

## **Area Planning Committee (South and West)**

**23 January 2014**

### **Proposed Changes to Constitution – Code of Practice for Members and Officers Dealing with Planning Matters**



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## **Report of Head of Legal and Democratic Services**

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### **Purpose of the Report**

1. To propose changes to Paragraphs 1.6, 3.2, 10 and 11 of the current Code of Practice to reflect updated guidance published by the Local Government Association relating to probity in planning.

### **Background**

2. The Council's constitution includes a section entitled "Code of Practice for Members and Officers Dealing with Planning Matters". The Code was largely based upon the Local Government Association's Guidance Note of Good Practice issued in 2002. The latest guidance from the LGA, a copy of which is attached at Appendix 2, supersedes the 2002 publication. I have therefore reviewed the Council's current Code of Practice to identify whether any changes are required as a result of the new guidance.
3. The guidance on the conduct of work as agents for individuals pursuing planning matters within the authority area has been strengthened and recommends that officers and serving Councillors should not act as agents even if they are not involved in the decision making process. Paragraph 3.6 of our current Code implies that Members would not be restricted from acting professionally as agents for persons pursuing planning matters within Durham provided they played no part in the decision making process for those proposals. The change in the Code is recommended to reflect the more restrictive guidance which might be attributable to conflict situations reported nationally within the last year which attracted considerable media attention.
4. It is worthwhile clarifying our current rules on site visits whilst the Code is being revised. The LGA guidance suggests that site visits should be less common than may currently be the case in Durham and revised wording would reflect that they should not be regarded as standard practice for each application.
5. The new guidance also clarified that new documents should not be circulated at Planning Committee Meetings by supporters and objectors because of the risk that Members may not have sufficient

opportunity to give them proper consideration and officers may not have sufficient opportunity to check their accuracy or advise upon them. The Council's current practice is to circulate to members of the public a guide on procedures for speaking at Planning Committees and the detail is not included in the Code of Practice. This supplementary guidance will be updated to clarify that circulation of documents will not be permitted.

The LGA guidance "Probity in Planning" was considered by the Council's Standards Committee on 25 June 2013 and the Committee endorsed the proposal that Council be recommended to make these proposed amendments in order to comply more closely with the updated guidance. A copy of the proposed amended Code of Practice is attached at Appendix 3. Constitution Working Group considered the proposals on 8<sup>th</sup> October 2013 and requested that the views of Planning Committee be sought, and if the committee was agreeable to make the recommendations to Council then this be undertaken without being referred back to the Group.

7. Whilst reviewing the Code it is considered prudent to amend paragraph 3.2. The Localism Act has cast doubt on whether the previous exception permitting members with prejudicial interests to speak at Committee when members of the public can speak has been retained under the revised Code of conduct. It is therefore no longer appropriate to state this right exists until this point has been tested and clarified.

### **Recommendation**

8. It is recommended that the Committee note the proposed changes to the Code of Practice for Members and Officers Dealing with Planning Matters which amendments will be presented to Council to approve the necessary change to the Constitution.

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## **Appendix 1: Implications**

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**Finance –** None

**Staffing –** None

**Risk –** Compliance with LGA guidance strengthens the Council's position in the event of criticism or challenge.

**Equality and Diversity / Public Sector Equality Duty –** None

**Accommodation -** None

**Crime and Disorder -** None

**Human Rights -** None

**Consultation –** The proposal has been submitted to and approved by Standards Committee.

**Procurement -** None

**Disability Issues –** None

**Legal Implications –** Contained in the Report.