

# PART 5 – CODES AND PROTOCOLS

## Section 1 - Members' Code of Conduct

### 1.0 Expected behaviours

1.1 South Holland District Council have adopted this Code setting out the expected behaviours required of its members or co-opted members, acknowledging that they each have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

1.2 In accordance with the Localism Act provisions, when acting in this capacity all Councillors must be committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

1.3 As a Member of South Holland District Council, your conduct will in particular address the statutory principles of the code of conduct by:

- I. Championing the needs of residents – the whole community and in a special way your constituents, including those who did not vote for you - and putting their interests first.
- II. Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- III. Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the South Holland area or the good governance of the authority in a proper manner.
- IV. Exercising independent judgement and not compromising 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/co-opted member of this authority.
- V. Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- VI. Being accountable for your decisions and co-operating when scrutinised internally and externally, including by local residents.
- VII. Contributing to making this authority'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 but restricting access to information when the wider public interest or the law requires it.
- VIII. Behaving in accordance with all your legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- IX. Valuing your colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between you that is essential to good local government.
- X. Always treating people with respect, including the organisations and public you engage with and those you work alongside.
- XI. Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

## 2.0 **Declaration of Interests**

2.1 The Localism Act 2011 provides for registration and disclosure of interests and in South Holland District Council this will be done as follows:

- On taking up office a member or co-opted member must, within 28 days of becoming such, notify the Monitoring Officer of any 'disclosable pecuniary interests', as prescribed by the Secretary of State.

- On re-election or re-appointments, a member or co-opted member must, within 28 days, notify the Monitoring Officer of any 'disclosable pecuniary interests not already included in his or her register of interests.
- If a member or co-opted member is aware that they have a 'disclosable pecuniary interest' in a matter they must not participate in any discussion or vote on the matter at a meeting.
- If a member or co-opted member is aware of a 'disclosable pecuniary interest' in a matter under consideration at a meeting but such interest is not already on the Council's register of interests or in the process of entry onto the register having been notified to the Monitoring Officer, the member or co-opted member must disclose the 'disclosable pecuniary interest' to the meeting and register it within 28 days of the meeting at which it is first disclosed.

### 3.0 **Disclosable Pecuniary Interests**

- 3.1 The duties to register, disclose and not to participate, in respect of any matter in which a member has a disclosable pecuniary interest are set out in Chapter 7 of the Localism Act 2011.
- 3.2 Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Personal Interests) Regulations 2012 No.1464 as follows:

<b><u>Subject</u></b>	<b><u>Prescribed description</u></b>
Employment, office, trade, Profession or vocation.	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 relevant authority) made or provided within the relevant period in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the election expenses of the Member.  This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(1).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to the Member's knowledge) —

- (a) the landlord is the relevant authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where —  
 (a) that body (to the Member’s knowledge) has a place of business or land in the area of the relevant authority; 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 the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

- 3.3 The Monitoring Officer is responsible for publicising, maintaining and updating the Register of Member’s Interests.
- 3.4 Gifts and Hospitality
- 3.5 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a member from any person or body other than the authority.
- 3.6 The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 3.7 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose

**Section 2 – Protocol on Officer/Member Relations**

1.0 **Introduction**

- 1.1 This Protocol forms part of the Council’s Constitution and is designed to contribute to the Council’s corporate governance arrangements. In particular, its purpose is to guide the relationship between members and officers and to emphasise that the success with which the Council is able to carry out its work is based, to a very large extent, on an atmosphere of mutual trust and respect without which the reputation of the Council will be damaged in the eyes of the communities and people it serves.
- 1.2 Given the variety and complexity of the relationships between members and officers, it is impossible for any Protocol to be prescriptive or comprehensive. It therefore seeks to provide guidance on some of the issues that most commonly arise.
- 1.3 If the advice is followed, it should ensure that members receive objective impartial advice and that officers are protected from accusation of bias and any undue influence from members.
- 1.4 The Protocol also supplements the Codes of Conduct that apply to members and officers including the Harassment at Work Policy.

2.0 **Roles of Councillors and Officers**

- 2.1 Both councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the

electorate and serve only so long as their term of office lasts. Officers are responsible to the Council but have a duty of care to the public. Their job is to give advice to councillors and the Council, and to carry out the Council's work under the direction and control of the Council, their committees and sub-committees.

- 2.2 Both councillors and officers serve the public. Traditionally, the role of members is to create and approve policy and monitor its implementation and effectiveness. It was the duty of officers to present policy options and advice, implement policies adopted by the Council, maintain partnerships and manage day to day administration and delivery of services. In practice the roles are now much more complex particularly as in more recent years members have taken a more active role, in the day to day operation of the authority, particularly the portfolio holders and committee chairmen who are expected to keep abreast of developments in their areas of responsibility.

### 3.0 **Officer, Cabinet and Chairman Relationships**

- 3.1 Officers are responsible to the whole Council but it is clearly important that there should be a close working relationship between a member of the Cabinet, the chairman of a committee, a portfolio holder and the Chief Executive, Directors and other senior officers of any department. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officer's ability to deal with other members and other party groups.
- 3.2 The Leader of Cabinet or a chairman of a committee (or sub-committee) or portfolio holder will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting. It must also be recognised that in some situations a Director will be under a duty to submit a report to a meeting on a particular matter. Similarly, a Director or other senior officer will always be fully responsible for the contents of any report submitted by, or on, his/her behalf.
- 3.3 This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. Any issues arising in this area should be referred to the Chief Executive for resolution, in conjunction with the Leader of the Council or chairman of the committee, as appropriate.
- 3.4 In addition to any Chairman's briefing before any meeting, minority group representatives will also be afforded the opportunity of a briefing through their appropriate spokesman.
- 3.5 In relation to action between meetings of Cabinet or committees, the current scheme of delegation allows for some decisions to be taken by individual Portfolio Holders (see Part 3 – Responsibility for Functions). The individual Portfolio Holder takes responsibility for such decisions and must obtain officer advice before making a decision. He/she will also have to comply with any procedures adopted by the Council to ensure that the Monitoring Officer can maintain the statutory records of those decisions.
- 3.6 At Cabinet, committee and sub-committee meetings, a resolution may be passed, which authorises named officers to take action between meetings in consultation with the chairman. In these circumstances, it must be recognised that it is the officer, rather than the chairman, who takes the action and it is the officer who is accountable for it. The same applies where an officer's authority is derived from the Delegation Schedule.

3.7 Officers are accountable to their Head of Service/Director and while officers should always seek to assist Portfolio Holders and chairmen (or indeed any member), they must not in so doing, go beyond the bounds of whatever authority they have been given. Members should not put staff in a position that could give rise to conflict between themselves and their Manager and/or Director.

3.8 The practice of holding meetings between the senior officers and senior members will continue, albeit that such meetings have no executive powers.

#### 4.0 **Mutual Respect Between Officers and Members**

4.1 Mutual respect between councillors and officers is essential to good local government. Officers must respect the fact that (in most if not all cases) councillors have been elected to represent the views of their community. Members must respect the political impartiality of officers and understand that officers may, on occasion, need to give advice that may not support political objectives.

4.2. Close personal familiarity and the perception of it between individual councillors and officers can damage this relationship and prove embarrassing to other councillors and officers. Proper standards of courtesy must be observed in all contacts between councillors and officers regardless of whether such contact is in a public forum. Neither party should seek to take unfair advantage of their position.

4.3 Officers and members should, particularly in the public forum, be mutually supportive in order to minimise any potential embarrassment to the Council. Criticism of officers should, normally, be handled beyond the glare of public and media scrutiny. Similarly, officers should never publicly criticise decisions taken by the Council or any of its decision-making bodies.

4.4 Members should not raise matters relating to the conduct or capability of a Council employee or of employees collectively at meetings held in public. This is a longstanding tradition in public service. Employees have no means of responding to criticisms of this nature in public. This should not prevent a member from being able to challenge officers in an appropriate way.

4.5 If a Member believes that

- he/she has not been treated with proper respect and courtesy; or
- has any concern about the conduct or capability of a Council employee

he/she should raise the matter with the employees Head of Service, if it fails to be resolved through direct discussion with the employee.

The Head of Service will then look into the facts and report back to the member. If the member continues to feel concerned he/she can raise the matter with the Leader of the Council and the Chief Executive or, in the absence of the Chief Executive, a Chief Officer not directly responsible for the employee.

4.6 If a Member has a concern about the conduct or capability of a Director or Head of Service then he/she should raise that concern directly with the Chief Executive or, in the absence of the Chief Executive, another Chief Officer.

4.7 Where an officer believes that:

- he or she has not been treated with respect and courtesy by a member, or
- has been the subject of bullying or aggressive behaviour from a member; or
- is concerned about any action or statement relating to him/herself or a colleague by a member,

he/she should raise the matter with the member concerned or his/her own line manager or Director, as appropriate. Where the matter is raised with a Director he/she will investigate the matter and take appropriate action either by approaching the individual member and/or Group Leader.

- 4.8 Any officer who raises concerns about the inappropriate behaviour of a member and any officer who is required to investigate the matter and take appropriate action shall not be prejudiced and will be protected and supported by line and service managers and shall be provided with paid for external counselling if requested.
- 4.9 The Monitoring Officer may on request and where appropriate, report any instance of personal abuse or inappropriate criticism of officers by councillors, individually or collectively, and any breach of the Council's Code of Conduct on Harassment at Work, to the Standards Committee for consideration unless it is more appropriate to deal with the matter under the Code of Conduct for members.
- 4.10 Officers, particularly the Chief Executive, Directors and Heads of Service, should always aim to keep the appropriate Cabinet members briefed in all matters of a sensitive nature in an effort to avoid members of the Cabinet being "caught on the hop" by a member of an opposition group, the press or the public.
- 4.11 The Chief Executive and Directors are expected to assist members of the controlling group in framing questions that might be raised at a meeting of the Council or Panel but, in the case of Opposition groups, should provide answers only. As an example, an officer might assist a member of a controlling group to draft a question under Rules 10.2 or 10.3 of the Council Procedural Rules set out in Part 4 of this Constitution. Such a facility would not be available to a member of an Opposition group.
- 4.12 The Council recognises that there may be close social or personal relationships between members and officers that commenced before or after a councillor is elected to the Council, or before or after a person becomes employed by the Council. In these circumstances, the councillor should disclose this relationship to his/her Group Leader and the Monitoring Officer and the employee to his/her Head of Service and the Monitoring Officer. The Group Leaders and Chief Officers will endeavour to ensure that neither the councillor, nor the employee, is placed in a position where such relationship between the councillor and the employee will be seen to conflict with the remaining provisions of this Protocol.
- 4.13 Members should be aware that their Code of Conduct requires them to treat others with respect, not bully any person or breach any of the equality enactments. These apply in a member's dealings with officers.
- 4.14 The relationship between the Leader of the Council and the Chief Executive is recognised as being of particular importance. On the appointment of a new Chief Executive or election of a new Leader of the Council their respective roles in the relationship shall be agreed to ensure a shared understanding of their roles and objectives and to establish effective communication. The working of the relationship shall be reviewed as part of the annual Performance Review of the Chief Executive.

## 5.0 **Officer Advice to Party Groups**

- 5.1 It must be recognised by all officers and members that in discharging their duties and responsibilities, officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual member of the Council.
- 5.2 There has been statutory recognition for party groups for a long time. It is common practice for such groups to give preliminary consideration to matters of Council business, in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups, but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual members, treat them in a fair and even-handed manner.
- 5.3 The support provided by officers can take many forms, ranging from a briefing meeting with a Chairman or Spokesman prior to a formal meeting, to a presentation to a full party group meeting. Whilst, in practice, such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 5.4 Certain points must, however, be clearly understood by all those participating in this type of process, members and officers alike. In particular:
- (a) requests for an officer to attend any party group meeting must be made through the appropriate Director.
  - (b) officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings or part of meetings, when matters of party business are to be discussed.
  - (c) party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such.
  - (d) any request for advice, together with the advice given to a political group or member, will be treated with strict confidentiality by the officers concerned and will not be accessible to any other political group. It is acknowledged, however, that factual information upon which any advice is based will, if requested, be available to all political groups.
  - (e) it must not be assumed by any political group or member that any officer is supportive of any policy or strategy developed, because of that officer's assistance in the formulation of that policy or strategy.
  - (f) officers respect the confidentiality of any party group discussions at which they are present, in the sense that they should not relay the content of any such discussion to another party group.
  - (g) where officers provide information and advice to a party group meeting in relation to a matter of Council business, this process cannot act as a substitute for



providing all necessary information and advice to the Cabinet or committee or sub-committee, when the matter in question is considered.

- (h) Special care needs to be taken whenever officers are involved in providing information and advice at a political group meeting that includes people who are not members of the Council. Such persons are not bound by the Council's Codes of Conduct and officers may not, in these circumstances, be able to provide the same level of information and advice as they would at a councillors only meeting.

## 6.0 **Members' Access to Information and Council Documents**

- 6.1 The Council believes in open and transparent government. Information will generally be freely available to councillors. However, this approach has to be qualified in relation to certain confidential information and the statutory data protection requirements. Moreover, devoting a significant amount of staff resources to identify information which may be of marginal benefit will not normally be possible.
- 6.2 Where, in the view of any officer to whom a request for information has been made, such request will require a significant amount of staff resources to be devoted to the provision of information and which s/he feels unable to commit, s/he should seek guidance from his/her Head of Service or Director in an effort to identify a satisfactory solution. In the event that a solution cannot be agreed, the request should be referred to the Chief Executive who will make a decision after consulting the Leader of the Council.
- 6.3 Officers are expected to accede to the reasonable demands for information by all members and will make every attempt to be as helpful as possible. However, in providing information to members of opposition groups, the same information will, where appropriate, also be provided, at the same time, to the appropriate Cabinet member.
- 6.4 Councillors have a statutory right to inspect any document that contains material information in relation to any business, which is to be transacted at a Council, Cabinet, panel, committee or working party meeting. This right applies regardless of whether the councillor is a member of the Cabinet, panel, committee or working party concerned and extends, not only to reports which are to be submitted to the meeting, but also to any relevant background papers.
- 6.5 In addition to inspection of reports and background documents which are available to the public and subject to the limitations imposed by data protection legislation, the common law right of councillors is based on the principle that any councillor has a right to inspect council documents so far as his/her access to the documents is reasonably necessary to enable the councillor to perform his/her duties as an elected member.
- 6.6 The propriety of a request for information must initially be determined by the officer to whom the request is made. In the event of doubt, the officer should raise the issue with his/her Head of Service or Director who may seek the views of the Monitoring Officer. In the event of a dispute, a decision on the issue will be made by the Monitoring Officer.
- 6.7 Any information provided to a councillor under these provisions must only be used by the councillor for the purpose for which it was provided – that is, in connection with the proper performance of a councillor's duties as a member of the Council. Councillors should not inspect documents on a matter in which they have a personal or prejudicial interest as prescribed by the Members' Code of Conduct. In such circumstances it is

for the member to advise the officer of his/her personal or prejudicial interest. Likewise an officer should inform the councillor if he/she has a personal interest in a matter under discussion. A councillor should never disclose or use confidential information for his/her personal advantage or of anyone known to him/her, or to the disadvantage of the Council or anyone else. Any members using or attempting to use their position as a member to improperly confer an advantage or disadvantage for themselves or any other person will be in breach of the Members' Code of Conduct.

## 7.0 **Breach of Confidentiality**

7.1 Any unauthorised disclosure of confidential information constitutes a breach of the Code of Conduct for Councillors.

## 8.0 **Correspondence between Members and Officers**

8.1 Correspondence between an individual member and an officer should not normally be copied (by the officer) to any other member other than in accordance with paragraph 25 above. Where it is necessary to copy the correspondence to another member, (e.g. another ward member or chairman/portfolio holder) this should be made clear to the original member. In other words, a system of "silent or blind copies" should not be employed. The same principle shall apply to discussions between members and officers.

8.2 In some cases, issues are raised by, or with, individual members relating to a matter of general interest in a District Council ward or individual parish or town. It is recognised that it is in the best interests of the Council to ensure that all members are properly informed of general issues in their ward/parish or town. Copies of correspondence will therefore normally be sent to all councillors for the particular area, unless the member specifically requests that correspondence is not copied to other members, or there is a political, or any reason, why this is not appropriate. Where correspondence is copied to other members this will be made known to the original member.

8.3 Where correspondence is received by an officer from a member of the public asking for any details about a member, a copy of that letter together with the officer's reply will be sent to the member and the member of the public requesting the information will be so informed.

## 9.0 **Officer Advice**

9.1 It is essential that advice given by officers to councillors and any meeting of the Council, Cabinet, panels, committees and working parties is impartial and to the highest professional standards. The Chief Executive, Directors and Heads of Service will decide which officers will attend meetings.

9.2 With very few exceptions, for example where the decision to be taken is clearly a matter for political judgement, officers should include firm recommendations in every report submitted to a decision-making body.

9.3 The Code of Conduct for Members provides that in reaching decisions a member must have regard to any relevant advice from the Section 151 Officer (i.e. Head of Finance) and the Monitoring Officer where those officers are acting pursuant to their statutory duties.

## 10.0 **Public Media Relations and Press Releases**

- 10.1 The Council's Public Relations Officer serves the Council as a whole and must operate within the limits of the Local Government Act 1986, which prohibits the Council from publishing material which appears to be designed to affect public support for a political party.
- 10.2 Officers normally draft Council press releases. These official press releases will often contain quotations (within the limits of the Local Government Act 1986) from the Leader and/or Deputy Leader of the Council, a Portfolio Holder or the Chairman or Vice-Chairman of a committee or sub-committee, and from the Chairman and/or Vice-Chairman of the Council about ceremonial events. Such press releases are issued on behalf of the Council, in the agreed press release format from the Communication's Team, and it would not therefore, be appropriate when repeating quotations from members to indicate their party political affiliation.
- 10.3 Representations of the media must be requested to seek political comment from members of the Council.
- 10.4 Individual Members who may issue statements of a political nature to the press, must not use the Council's press release format and should make it clear that such statements are not made on behalf of the Council.

#### **11.0 Involvement of Ward Councillors**

- 11.1 Whenever the Council undertakes any form of consultative exercise on a specific local issue, the ward members should be informed or involved as appropriate, before the outset of the exercise. Similarly, whenever a public meeting is organised by the Council to consider a local issue, all the members representing the ward or wards affected should, as a matter of course, be invited to attend the meeting.

#### **12.0 Interpretation**

- 12.1 Any questions of interpretation of this Protocol, or other queries on it, shall be referred to the Monitoring Officer who shall determine the matter, if appropriate, following consultation with the Chairman of the Standards Committee. A report on such questions shall be submitted to the Standards Committee for information if the Chairman of that Committee deems it appropriate.