

# PART 1

## SUMMARY AND EXPLANATION

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# **Part 1 - Constitution - summary and explanation**

## **1. General**

- 1.1. The Council's Constitution sets out rules and procedures which explain how Council business is done and how decisions are made. This introduction should help you find what you are looking for in the Constitution.
- 1.2. Some of the processes in the Constitution are required by law while others are considered by the Council to be necessary to ensure that it operates effectively and efficiently; and in the interests of the people it serves.

## **2. The Constitution and its Content**

- 2.1. The Constitution is divided into seven parts.

Part 1 sets out an explanation of what the Council is and how it works.

Part 2 sets out the formal articles of the Constitution:

Article 1	The Constitution;
Article 2	Councillors;
Article 3	Rights and Responsibilities of Members of the public;
Article 4	The Full Council;
Article 5	The Role of the Chair of the Council;
Article 6	Overview and Scrutiny;
Article 7	The Leader of the Council and the Cabinet;
Article 8	Other Committees;
Article 9	Joint Arrangements;
Article 10	Arrangements for promoting good standards of behaviour by Councillors;
Article 11	Officers;
Article 12	Decision Making;
Article 13	Legal Matters; and
Article 14	Review, Revision, Suspension, Interpretation and Publication of the Constitution.

Part 3 sets out the responsibility of bodies and individuals for various functions carried out by the Council in relation to the exercise of its powers.

Part 4 contains the Rules of Procedure which are designed to regulate the conduct of the Council's business to ensure decisions are made in accordance with the law and the wishes of the Council.

Part 5 contains the Financial Regulations which provide the governance framework for managing the Council's financial affairs.

Part 6 includes the Code of Conduct for Councillors which is designed to ensure that Councillors carry out their duties to the highest ethical standards. It also includes a protocol on Councillor/Officer Relations.

Part 7 covers the Scheme of Councillors' Allowances.

### **3. The Council and how it operates in making decisions**

- 3.1. The Council is composed of 76 Councillors elected every 4 years. Councillors are democratically accountable to the residents of their Ward. Councillors have a responsibility to the whole community, but in particular, to their ward residents, including those who did not vote for them.
- 3.2. The Council employs staff (Officers) whose job is to assist and advise Councillors and provide the services of the Council.
- 3.3. All Councillors meet together as a Full Council, approximately six times per year. Meetings of the Council are normally open to the public. Full Council is responsible for approving certain specific key policies for the Council and setting the budget and Council Tax each year.

#### **The Cabinet**

- 3.4. Every 4 years the Council appoints a Leader of the Council. The Leader appoints an additional number of Councillors to act as members of the Cabinet (not more than 10 in total including the Leader and a Deputy Leader). The Leader of the Council may appoint a Deputy Leader and may ask members of the Cabinet to take lead responsibility for specific services (usually referred to as Portfolio Holders). These are usually themed around the Council's main priorities.
- 3.5. The Cabinet is the part of the Council which is responsible for most day-to-day decisions. The Cabinet can make decisions that are in line with the Council's key policy framework and budget.
- 3.6. The Leader of the Council may also appoint up to six Lead Members to provide advice and support to the relevant Cabinet members. Lead Members do not have any delegated powers to take individual decisions.

#### **Other Committees**

- 3.7. Important decisions relating to planning and licensing matters are dealt with by separate Committees known collectively as Regulatory Committees. These are the area-based Planning Committees and the Licensing Committee.
- 3.8. The Standards Committee deals with the conduct of Councillors and is responsible for ensuring the arrangements the Council has to deal with complaints against Councillors are effective and that the Council operates to high ethical standards. The Audit and Governance Committee has responsibility for oversight of the Council's corporate governance arrangements and financial affairs. There are a number of other Committees which perform specific functions including some which operate jointly with other councils. The details are set out in the Articles in Part 2 of this Constitution.

## **Overview and Scrutiny**

- 3.9. Councils operating a Leader and Cabinet model must make provision for at least one Overview and Scrutiny Committee. There is no single definition of Overview and Scrutiny. It is generally viewed as an umbrella term covering a wide range of possible roles. The Bournemouth, Christchurch and Poole Overview and Scrutiny function is based upon six principles:
1. Contributes to sound decision making in a timely way by holding decision makers to account as a 'critical friend'
  2. A member led and owned function – seeks to continuously improve through self-reflection and development
  3. Enables the voice and concerns of the public to be heard and reflected in the Council's decision-making process
  4. Engages in decision making and policy development at an appropriate time to be able to have influence
  5. Contributes to and reflects the vision and priorities of the council
  6. Agile – able to respond to changing and emerging priorities at the right time with flexible working methods
- 3.10. The Overview and Scrutiny Committees are appointed by full Council.

## **4. How can I participate?**

- 4.1. The Council encourages every resident to register on the Council's Register of Electors and to vote in every local and national election that is organised. Further information can be obtained from the Council's website.
- 4.2. Residents have the right to contact their local Ward Councillors for assistance or about matters of concern. Contact details can be found on the website.
- 4.3. Most Council, Cabinet and Committee meetings will be open to the public and members of the public are welcome to attend. Agendas and reports are available on the Council's website in advance, as is the Calendar of Meetings for each Municipal Year (May to May). If the public require these documents in another format, we will do our best to assist.
- 4.4. The Constitution gives residents and others certain rights and opportunities to participate in decision making and contribute to certain meetings. These will depend upon the nature of the meeting and the procedures for asking questions, submitting petitions and taking part in certain meetings are contained within this Constitution and set out on the Council's website.
- 4.5. Public engagement is a guiding principle of Overview and Scrutiny. The public can get involved in Overview and Scrutiny in a number of ways, for example by:
  - attending meetings of the Committees;

- contributing evidence to an Overview and Scrutiny review;
- suggesting topics to be considered for Overview and Scrutiny.

## **5. What if I am not happy?**

- 5.1. The Council operates a corporate complaints system, details of which can be obtained from the website or by contacting the Council by telephone.
- 5.2. If you think that a Councillor has breached the Code of Conduct, then you may lodge a complaint and details of the procedure are set out on the website or can be obtained by contacting the Council by telephone.
- 5.3. The Local Government Ombudsman will investigate cases where the Council's own complaints mechanism has not provided an adequate resolution of issues.

## **6. More information**

- 6.1. For more information regarding any of the matters in this introduction, please refer either to the relevant section of the Constitution, or to the Council's Monitoring Officer or Democratic Services team. Contact details are published on the Council's website, and can also be obtained by contacting the Council's Customer Services.

## Article 8 - Other Committees / Informal Consultative Groups

### 8.1. Other Committees

8.1.1. The Council will appoint the following other Committees to take such decisions which are not reserved to Full Council; the responsibility of the Leader / Cabinet or within the remit of Overview and Scrutiny:

~~a)~~ **Western BCP Planning Committee** – consisting of ~~14~~11 Councillors;

~~a)b)~~ **Eastern BCP Planning Committee** – consisting of 11 Councillors;

~~b)c)~~ **Licensing Committee** – consisting of 14 Councillors;

~~e)d)~~ **Standards Committee** – consisting of 7 Councillors;

~~d)e)~~ **Appeals Committee** – consisting of 7 Councillors;

~~e)f)~~ **Audit and Governance Committee** – consisting of 9 Councillors; and

~~f)g)~~ **Investigation and Disciplinary Committee** – consisting of 7 Councillors (including the Leader of the Council and another member of the Cabinet).

8.1.2. The Council may appoint other Committees, Sub-Committees and Special Committees with delegated powers to act under specific terms of reference which must be set out in the minutes of the meetings.

8.1.3. The Council will establish a Health and Wellbeing Board in accordance with the legislative requirements and statutory guidance, and the terms of reference for this Board are published on the website.

### 8.2. Powers of Committees

8.2.1. The Committees shall have the functions set out within Part 3 of this Constitution.

8.2.2. A Committee may, at any time, decline to exercise a delegated power. The matter must then be considered and determined by the Full Council as appropriate.

### 8.3. Informal Consultative Groups

The Council may establish informal advisory groups which shall not have any power to make decisions. The groups may be consulted on matters within the terms of reference approved by Council and as set out within Part 3 of this Constitution.

## **8.4. Training Requirements**

No councillor shall sit as a member or, where applicable, as a substitute member of the following bodies unless they have received appropriate training provided for this purpose.

- a) Western BCP Planning Committee;
- b) Eastern BCP Planning Committee;
- c) Licensing Committee;
- d) Appeals Committee;
- e) Transportation Advisory Group.

## **8.3-8.5. Conduct of Committee Meetings**

Committee meetings will be conducted in accordance with the law and the Procedure Rules set out within Part 4D of this Constitution.

- 1.15. Conferring honorary titles.
- 1.16. Making, amending, revoking, re-enacting and adopting byelaws and promoting and opposing the making of local legislation and personal bills in Parliament.
- 1.17. Any other function which, by law, must be reserved to the Full Council.

**Full Council has delegated specific non-executive functions to the following bodies listed below.**

## **2. Planning Committees**

**Western BCP and Eastern BCP Planning Committee comprising the following**

### **Western BCP Planning Committee**

Alderney & Bourne Valley  
Bearwood & Merley  
Broadstone  
Canford Cliffs  
Canford Heath  
Creekmoor  
Hamworthy  
Kinson  
Newtown & Heatherlands  
Oakdale  
Parkstone  
Penn Hill  
Poole Town  
Redhill & Northbourne  
Talbot & Branksome Woods  
Westbourne & West Cliff

### **East BCP Planning Committee**

Boscombe East & Pokesdown  
Boscombe West  
Bournemouth Central  
Burton & Grange  
Christchurch Town  
Commons  
East Cliff & Springbourne  
East Southbourne & Tuckton  
Highcliffe & Walkford  
Littledown & Iford  
Moordown  
Mudford, Stanpit & West Highcliffe  
Muscliff & Strouden Park  
Queen's Park  
Wallisdown & Winton West  
West Southbourne  
Winton East

- 2.1. All matters relating to Town & Country Planning functions as set out in the planning and related Acts, are delegated to the relevant senior planning officer as set out in the Chief Executive's Scheme of Delegation to determine, other than those matters as set out below which shall be the responsibility of the respective area Planning Committee.
- 2.2. For the avoidance of doubt, applications falling within more than one Committee area shall be determined by the Committee in whose area contains the greater proportion of land within the red line application site boundary. In the event that the area within the red line application site boundary falls equally between the two committees, the relevant Chief Officer with responsibility for Planning (or any person nominated by them for such a purpose) shall determine, in consultation with both chairs, and having regard to the location



of any impacts of the proposal that the Chief Officer (or any person nominated by them for such purpose) considers relevant, to which of the two committees the report relating to the application will be taken for the determination to be made.

2.2.2.3. The Planning Committees haves responsibility to determine the following:

2.2.1.2.3.1. applications submitted by or on behalf of a Councillor or direct family (spouse or civil partner) of a Councillor for any property or land in which they have a financial interest;

2.2.2.2.3.2. applications submitted by or on behalf of a current Officer:

- a) working within the planning section; or
- b) at Tier 3 level and above; or
- c) direct family (spouse or civil partner) of Officers identified under 2.2.2 a) and b); or
- d) for any property or land in which they have a financial interest;

2.2.3.2.3.3. applications referred to the respective Committee by the relevant senior planning officer for one or more of the following reasons:

- a) applications where there are material planning issues that have not previously been considered within the Council's area;
- b) applications where a national or local planning policy is being tested for the first time within the Council's area;
- c) applications which have a significant impact on a wide number of businesses and / or people;
- d) applications which have a finely balanced Officer recommendation;
- e) applications by or on behalf of a planning Officer who has recently left the organisation or one of the preceding councils; and/or
- f) applications that the Head of Planning considers are potentially contentious and raise material planning issues, or would affect the wider public interest;

2.2.4.2.3.4. applications where the Council is the applicant or landowner for major development proposals as defined in the Development Management Procedures Order;

2.2.5.2.3.5. significant departure from Development Plan Policy which would be required to be the subject of consultation with the Secretary of State;

~~2.2.6-2.3.6.~~ applications which require an Environmental Impact Assessment except where the relevant senior planning officer considers that approval of the application would not lead to significant environmental impacts;

~~2.2.7-2.3.7.~~ an application which a Councillor requests should be referred to the Planning Committee (“Councillor Call-In”) provided that all of the following criteria are met:

- a) in the opinion of the Councillor making the request, the application is (i) potentially contentious; and (ii) raises material planning issues that affect their ward or would affect the wider public interest; and
- b) the request is in accordance with the local planning authority’s agreed call-in protocol (as set out at paragraphs 2.5 and 2.6 to this Part 3A); and
- c) the Application is not one of the following:
  - i. Permission in Principle (PiPs)
  - ii. Lawful Development Certificates (LDC) (existing or proposed)
  - iii. Prior Approvals and Prior Notifications
  - iv. non-material amendments
  - v. applications other than “major”, “minor” and “householder”.

~~2.2.8-2.3.8.~~ applications where there have been 20 or more representations from third parties provided that to count toward that number, a representation must:

- a) identify on the representation that it has come from a residence which is believed by the case officer (at the time of deciding whether the matter needs to go to Planning Committee) to be within one mile of any point measured from the relevant application site red line boundary;
- b) be received by the Council within the initial or any subsequent representation period as identified on the posted planning site notice relating to that application or any other related representation period provided by the Council if no planning site notice is posted;
- c) identify one or more issues that the case officer considers to be of material planning relevance to the application to which it relates;
- d) not have been withdrawn by the person making the representation prior to the time of deciding whether the matter needs to go to Planning Committee;
- e) be contrary to the intended case officer recommendation; and

- f) provided that any additional representation from the same residence may be counted if in the opinion of the relevant senior planning officer in consultation with the relevant Chair of Planning it raises any different relevant material planning issues to those already contained in other representations from that residence.

2.3.2.4. The Planning Committee s hasve power to receive and provide comment on presentations relating to pre-application planning proposals that the relevant senior planning officer considers appropriate having regard to the Council's Local Code of Best Practice relating to Planning Matters and any extant guidelines agreed by the Planning Committee.

2.4.2.5. In addition to the powers identified above, the Planning Committee s hasve the power to consider and determine any matter arising in relation to any Town and Country Planning Legislation where that matter has been expressly referred to the Planning Committee by an Officer for such a purpose as an alternative to that Officer exercising a power delegated to them pursuant to the Officer Scheme of Delegations.

2.5.2.6. The requirement of the call-in protocol referred to at 2.2.7 above are as follows:

2.5.1.2.6.1. the request is submitted on the latest Planning Committee Referral Form produced for that purpose ("Planning Committee Referral Form") and all parts of the submitted Planning Committee Referral Form have been completed. This includes setting out:

- a) why the application is considered to be potentially contentious;
- b) planning reasons that the Councillor considers are material to the application that justify the referral;
- c) why it is considered that the application will affect the ward of the Councillor making the referral or why the Councillor considers that the application would affect the wider public interest; and
- d) confirmation that the Councillor, in advance of submitting the Planning Committee Referral Form, has used their reasonable endeavours to notify all Councillors in whose ward the application site (of the application) is situated in whole or part that they are making a call in request; and

2.5.2.2.6.2. the completed Planning Committee Referral Form:

- a) has been submitted by the Councillor making the request by email and received in the inbox of both the case officer and the relevant office inbox as follows:
  - i. an application where the application site is wholly or partly in the former Bournemouth Council area - [planning.bournemouth@bcpcouncil.gov.uk](mailto:planning.bournemouth@bcpcouncil.gov.uk);

- ii. an application where the application site is wholly or partly in the former Christchurch Council area -  
planning.christchurch@bcpcouncil.gov.uk;
- iii. an application where the application site is wholly or partly in the former Poole Council area  
planning.poole@bcpcouncil.gov.uk,
- iv. or any other inbox notified to Councillors for this specific purpose

(N.B. if an application crosses more than one former Council area then the request must be sent to both relevant office email addresses); and

- b) is received no later than 4pm on the seventh calendar day after the initial or subsequent notification period as identified on the posted planning site notice relating to that application or any other related notification period provided by the Council if no planning site notice is posted.

#### 2.6.2.7. With regard to the Councillor Call-In:

2.6.1.2.7.1. a Councillor may make the request that the application be called in conditional upon the case officer recommendation being to either grant or refuse or in the alternative may make the request unconditional;

2.6.2.2.7.2. a request may be withdrawn by the Councillor by sending an email notification to both the case officer and the relevant office inbox (see paragraph 2.5.2 above), that is received in both inboxes no later than 7 calendar days prior to the agenda publication date of the relevant Planning Committee meeting; and

2.6.3.2.7.3. in the event of any of the requirements relating to the Councillor Call-In not being met, the Councillor Call-In will not have been validly made and Councillors should be aware that a decision may (subject to the exercise of the option in paragraph 2.4 above) at any time thereafter be made by officers under delegated powers.

2.7.2.8. For the avoidance of doubt, for the purposes of the 20 representation process identified in 2.2.8 above, a representation that identifies more than one name on it (including a petition) shall only be counted as one representation in calculating whether the 20 representation trigger has been reached.

### **3. Licensing Committee**

3.1. All matters relating to Licensing functions as set out in the relevant legislation are delegated to Officers pursuant to the Chief Executive's Scheme of Delegation to determine other than those matters set out below which shall be the responsibility of the Licensing Committee.

3.2. The Licensing Committee has responsibility for the following:

- 12.7. Following the answer to each question, the questioner may only ask one supplementary question which must relate to the initial answer. A reply may not be given if the question is: not related to the initial answer; is unduly lengthy; or is inappropriate. The Councillor answering the supplementary question will decide whether or not to reply.
- 12.8. Where a question submitted under this Rule relates to a matter that appears on the Agenda for that meeting, the question shall be put and answered in accordance with this Procedure Rule, at the start of the consideration of that matter, and the time taken to deal with such questions will not form part of the 30 minutes set aside for General Questions.
- 12.9. The time allowed for Councillors to ask questions under this Rule will be a maximum of 30 minutes but is otherwise a matter for the discretion of the Chair who, in exercising their discretion, will have regard to the business to be transacted at the meeting and the objective of ensuring that the meeting is managed efficiently.

### 13. Public participation at meetings

- 13.1. The following procedures enable members of the public to submit questions, make statements and present petitions at ordinary meetings of the Council, Cabinet, Committees and Sub-Committees.
- 13.2. The time for questions, statements and petitions from members of the public shall normally commence immediately after the item 'Declarations of Interest' on the agenda for the meeting and shall be restricted to a total of 15 minutes, although, at the discretion of the Chair of the Council or the Chair of the meeting, this time may be extended. Where a question to which an answer is to be given is not reached within the time limit, a written answer shall be provided to the questioner within two working days of the meeting and a copy e-mailed to all Councillors.
- 13.3. This procedure does not apply to Planning Committees, Licensing Committee, ~~or~~ Appeals Committee or the Transportation Advisory Group. In so far as the law allows, each of those Committees and Groups may adopt one or more protocols / codes for establishing the arrangements and proceedings regarding any public representation at the Group, Committee or any of its Sub-Committees.
- 13.3.1. Any such protocol / code may be reviewed, modified, cancelled and replaced by the respective Committee or Group. The current version of any such protocol will be included within Part 6 of the Constitution and published on the Council's website.
- 13.3.2. A protocol / code may make provision limiting the ability of a member of the public to speak on any item and may also limit the right of a Councillor who is not appointed to that Committee or Group to speak.
- 13.3.3. For the avoidance of doubt, nothing in this section shall prevent Full Council from also having power to adopt any protocol / code relating to any proceedings of the bodies to which this section relates.

Council,  
Cabinet,  
Committees and  
Sub-Committees  
(except  
Planning,  
Licensing and  
Appeals  
committees)  
unless otherwise  
stated

- 17.2. No Councillor shall disclose to any person other than a Councillor any matter arising during the proceedings of the Council, the Cabinet, any Committee, or Sub-Committee and which comes to their knowledge by virtue of their office as a Councillor where such disclosure would prejudice the interest of the Council or would be contrary to law.
- 17.3. No Councillor shall disclose to any person any decision or proceedings of that body except when one of the following applies (provided that nothing in this paragraph shall authorise disclosure which would contravene Rule 17.1 or Rule 17.2 of this Part 4D):
- 17.3.1. a report on the matter has been circulated to the Council by that body;
  - 17.3.2. the decision has become public knowledge; or
  - 17.3.3. the matter comes within the powers of that body and a final decision has been made upon it.

## **18. Voting**

- 18.1. It is the responsibility of each councillor to properly inform themselves and ensure that they are sufficiently appraised of any matter before voting.
- 18.2. Voting will be by a show of hands or where practical and the means are available to those present, by electronic means. Where there is a clear majority in favour of a proposal the person presiding will ask if any Councillor wishes to vote against or abstain from a proposal.
- 18.3. When a Councillor asks for a recorded vote to be taken, and one quarter of Councillors present support the request, the vote will be recorded to show whether each Councillor voted for or against the motion or abstained.
- 18.4. A recorded vote will not be taken if the vote has already begun to be taken by a show of hands.
- 18.5. A Councillor may require, after a vote is completed, that the minutes of the meeting record how they voted or abstained.
- 18.6. Where there are equal votes cast for a motion or amendment the Chair or the person presiding will have a second or casting vote.
- 18.7. Any right of a Councillor who is appointed to any body of the Council to vote on a particular item may be limited by proceedings contained or identified in this Constitution.
- 18.8. For the avoidance of doubt, any Code or Protocol which is, or is identified as to be, incorporated into Part 6 of this Constitution shall be construed as being proceedings and part of these procedure rules.
- 18.9. Where an application falls to be determined by a Planning Committee that is subject to the exercise of a Call-In power by a Councillor under section 2 of Part 3A of the Constitution, the Councillor shall not be permitted to vote on that item

but subject to any requirements of the Member Code of Conduct, may speak in relation to it as a Councillor to the extent as provided for in any protocol adopted by the Planning Committeess.

## **19. Offices and Appointments**

- 19.1. A secret ballot will be held to elect the Chair and Vice-Chair of the Council, Committees and Sub-Committees, or Councillors to any office or position where more than one person is nominated.
- 19.2. If a secret ballot is held and no person receives more than half of the votes cast, the name of the person with the least number of votes will be withdrawn. Further ballots will be held until one person receives a clear majority.
- 19.3. The Chair, or person presiding, will have a second or casting vote where the votes are equal.

## **20. Variation and revocation of Procedure Rules**

Any motion under Procedure Rule 10 (Motions on Notice) of this Part 4D, to vary or revoke these Rules shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

Council

## **21. Suspension of Procedure Rules**

- 21.1. Any of the Procedure Rules may be suspended to the extent permitted within the Rules and the law in respect of any business at a meeting of the Council, Cabinet, a Committee or Sub-Committee where its suspension is moved.
- 21.2. A motion to suspend Procedure Rules shall not be moved without notice (that is under Procedure Rule 11 of this Part 4D) unless there shall be present at least one-half of the Members of the Council or that Cabinet, Committee or Sub-Committee respectively. The extent and duration of the suspension will be proportionate to the result to be achieved taking into account the purposes of the Constitution set out in Article 1.

## **22. Interpretation of Procedure Rules**

Subject to taking advice from the Monitoring Officer or their nominated representative, the ruling of the person presiding as to the construction or application of any of these Procedure Rules, or as to any proceedings of the Council, shall not be challenged at any meeting.

## **23. Substitute Members**

- 23.1. A Political Group may, by notice to the Monitoring Officer or their nominated representative, appoint a substitute member from within its Group for a meeting of a Committee or Sub-Committee.
- 23.2. Members of the Cabinet shall not be nominated as substitutes for any Overview and Scrutiny Committee or Regulatory Committee.

Committees and  
sub-committees



## **26. Disturbance by members of the Public**

If a member of the public interrupts the proceedings at any meeting the person presiding shall warn them. If they continue, the person presiding shall order their removal from the meeting. In cases of general disturbance in any part of the meeting room open to the public, the person presiding shall order that part to be cleared.

## **27. Submission of Notices by Councillors – Electronic Means**

A Councillor may communicate, by electronic means, any notice under any of the Council's Procedural Rules to initiate any process or procedure provided it is clear that the notice has been originated by that Councillor.

## **28. Overview and Scrutiny Committees/Sub-Committees**

In applying these Rules to the Overview and Scrutiny Committees and Sub-Committees, regard shall be had to the Overview and Scrutiny Procedure Rules which are contained in Part 4C of this Constitution.

## **29. Site Visits and consideration of certain items at meetings - Planning Committees, Licensing Committee and Appeals Committee**

29.1. In so far as the law allows, the Planning Committees, Licensing Committee and Appeals Committee may each adopt one or more protocols / codes for establishing the arrangements and proceedings for any of the following purposes of that Committee or their Sub-Committees (if any):

- 29.1.1. the undertaking of a site visit; and
- 29.1.2. consideration of any matter relating to an actual or possible application, appeal and/or review for which it has responsibility including proceedings governing the consideration and assessment of any supporting information provided by a party in relation to any such matter.

29.2. Any such protocol / code may be reviewed, modified, cancelled and replaced by the respective Committee. The current version of any such protocol will be included within Part 6 of the Constitution and published on the Council's website.

29.3. A protocol / code may limit the voting ability of a Councillor who is appointed to any of those bodies in circumstances where the Councillor:

- 29.3.1. fails to attend the whole or any part of a site visit; and/or
- 29.3.2. is not present during the whole or any part of the consideration (including any officer presentation and/or public speaking) of an application, appeal and/or review (or related matter), including where such an item falls to be considered over more than one meeting.



# Local Code of Best Practice relating to Planning Matters

## 1. Introduction

- 1.1. Bournemouth Christchurch and Poole (BCP) Council's Code of Conduct for Councillors provides guidance for elected Councillors about the high ethical standards expected of all those in public service. The Code of Conduct for Councillors is reproduced in Part 6 of the Council's Constitution. References to the Planning Committee in this Code and subsequent schedules contained in this Part 6 of the Constitution shall apply equally to both Area Planning Committees.
- 1.2. The Council through its Planning Committee makes decisions on certain planning related applications as set out in the Constitution. The principles for making planning decisions are laid down in local and national planning policy, development plans and legislation. The Planning and Compulsory Purchase Act 2004 in conjunction with the Town and Country Planning Act 1990 requires decisions to be made in accordance with relevant adopted Plans unless there are material planning reasons not to do so. In many instances, it is necessary in making decisions to exercise a level of judgement on the issues. This can involve balancing conflicting elements and taking account of relevant replies to consultations with interested parties and representations made by the public.
- 1.3. This Local Code of Best Practice for councillors and officers relating to planning matters applies to every councillor irrespective of whether or not they are a member of the Planning Committee. It also applies to all officers. It is supplemental to, and should be read in conjunction with, the Code of Conduct for Councillors.
- 1.4. The content of this Local Code addresses various issues involved in decision making. The processes and procedures that it identifies should help ensure that the public have confidence that planning decisions are made in an impartial, open, transparent and fair manner, taking account of all the relevant information.

## 2. General conduct of councillors and officers

- 2.1. Councillors and officers have different but complementary roles. This Code generally relates to all councillors but where it is more focused towards councillors appointed to the Planning Committee this is identified.
- 2.2. Councillors have a wide variety of roles and responsibilities. These include:
  - 2.2.1 being appointed to committees including Cabinet on which they make decisions relevant to a wide variety of different Council functions;
  - 2.2.2 playing an important part in community engagement; and
  - 2.2.3 being appointed to external bodies as trustees or directors.
- 2.3. Seven principles of public life have been identified as applying to all councillors and officers. These principles are selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Further details of these principles are set out in the Code of Conduct for Councillors.

- 2.4. The Protocol for Councillor/Officer relations is a further document concerned with matters of conduct. It applies to both Councillors and Officers. A copy of it is reproduced in Part 6 of the Constitution.
- 2.5. Planning Officers must adhere to the Royal Town Planning Institute's Code of Conduct. Other specialist officers must comply with the requirements for conduct stipulated by their appropriate professional bodies. All Council staff must also comply with any relevant code of conduct for BCP Council employees.

### **3. The Planning application process**

#### **Pre-application discussions and meetings**

- 3.1. If a Councillor appointed to the Planning Committee intends to vote on a planning application and is involved in any communication or discussion with any member of the public they should:
  - 3.1.1 remain impartial;
  - 3.1.2 recognise that their role on Planning Committee is not one of negotiator; and
  - 3.1.3 seek to avoid discussion on any detail relating to the application unless an officer is present.

#### **Lobbying of Councillors / Discussions with Officers**

- 3.2. Lobbying is a normal part of the planning process. It can occur in a variety of different situations ranging from seeking to secure the allocation of a site in a Local Plan to a particular planning application. It can involve councillors with many different roles from those involved in decisions relating to the use of management of Council land to councillors on the Planning Committee who determine applications.
- 3.3. The early engagement of councillors in planning issues relating to a potential planning application can be a positive contributor to helping ensure the sustainable development of the area that meets the need of the community.
- 3.4. In some circumstances, meetings or presentations may be arranged in advance of a related planning decision being made by councillors. To avoid the perception that councillors may have predetermined any decision or fettered their discretion in such circumstances:
  - 3.4.1 there should always be an officer present at a planning related meeting or presentation arranged by officers with a record of the meeting taken including notes of issues raised and any advice given by officers. These should be kept on a relevant file.
  - 3.4.2 officers should normally seek to make clear in advance and / or at the start of any such meeting or presentation that no part of any discussion will bind the Council and any view expressed is provisional;

- 3.4.3 The nature of some meetings and presentations may provide a legitimate reason as to why it would need to be confidential. A record of the reason(s) for such confidentiality should be noted on the relevant file and notes relating to any non-confidential elements should be clearly identifiable.
- 3.5. Depending upon the nature of their work, officers may well also find themselves being approached by members of the public with regard to various planning decisions. In the case of Planning Officers for example, such approaches may be made by a wide range of parties with an interest in the matter including the applicant, agent, consultee, a supporter or an objector. Whenever this occurs, an officer should always consider the nature and likely content of any discussion and reflect on whether it is appropriate to make a note of what was discussed including, as part of any note, recording express details of the advice given / outcomes of any negotiation. In many cases, to try and avoid disagreement going forward, seeking to agree a note of such matters with the other attendees may well be a sensible way forward.

### **Lobbying of Councillors appointed to the Planning Committee**

- 3.6. Councillors on the Planning Committee are also likely to find themselves in various situations where members of the public including developers and other councillors seek to engage them on matters relating to a specific planning application. The general principles set out in clause 3.1 above are applicable to any circumstance when this might occur.
- 3.7. In addition, councillors appointed to the Planning Committee who intend to participate as a member of that Planning Committee in relation to an item should have regard to the following in relation to any such circumstance:
- 3.7.1 avoid saying anything that could give an indication that they have already made up their mind on an application and is no longer open to considering its merits;
  - 3.7.2 if any opinion is expressed, then make clear that it is a preliminary view only and a final decision will only be made when all relevant factual information is available at the time of the Planning Committee meeting. However, generally seek to limit any opinion to matters relating to procedure only;
  - 3.7.3 pass any written (including electronic) correspondence relating to a planning application of which the councillor is the main addressee (for an e-mail addressed to all members of the Planning Committee this will be the Chair of the Planning Committee), as soon as reasonably practicable to the case officer dealing with that application for recording on the file and as appropriate forwarding to other members on the Planning Committee;
  - 3.7.4 especially take care if invited to attend any meeting or presentation relating to an application not arranged by officers and in particular considering seeking advice from the Monitoring Officer before deciding whether to attend a meeting that appears to be for the purpose of lobbying; and

- 3.7.5 consider whether any contact (including any meeting) relating to a planning application other than one arranged by officers might be seen as significant and if so, disclose such contact at the relevant Planning Committee meeting in advance of a decision being taken.

## **Lobbying by councillors**

- 3.8. As part of a councillor's role in representing their communities, ward councillors are likely to become involved in the decision-making process relating to planning applications.
- 3.9. To the extent this involves a councillor discussing any individual planning related application with an officer, it can be very easy for the impression to be given that a councillor is using their position to influence progress relating to the matter. It is important that any such discussions are therefore open and transparent. Consequently, officers may well seek to take a note of any such communication.
- 3.10. A ward councillor who is not taking part in the determination of a planning application at Planning Committee can make representations on behalf of their ward, may attend Planning Committee and with the agreement of the Chair of Planning Committee, address the Planning Committee in accordance with the Protocol on Public Speaking at Planning Committee. Any representations should relate to the planning merits of the application. When making representations as a ward councillor, the councillor should aim to make clear whether the opinion expressed is the view of the councillor or their constituents.
- 3.11. Councillors should avoid lobbying members of the Planning Committee and exerting undue pressure on planning officers in relation to any particular application.

## **4. Determining a Planning Application including Predetermination**

- 4.1. Many decisions on planning applications and other related matters are delegated to officers. Details of such delegations are set out in Part 3 of the Constitution.
- 4.2. Other applications not delegated to officers are determined by councillors sitting on Planning Committee. Every application considered by Planning Committee will be accompanied by a report that has been produced by Officers. Copies of committee reports are available for consideration in accordance with the Council's Access to Information Rules. These are produced in Part 4 of the Constitution.

### **Predetermination**

- 4.3. Every planning application should be determined having regard to all planning considerations that are relevant to it.
- 4.4. In the case of decisions by Planning Committee, the point in time when all relevant information will be available is the meeting of the Planning Committee at which an application is to be determined. Every councillor on the Planning

Committee should make their decision only after full consideration of the accompanying Officer report including its recommendation and having regard to all applicable information and discussion that takes place at the committee meeting.

- 4.5. If, prior to voting on a decision, a councillor on the Planning Committee fully commits themselves to a particular view on a planning application such that their mind is no longer open to considering the merits of the case that councillor should not take part in the item as a member of the Planning Committee.
- 4.6. This does not mean that a councillor cannot hold strong views about an application. In other words, a councillor can be predisposed towards a matter under discussion; however, that is not the same as having a closed mind.
- 4.7. In some cases, a councillor, including a member of the Planning Committee, may decide in advance of a Planning Committee meeting that they wish to commit themselves to a particular planning decision and seek to speak for or against it. This is not uncommon in the case of Ward Councillors. Councillors, including ward councillors, may request the opportunity to speak at a Planning Committee meeting. A member of the Planning Committee should make clear in advance of a meeting if this circumstance applies to them. In such a case, the member of the Planning Committee should also make their position clear at the start of the meeting, must not take part in discussion of the item as a member of the Planning Committee and must not vote on the item.

### **Membership of another local authority**

- 4.8. Some councillors who sit on Planning Committee may also be members of another tier of local government. Such councillors should have regard to the guidance on interests contained in this Code and the Councillor Code of Conduct. In particular, if those councillors take part in any debate on a development proposal at a Parish/Town Council meeting, they should consider adopting a practice at the time of such participation of making clear that the views they express are based on information available at that time and as a consequence their views might change in the light of further information that becomes available prior to a determination by the Planning Committee.
- 4.9. If in doubt, councillors are recommended to seek further advice from the Monitoring Officer.

### **Political Group Meetings**

- 4.10. As the point in time at which all information on a planning application will be available to councillors on a Planning Committee will be at the actual meeting of that committee, political group meetings in advance of the Planning Committee should not be used to determine how councillors should vote.
- 4.11. Further, since every planning application should be determined on its merits, the use of a party whip is not appropriate to seek to compel a member of the Planning Committee to vote in any particular way.

## **Applications by the Council or in respect of Council-owned land**

- 4.12. Any application submitted by the Council or involving land forming part of the red line area of a planning application which is owned by the Council shall be determined by the Planning Committee.

## **Applications by Councillors and Officers**

- 4.13. It is perfectly legitimate for a councillor or an officer to submit a planning application. However, to avoid any perceptions of impropriety the following should be applied to any such application.

- 4.13.1 Every application identified as submitted by or on behalf of a councillor or their spouse or civil partner in respect on any property (including land) in which they have a financial interest shall as provided for in Section 2, Part 3 of the Constitution be referred to the Planning Committee.
- 4.13.2 Every application identified as submitted by or on behalf of an officer working for the Council within its Planning Section or generally at Tier 3 or above at the time that the application is submitted or their spouse or civil partner shall as provided for in Section 2, Part 3 of the Constitution also be referred to the Planning Committee for determination.
- 4.13.3 An application from a councillor or officer will usually be identified as part of the registration process. However, councillors and officers to whom either of the two paragraphs above apply are encouraged to draw the fact that such an application has been submitted to the attention of both the Head of Planning (or any other Officer nominated by them) in writing and also the relevant case officer within twenty one days of the date of the application being submitted.
- 4.13.4 If an application is submitted by someone other than a councillor but relates to property (including land) in which the councillor has a legal interest, the councillor is also encouraged to provide such notification as identified above. This is in addition to any duty of disclosure the councillor may have for the purposes of the Councillor Code of Conduct. For the purpose of this code, the phrase “legal interest” means a legal interest registered at HM Land Registry in the name of the councillor.
- 4.13.5 No councillor or officer who submits or has a planning application submitted on behalf of themselves, their spouse or their civil partner should take part in handling the application on behalf of the Council or seek to use their position to influence the decision relating to that application. Councillors and officers should also be mindful of the need to consider potential conflicts arising in respect of applications by other family members and friends. If in doubt, advice should be sought from the Monitoring Officer.
- 4.13.6 No councillor or officer who acts as an agent for any person pursuing a planning matter with the Council should take part in handling the



application on behalf of the Council or seek to use their position to influence the decision relating to that application.

4.13.7 In considering the extent to which they can engage in any part of the process relating to a planning application including the consideration of that application at Planning Committee, a councillor should always have regard to the requirements of the Member Code of Conduct.

4.13.8 Where a councillor frequently declares an interest and therefore is unable to take part in the proper consideration of planning matters referred to the Planning Committee, the relevant political group should review the presence of that councillor on the Planning Committee with a view to replacing them with another councillor whose interests would not prevent them considering and deciding planning issues referred to the Committee.

### **Fraud, Corruption and Bribery**

4.14. The Council, the Head of Paid Service and all its senior officers have a zero-tolerance commitment to issues of bribery and corruption.

4.15. Every councillor should inform the Monitoring Officer and every officer should report to their line manager or their Head of Service if any offer is made to them in relation to the exercise of any aspect of the Council's planning functions. Officers should also report to their line manager and councillors advise the Monitoring Officer of any matter that indicates a possible incidence of fraud, corruption or bribery.

### **Considering all relevant information**

4.16. It is important that every councillor's decision takes account of all relevant planning considerations including any relevant representations and consultation responses. Any councillor who is absent during any part of the Planning Committee's consideration of an application (including any related officer presentation and public speaking) should not take any further part in the discussions on the application or vote on that application.

### **Site Visits**

4.17. Site visits will be arranged and managed in accordance with the protocol agreed by the BCP Planning Committee.

### **Decisions contrary to an officer recommendation**

4.18. If a councillor wishes to put forward a motion that a matter is dealt with contrary to an officer recommendation, that councillor should identify their reason(s) for refusal or approval including by reference to relevant Development Plan policies. In the case of a motion to approve, the councillor should also be aware that officers may seek clarification of any particular conditions / planning obligation that the councillor might wish to have imposed.

## 5. Training

5.1. As part of their induction programme, all new councillors will be expected to attend training sessions that are made available to them for the purposes of providing an introduction to the planning system. Where the Head of Planning identifies it as necessary, additional training sessions will also be made available to councillors appointed to the Planning Committee. Examples of this might include the introduction of new significant legislation. Councillors on Planning Committee are expected to make all reasonable efforts to attend such training. A councillor who is unable to attend such training will normally be expected to seek advice as to whether such training or information on its content can be made available to them separately. Democratic Services Unit will aim to keep a record of councillor attendance at training. Details of any councillor who fails to engage in planning training that is made available will be drawn to the attention of the relevant group leader.

5.1.5.2. No councillor shall sit as a member or substitute member on the Planning Committee unless they have received appropriate training provided for this purpose.



the additional workload and levels of responsibility and accountability placed upon members appointed to these roles:

Leader	£29,339
Cabinet Members (including Deputy Leader)	£19,559
Lead Members	£10,834
Chair of the Council	£10,834
Vice-Chair of the Council	£5,418
Chair of Audit & Governance Committee	£10,834
Chair <u>s</u> of <u>Area</u> Planning Committee <u>s</u>	£10,834
Chair of Overview & Scrutiny Board	£8,125
Chair of Environment and Place Overview & Scrutiny Committee	£8,125
Chair of Children's Services Overview & Scrutiny Committee	£8,125
Chair of Health & Adult Social Care Overview & Scrutiny Committee	£8,125
Chair of Licensing Committee	£10,834
Vice-Chair of Licensing Committee	£2,709
Chair of Appeals Committee	£3,251
Chair of Standards Committee	£3,251
Group Leaders*	£3,251

(\***NOTE**: minority parties must have a membership of no fewer than 5 for their Leader to receive an SRA)

- 2.2. Councillors shall be restricted to claiming only one Special Responsibility Allowance (and may elect which SRA to receive) with the exception that a Group Leader's SRA can be payable as a second SRA.
- 2.3. Subject to paragraph 2.4 below, no Special Responsibility Allowance shall be paid to vice-chair of committees (with the exception of the vice-chair of Council and the Licensing Committee).
- 2.4. Where the relevant chair is permanently unavailable to perform their duties, the entitlement to a special responsibility allowance shall transfer to the elected vice-chair.

### **3. Travel allowances**

- 3.1. Councillors and appointed members are entitled to claim travel allowances in line with MAP (HMRC approved Mileage Allowance Payments) for undertaking official business and travelling to the BCP Council offices for meetings and official business.
- 3.2. The MAP approved amounts are currently:
  - (a) Car – 45p per mile up to 10,000 miles and 25p per mile thereafter;