to the Solicitors Regulation Authority (SRA) Code of Conduct, breaches of which may be subject to disciplinary action by the SRA. Councillors must not ask officers to act in a way which will put them in breach of their professional rules.

12.3 Conflicts of Interest and Predetermination

12.3.1 A member of the Planning Committee who is also a member of another body, whether within the Council such as the Cabinet or a committee, or outside the Council such as a parish council or charitable body, should comply with the requirements of the Council's Members' Code of Conduct with regard to the declaration of interests and the participation or non-participation in the consideration of any planning application submitted by that body.

12.3.2 A Member of the Planning Committee who has expressed a clear intention to vote in a particular way or has otherwise predetermined their position on an application before its

consideration by the Committee must not take part in the decision as a Member of the Planning Committee.

- 12.3.3 If any member of the Planning Committee has expressed a view on a planning application to be considered by the Planning Committee on any occasion and in any forum in advance of consideration of the matter by the Planning Committee, but is willing to and intends to listen to all the considerations presented to the committee before deciding on how to vote, then they should not be regarded as having fettered their discretion and they may participate and on that application.

12.4 Development proposals submitted by councillors and officers and Council development

- 2.4.1 Councillors and Officers have a right as members of the public to submit planning applications. Such applications must be handled in the following way so as to avoid accusations of favouritism:

- Officers and Councillors must not act as agents for those pursuing planning matters within the Council even if they are not involved in the decision making.
- Where a Councillor is the applicant for planning permission or is a relative or close associate of the applicant, that Member should play no part in the decision-making process for those proposals. A Councillor who is the applicant will have a disclosable pecuniary interest in their own application and would commit a criminal offence if they participated in its consideration.
- Where an Officer is the applicant for planning permission or is a relative or close associate of the applicant, that Officer should play no part in processing, advising on or determining the application.
- The Monitoring Officer should be informed of any application submitted by a Councillor or Officer.
- Councillor/Officer applicants must not lobby or bring pressure to bear on other Officers or Councillors in connection with their application.
- Any planning application submitted by a Councillor or Officer (or their partner or spouse or immediate family member) should be dealt with by the Planning Committee itself and not dealt with by officers under delegated powers.
- The right of an applicant to address the Planning Committee before consideration of the application by the Planning Committee should not apply where the applicant is a member of the Council. In that case, the

Councillor may write to the Committee with such representations as they wish to make.

12.4.2 The decision making process for proposals relating to Council owned land or Council development can be open to criticism on the basis that the Council may find it difficult to separate its roles as developer and planning authority. It is therefore important that the application is treated with the same transparency and impartiality as those of private developers. Such applications must therefore be handled in the following way:

- Any Officer involved in the initiation of the proposals must not be involved in the processing and determination of the application.
- Any Councillor/Officer involved in the initiation of the proposals must not lobby or bring pressure to bear on other officers or Councillors in connection with the application.
- Any planning application submitted by or on behalf of the Council should be dealt with by the Planning Committee itself and not dealt with by officers under delegated powers.
- Any Councillor involved in the decision to initiate the proposals can only participate at Planning Committee if they are prepared to make their decision in the light of the information and evidence presented there.

2.5 Lobbying of and by Councillor

2.5.1 Lobbying is a normal part of the planning process; however it can lead to the impartiality and integrity of Councillors being called into question unless care is exercised. When being lobbied by any party on a planning application, members of the Planning Committee should avoid expressing any opinion which might be taken as indicating that they have already made up their mind on the issue. If Councillors do express an opinion, they should make it clear that they will only be in a position to make a final decision after having heard all the relevant arguments and taking into account all relevant material and planning consideration at committee. In order to avoid any allegation of predetermination or bias, Councillors could restrict themselves to giving procedural advice, including advice on how and to whom those lobbying can communicate.

2.5.2 Councillors can raise issues which have been raised by their constituents with officers.

- 2.5.3 The consideration of planning applications by the Planning Committee should not be subject to whipping arrangements on behalf of the political groups and Councillors must not decide in group meetings before the Committee how they should vote on the matter in Committee. The use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.
- 2.5.4 A member of the Planning Committee should avoid organising support for or against a planning application and should avoid lobbying other Councillors on such applications.
- 2.5.5 Councillors should not put improper pressure on officers for a particular recommendation or decision, and should not do anything which compromises or is likely to compromise officers' impartiality or professional integrity. Councillors must recognise that Officers who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct and may be subject to disciplinary action if they are in breach of the Code. Similarly Solicitors are subject to the Solicitors Regulation Authority Code of Conduct.
- 2.5.6 If any Councillor, whether or not a member of the Planning Committee, acts as a speaker on behalf of a lobby group at Committee, they must withdraw once they have spoken in order to avoid any suggestion that members of the Committee may be influenced by their continued presence.

12.6 Decisions Contrary to Officer Recommendations

- 12.6.1 The Planning Committee must only make planning decisions in accordance with the development plan (which includes the Aligned Core Strategy and adopted Local Plan and supplementary planning documents), unless material considerations indicate otherwise, and Article 11 of the Articles of the Constitution.
- 12.6.2 Planning Committee can make a decision which is contrary to the officer recommendation. This will usually be as a result in the difference in the assessment of how a policy has been complied with or a different weight given to material considerations.
- 12.6.3 When making a decision which differs from the Officer recommendation, Planning Committee will:

- Record the reasons for the decision as part of the mover's motion.
- Adjourn for officers to draft suitable wording to reflect the reasons proposed.
- In any case in which Councillors wish to add to or amend conditions proposed by Officers, adjourn the meeting to give Officers a reasonable opportunity to draft suitable conditions reflecting Councillors wishes
- Give officers the opportunity to explain the implications of the decision, including an assessment of a likely appeal outcome and chance of a successful award of costs against the Council, should one be made.
- Formally agree the detailed reasons for the decision when the meeting re-convenes.
- Consider adjourning the matter to another meeting where there are concerns about the validity of the reasons proposed.

12.6.4 If the Planning Committee makes a decision contrary to the officers' recommendation, the Minutes should contain a detailed note of the Committee's reasons for the decision, which should be placed on the application file. Councillors must be prepared to explain in full their reasons for not agreeing with the officer recommendation. The reasons for the decision should be clear and convincing.

12.6.5 Where Councillors refuse permission contrary to Officer advice, after the Committee meeting, Officers and Councillors will meet to discuss how to pursue the matter. Where it appears that the grounds for refusal could be overcome by further negotiation with the applicant, Officers will pursue this with a view to encouraging a revised application. However, this can involve cost for the applicant and can be time consuming. Therefore, notwithstanding any attempts at negotiation by Officers, the applicant may decide to appeal the decision.

12.6.6 Where an appeal is received, Officers and Councillors will meet to discuss the nature of the appeal, the issues raised and how it will be handled.

12.6.7 For appeals determined by Written Representations, after discussion with the relevant Councillors, Officers will produce the draft written statement, which will reflect and justify the reasons for refusal. This will then be sent to the nominated Member(s) to agree or add to the statement. Officers will provide technical and professional guidance on whether it is appropriate to include or exclude certain information. The statement will then be submitted and the appeal determined.

12.6.8 For appeals determined at Informal Hearings, the statement will be produced as above. Pre-hearing meetings will then be held between Planning and Legal Officers and the nominated Member(s) to discuss what the planning issues are, and how

the nominated Member(s) will present their reasons for the decision and defend the appeal at the hearing.

- 12.6.9 An informal hearing is a round table debate in the form of a discussion led by the Inspector. Cross-examination is not usually permitted unless the Inspector considers that it is required to ensure a thorough examination of the main issues. In such cases the Inspector will consider whether the informal hearing should be closed and a full public inquiry be held instead.
- 12.6.10 Solicitors or other professional advisers (such as highways or landscape officers) do not usually attend informal hearings on behalf of the Council as there is no role for them at the round table discussion. However, it is recognised that in exceptional circumstances there may be grounds for an advocate to attend the informal hearing. In such cases the Director of Organisational Development and Democratic Services in consultation with the Chair of the Planning Committee will determine what attendance, if any, is appropriate.
- 12.6.11 Planning Officers will attend the informal hearing to act in a facilitator role, clarifying any questions regarding process or factual matters, for example regarding points of planning policy, site history or technical issues, and to provide professional advice for Councillors.
- 12.6.12 At the hearing itself, if an application for award of costs is made by the appellant, Planning Officers will support the nominated Member(s) in responding to these, and may respond on issues of procedure and decision-making. In this situation Officers will work with Councillors to emphasise the importance of local decision making and to explain the process which was applied when applying weight to the material considerations of the case.
- 12.6.13 For appeals determined at Public Inquiries, the same process as above will apply. However, as these involve more significant issues, and may require professional legal representation, there are likely to be more meetings before statements are exchanged and before the inquiry itself. It will be important therefore that both Officers and the nominated Councillors attend all of these.
- 12.6.14 Officers and professional legal representatives will act as advocates (or expert witnesses) and will also work with Councillors to prepare them to be cross examined during the Inquiry. This will include investigating potential lines of inquiry.

12.7 Site Visits

- 12.7.1 Site visits will only be arranged for the Planning Committee with the agreement of the Chair of the Committee where the benefit is clear and substantial. A site visit is only likely to be necessary if:

12.7.1.1 the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by Officers; or

12.7.1.2 there is a good reason why the comments of the applicant and objectors cannot be expressed adequately in writing

12.7.1.3 the proposed development is particularly contentious or significant in relation to the locality.

12.7.2 Where a site visit is arranged for the Planning Committee:

- the purpose, format and conduct should be clear at the outset and adhered to by all throughout the visit
- a record of the reasons why a site visit is called shall be kept
- the Committee will be accompanied by Officers
- the visit must not be used as a lobbying opportunity by the applicant, objectors or supporters. This will be made clear to parties present
- the visit itself will consist of an inspection of the site by the Committee to gain a better understanding of the issues and will be run on the strict lines of a planning inspector's site visit.
- the merits or otherwise of the application will not be discussed.

12.7.3 Where a site visit is not arranged for the Planning Committee a member of the Committee may be tempted to visit the application site alone. Members do not have the right to enter private property and can only view the site from public vantage points. Even if invited by the owner to do so, Members of the Planning Committee should not enter the site on their own, as this could lead to a perception of bias or pre-determination.

12.8 Member Training

12.8.1 All Councillors of the Council will receive training with regard to the planning system. Only Councillors who are willing to accept within a reasonable time such training will be permitted to serve on the Planning Committee.

13. Planning Delegation Panel

Role of the Planning Delegation Panel

The Planning Delegation Panel will be consulted by the Director responsible for the planning service in respect of all planning applications which do not fall to be decided by him under his other delegations and to decide which of these applications he will determine and which he will refer to the Planning Committee for determination.

- 13.1 The Planning Delegation Panel will consist of a permanent membership of six Councillors drawn from and agreed by the Planning Committee. In the event that a permanent member of the panel is unable to attend, another member of the Planning Committee may act as substitute.
- 13.2 The quorum for the Planning Delegation Panel shall be three.
- 13.3 Meetings of the Panel will be held each Friday and the agenda for the meeting will be issued in advance.
- 13.4 Where an application is added to the agenda after it has been circulated, the panel members and relevant ward members will be notified.
- 13.5 All Councillors may attend the meetings and contribute to discussions.
- 13.6 Notes of each meeting of the panel will be included as information items on the next available Planning Committee agenda.

14. PETITIONS POLICY

We welcome the opportunity to hear from the public and recognise that petitions are one of the ways in which people can let us know their concerns.

WHAT IS A PETITION?

We will accept as a petition any communication sent to the Council if it identifies itself as a petition or it seems to us that it is intended to be a petition. A petition by its very nature, of course, will be signed by a number of people.

WHAT SHOULD A PETITION CONTAIN?

A petition should include:

- a clear statement setting out what the petition is about and stating what action the petitioners want the Council to take
- the name, address and signature of any person supporting the petition. These can be people who live, work or study in the Borough of Gedling
- the name, address, and any other contact details of the person who is organising the petition
- the issue to which it relates if it is submitted in response to a consultation on a specific matter so that we can ensure that it is considered along with that original matter.

DIFFERENT TYPES OF PETITION

How we deal with your petition depends on the type of petition you submit.

1. Consultation Petitions

These are petitions in response to an invitation from the Council for representations on a particular proposal or application, for example, on planning or licensing applications. These petitions will be dealt with in accordance with the particular process laid down for that consultation.

2. Statutory Petitions

Some Acts of Parliament require the Council to consider petitions for example a petition for a review of Parish Councils. Where you submit a petition under a particular Act we will deal with it as laid down by those provisions.

3. Petitions for Debate

If you want your petition to be reported to and debated at a meeting of the Council, it must have at least 3,000 signatures. This is reduced to 140 signatures where the petition relates to a local issue affecting no more than two wards within the Council's area.

4. Petitions to "Hold an Officer to Account"

If you want your petition to be considered by the Overview and Scrutiny Committee where an officer of the Council will be required to answer questions on the conduct of a particular matter your petition should contain 1500 signatures. This is reduced to 70 signatures where the petition relates to a local issue affecting no more than two wards within the Council's area.

5. Ordinary Petitions

These are petitions that do not come within any of the above categories. These petitions will be dealt with by reference to the Committee or Councillor with responsibility for the matter which is raised by the petition.

WHO SHOULD THE PETITION BE SENT TO?

When you submit a petition in response to a specific consultation carried out by the Council please address it to the return address set out in the consultation invitation. This will ensure that it is considered at the same time as the other replies to that consultation.

All other petitions should be addressed to:

Gedling Borough Council
Civic Centre
Arnot Hill Park
Arnold
Nottingham
NG5 6LU

WHAT WILL THE COUNCIL DO WHEN A PETITION IS RECEIVED?

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. We will let the organiser know what we plan to do with the petition and when they can expect to hear from us again.

If we can do what the petition asks for immediately the acknowledgement may confirm that we have taken the action requested and the petition will be closed.

If the petition has enough signatures to trigger a Council debate, or a Senior Officer giving evidence, then the acknowledgement will confirm this and tell you when and where the meeting will take place.

If the petition needs more investigation we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, is a statutory

petition (for example a request for a referendum on an Elected Mayor) or on a matter where there is already an existing right of appeal, such as Council Tax banding, other procedures apply. The petition will not be dealt with under this policy but rather by reference to those alternative processes.

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate. We will explain the reasons for this in our acknowledgement of the petition.

Where more than one petition is received in time for a particular meeting each supporting the same outcome on one matter, each petition organiser will be treated separately but only the petition organiser of the first petition to be received will be invited to address the relevant meeting.

A petition will not normally be considered where it is received within 6 months of another petition considered by the Council or the Overview and Scrutiny Committee on the same matter.

HOW WILL THE COUNCIL RESPOND TO A PETITION

Our response to a petition will depend on what the petition asks for and how many people have signed it but may include one or more of the following:-

- Take the action requested in the petition
- Consider the petition at a Council meeting
- Hold an enquiry into the matter
- Hold a public meeting
- Carry out a consultation
- Hold a meeting with petitioners
- Refer the petition to the Council's Overview and Scrutiny Committee with the panel to hold decision takers to account.
- Explain to the organiser why the Council will not take any further action.

If your petition is about something over which the Council has no direct control (for example local transport or health services) we will consider making representations on your behalf to the relevant organisations. The Council works with a large number of local partners and where possible we will work with these partners to respond to your petition.

If your petition is about something that a different council is responsible for we will consult with the petition organiser and forward the petition to the other Council if that is appropriate.

FULL COUNCIL DEBATES

If a petition contains more than 3,000 signatures or 140 signatures for a matter affecting no more than 2 wards, it will be debated by the full Council unless it is a petition asking for a senior council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at

the following meeting. The petition organiser or their nominated representative will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors.

The Council will decide how to respond to the petition at this meeting. The Council may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one on which the Council Executive are required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

OFFICER EVIDENCE

Your petition may ask for a Member of the Council's Senior Management Team to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior manager to explain progress on an issue.

If your petition contains at least 1500 signatures, or 70 signatures for a matter affecting no more than 2 wards, the relevant senior officer will give evidence at a public meeting of the Council's Overview and Scrutiny Committee. A list of the senior managers that can be called to give evidence can be found in Part 7, Management Structure in this Constitution. You should be aware that the Overview and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition. The committee may also decide to call the relevant councillor to attend the meeting. Committee members will ask the questions at this meeting but you will be able to suggest questions to the chair of the committee by contacting the Council's Scrutiny Officer.

E-PETITIONS

We also welcome e-petitions which are created and submitted through our website. E-petitions must follow the same guidelines as paper petitions once this has been enabled. The petition organiser will need to provide us with their name, postal address and email address. An e-petition will run for three months.

When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.

If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the "rejected petitions" section of the website.

When an e-petition has closed for signature, it will automatically be submitted to the Petitions Officer. In the same way as a paper petition, you will receive an acknowledgement within 10 working days.

A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information.

HOW DO I “SIGN” AN E-PETITION?

When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your “signature” will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

WHAT CAN I DO IF I FEEL MY PETITION HAS NOT BEEN DEALT WITH PROPERLY?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Council’s Overview and Scrutiny Committee review the steps that the Council has taken in response to your petition. It is helpful to everyone and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council’s response is not considered to be adequate.

The Overview and Scrutiny Committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council Executive and arranging for the matter to be considered at a meeting of the full Council.

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The result of the review will also be published on our website.