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**APPENDIX 7**

**GUIDANCE FOR MEMBERS AND OFFICERS  
APPOINTED TO OUTSIDE BODIES**

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## GUIDANCE FOR MEMBERS AND OFFICERS APPOINTED TO OUTSIDE BODIES

### 1. INTRODUCTION

- 1.1 This guide is intended to give a general overview of the law which affects Councillors and officers who are appointed to outside bodies. The Council's Corporate Law Team will be able to provide further advice to explain or expand any of the issues raised.
- 1.2 This guidance focuses on situations where members and officers have been appointed by the Council to serve on outside bodies. It is recognised that members and officers may, in their personal capacity, have been appointed to an outside body independently of Council involvement, for example a company, a sports club, a community organisation *or a board of school governors*. In such cases members and officers are still subject to the relevant provisions of the Codes of Conduct for Members and Officers and should act appropriately.
- 1.3 The Council may nominate or appoint officers or Councillors to a range of outside bodies relevant to council functions. The roles of Councillors or officers on outside bodies will depend upon the legal nature of that organisation and the capacity in which they are appointed to act. It may for example involve acting as a company director, the trustee of a charity or a member on a management committee.
- 1.4 If Councillors or officers are to take on such additional roles it is important that they understand the responsibilities which come with them and how those responsibilities interact with their existing responsibilities to the Council, and that they are able to recognise and deal with any conflicts of interest which may arise.
- 1.5 In participating in outside bodies Councillors and officers are not delegates, carrying out their duties and voting in line with the instructions of the Council. Whilst they may take account of the Council's wishes they must ultimately make independent and personal judgements in line with their duty of care to the outside body. They must also act according to the framework set by the outside body and take an active and informed role in the management of the outside body's affairs. This involves attending meetings on a regular basis and carrying out their duties to the best of their abilities. In addition, they must behave ethically and follow as far as applicable the Council's Code of Conduct for Members or the Code of Conduct for Officers.
- 1.6 Appointments to a particular outside body may be connected to an area of interest or expertise. The Code of Conduct for Members and the Code of Conduct for Officers addresses some of the issues in respect of conflicts of interest that may arise. Councillors should be aware that they will have to disclose membership of the outside body in their

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dealings with the Council and where any conflict of interest arises it is likely that they will have to withdraw from any consideration by the Council of any matter affecting the outside body. Councillors should bear this in mind when deciding whether or not to accept a particular nomination. In the case of officers arrangements should be made to refer the matter to another officer to deal with whenever a conflict of interest arises.

- 1.7 Councillors and officers are under a specific legal obligation (Local Authorities (Companies) Order 1995) to report back to the Council on their involvement in outside companies to which they have been nominated by the Council. That obligation is best met by an annual report to the relevant Committee. Although not a legal requirement, good practice dictates that the requirement to report back should apply to involvement in all outside bodies on behalf of the Council, and not just companies. In the case of Councillors this entails reporting back to the Council at least on an annual basis and in the case of officers their participation should be discussed on a more regular basis with their line managers at supervision or appraisal meetings.
- 1.8 Councillors and officers may incur potential liabilities when appointed to outside bodies. The extent to which nominated or appointed Councillors or officers can be immune from or indemnified against personal liability for losses arising from their nomination will depend on the nature of the organisation and the powers available to the Council in each case.
- 1.9 The most common types of outside bodies in which Councillors or officers may become involved are considered in more detail below and comprise:-
- (a) Limited Liability Companies
  - (b) Charities
  - (c) Unincorporated Associations
- 1.10 The Council has also produced a partnership governance guide “Governance for Delivery” in which some of the wider implications of participation on outside bodies are considered, and this should be read in conjunction with this guidance.

## **2. COMPANIES**

- 2.1 The obligations imposed by company law are onerous and there are severe penalties for non-compliance with many of duties imposed on directors. It is important for Councillors and officers appointed to act as company directors to ensure that they understand the duties and obligations which the law imposes on them.

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- 2.2 Companies are often created to make the administration of an organisation easier. A company is a separate legal entity which can hold property in its own right, enter into contracts, employ staff and sue and be sued in its own name. A company is distinct from its members, who may be either shareholders or guarantors.
- 2.3 Whether a company is limited by share or by guarantee, the day to day management of the company is usually vested in the directors and the members ultimately control the company by electing the directors and deciding the major issues at general meetings. The main differences are as follows:-
- in a company limited by shares the shareholders share the ownership of the company and its profits and if the company is wound up each shareholder is liable to pay an amount equivalent to the nominal value of his or her shareholding;
  - a company limited by guarantee does not normally seek to make a profit and in the event of the company being wound up, the members guarantee to make a payment to the level of their guarantee (usually a nominal figure of £1.00). Hence companies limited by guarantee are more commonly used for voluntary and public bodies, especially where charitable status is sought.
- 2.4 A company is controlled by reference to its 'constitution', which is contained in the Memorandum and Articles of Association. These documents will set out the powers of the company, and the rules by which it is to be managed. Any act carried out by the company that is outside the powers set out in the Memorandum will be unlawful, and a director involved in such an act may be personally liable for any resulting losses.
- 2.5 The Articles of Association will usually provide for the business of the company to be decided by the members of the company, acting in general meeting. At such meetings, the members elect a board of directors, who then deal with the day to day management of the company.
- 2.6 In general Councillors and officers should avoid taking executive or managerial responsibility for the company's activities because the duties of executive or managing directors can be particularly onerous. This is because executive directors are directly responsible for particular aspects of the company's affairs. For example, a finance director will have responsibility for the company's financial position, which could give rise to liability for allowing the company to trade while insolvent if the company goes into liquidation. However, all directors, including part-time and non-executive directors, are required to make themselves fully aware of the company's financial position and should

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attend Board meetings regularly; ignorance of transactions entered into by the company through a failure to make proper enquiries may not be an adequate defence to a charge of negligence brought against such a director.

- 2.7 In some situations, the Council may nominate Councillors or officers to act as “observers” on the board of directors of a company. Although such observers have no specific legal status, Councillors and officers should be aware that if an observer’s involvement increases to such an extent that it could be said that there is an active engagement in the management of the company, he or she may be deemed to be a “shadow director” which may entail liability for losses, etc. Any person appointed to this role should therefore ensure that the extent of their role as an observer is clearly defined and agreed to avoid involvement in managing or directing the management of the company.
- 2.8 Once elected to the Board, directors have a number of duties and liabilities under general company law. The fact that a director is appointed to the Board as a representative of the Council does not diminish these duties. The director will be an agent of the company, whose principal duties and liabilities are as follows:

### Directors’ Duties

- (1) A fiduciary duty to the company (not to individual shareholders) to act honestly and in good faith and in the best interests of the company as a whole. This duty is very similar to the fiduciary duty of Councillors to the Council Tax payers of the City.
- (2) A general duty to exercise reasonable care and skill in acting in the company’s affairs, commensurate with his or her knowledge and experience, including seeking professional advice when necessary.
- (3) A duty to exercise independent judgement when dealing with the company’s affairs. Although it is permissible to take account of the interests of a third party (in this case the Council) the director cannot vote simply in accordance with the Council’s instructions. To do so would be a breach of duty.
- (4) A duty to avoid conflicts of interests. There may be actual or potential conflicts between the interests of the company and those of the Council. A Councillor or officer cannot waive their statutory responsibilities as a director and so they may have to cease to act as a Councillor or officer in relation to the particular matter. In extreme cases, the only proper way for the conflict to be resolved may be for the Councillor or officer to resign either from the company or from the Council. This situation is likely to be exceptional and so should not deflect Councillors or officers from being prepared to participate in outside bodies.

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- (5) A duty not to make a private profit from their position. Directors must therefore disclose any interests they or their family may have in relation to the company's contracts. Whether they are then allowed to vote will depend on the company's Articles of Association. Equally, officers are not allowed under cover of their office to take any more than their proper remuneration so they must obtain the consent of the Council if they are to receive any remuneration from a company to which they have been appointed by the Council.
- (6) A duty to ensure compliance with the Companies Acts in relation to the keeping of accounts, and that the relevant returns are made to the Registrar of Companies. Failure to do so can lead to fines and disqualification as a director.

### Directors Liabilities

- (1) Personal liability where a company acts outside of its powers, and the director knowingly causes or permits the company to so act.
- 2) Liability to members of the company for breach of trust if the director misapplies the money or property of the company. Directors may also be liable if they fail to take action to prevent the breach of a co-director of which they are aware.
- (3) Liability to the company for any losses sustained where the director abuses his position in some way, or fails to act in the best interests of the company.
- (4) Liability to the company for losses caused where the director has failed to exercise the requisite level of skill and care (or failed to seek appropriate professional advice).
- (5) Liability to creditors where the director knows or ought to know that there is no reasonable prospect of the company avoiding liquidation, but allows the company to continue to trade ('wrongful trading'). A director should alert his fellow directors and the company's auditors where he or she is concerned about the company's position, and seek advice as necessary.
- (6) Liability for fraudulent trading, i.e. where a company deals with the intent of defrauding creditors or others. In addition to a fine, a director may be disqualified from acting as a director in another company.

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- (7) Liability to a fine and/or making good any losses, where cheques and other documents do not bear the name of the company. (It is advisable for directors when signing cheques or other documents on behalf of the company to state clearly that they act as agent for the company e.g. director, for and on behalf of.....)
- (8) Liability to pay damages where the director deals with an individual or another company who believes that the director is authorised to so act, when in fact he or she has no such power. It is advisable for directors to ensure that all contracts are approved by the Board and that the authority to enter into any contract has been properly delegated before signing it.

### Indemnities

- 2.9 Directors cannot be indemnified by the company against liability arising out of negligence, default, or breach of duty or trust. The company's Articles of Association may however allow for directors to be indemnified by the company in respect of the cost of defending such proceedings, where the director concerned is granted relief by the court or acquitted.
- 2.10 The Council does have limited powers to provide indemnities for Councillors or officers when appointing them to act as directors, and to buy insurance to cover any losses which they may suffer through acting conscientiously as a director. However, it is lawful for a company to purchase insurance to protect its directors against claims of negligence, breach of trust or duty, or other default. Before taking up an appointment directors should ensure that such insurance is in place and that the provision of the insurance is within the powers of the company.

### Local Authority Companies

- 2.11 Legislation is in force which seeks to restrict and control companies which have a connection with local authorities, either because of the level of interest owned by the Council, or because of the degree of business and involvement between the Council and the company.
- 2.12 In general terms companies are local authority "controlled" where there are more than 50% local authority interests. Companies are "influenced companies" where there is at least 20% local authority interest plus a business relationship with the company accounting for over 50% of the company's turnover, and/or the company was located on local authority land leased or sold for less than best consideration. Regulated companies (i.e. companies which are either "controlled" or "influenced" companies), will be under the effective control of the local authority, and under the legislation, will be subject to the capital finance



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regime which applies to local authorities, as well as other special propriety controls.

- 2.13 Minority companies are companies where the Council's interest is less than 20%. This type of company is not treated as part of the local authority, and is able to act with more freedom (subject to the other provisions affecting companies in general).
- 2.14 For these reasons, the Council usually tries to ensure that any involvement it has in companies is kept below 20%, i.e. that less than 20% of voting rights/directors are associated with the Council. Councillors are requested to seek advice from the Council's Monitoring Officer if they consider that this limit may be exceeded at any time.

### Industrial and Provident Societies (IPS)

- 2.15 Although distinct from companies IPS are corporate bodies with limited liability. Like companies they are separate legal entities and can buy, sell and mortgage property, borrow money, enter into contracts and employ staff. Examples include many housing associations. IPS are registered under the Register of Friendly Societies and are required to have a constitution. Members of an IPS each have one vote and the liability of members and directors is limited to their one shareholding. An IPS is subject to the local authority control/influence rules set out above.

## 3. CHARITIES

- 3.1 Many outside bodies with which Councillors or officers will be involved will be charities. There are a number of advantages to a body of having charitable status including fiscal advantages.
- 3.2 A charitable organisation is one which is formed for one or more of the following charitable purposes:
- the relief of poverty and human suffering
  - the advancement of education
  - the advancement of religion
  - another purpose for the benefit of the community.
- 3.3 It must operate for the public benefit and have exclusively charitable purposes. It must be registered with the Charity Commissioners. The Commissioners oversee the operations of all charities, and grant consent to various transactions involving charities, where the law requires this.
- 3.4 To register as a charity the organisation must submit its governing instrument (i.e. Trust Deed (in the case of a trust), Memorandum and Articles of Association (company limited by guarantee) or Constitution

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(unincorporated association)) to the Charity Commissioners for approval. If they are satisfied that the organisation is charitable it will be registered as such.

The law relating to charities imposes a number of duties and liabilities on those controlling the organisation. They are normally referred to as 'trustees' which will include the Directors (of a company limited by guarantee) and the Management Committee of an unincorporated association.

### Trustees' Duties

3.5 Trustees have the following duties:

- (1) A duty to act in accordance with the charities governing instrument and to protect the charity's assets.
- (2) A duty to comply with the Charities Acts and other legislation affecting the charity.
- (3) A duty not to make a private profit from their position.
- (4) A duty to act with the standard of care which an ordinary, prudent business person would show. Higher standards are required of professionals, and in relation to investment matters.
- (5) A duty to ensure that the information relating to the trust and trustees is registered with the Charity Commissioners and that annual accounts and returns are completed and sent.
- (6) Where charitable income exceeds £10,000, a duty to ensure that letters, adverts, cheques etc. bear a statement that the organisation is a registered charity.

### Trustees' Liabilities

3.6 Trustees have the following liabilities:

- (1) A liability to make good any deficiency where trust property has been used for the trustee's own purposes, or for purposes not in accordance with the purposes of the trust.
- (2) Personal liability for losses or claims where the trustee has acted outside the scope of the trust deed.
- (3) Personal liability where the trustee has not shown the required standard of care.

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- 3.7 Unlike a limited company, a trust has no separate identity from the trustees. Trustees are therefore personally liable for losses on contracts or claims by third parties, although trustees are entitled to an indemnity from the trust assets, provided they acted properly in incurring the liability. For example, in the case of a trust set up to run a community transport scheme, the trustees will be liable personally for a claim from a pedestrian injured by one of the drivers, although the trust's insurance arrangements will indemnify the trustees against the claim.
- 3.8 Trustees remain personally liable once they retire (e.g. if they have entered into a contract on behalf of the trust) and should therefore seek an indemnity from their successors. If the charity is a company however the trustees for the time being will be responsible.
- 3.9 Trustees may be liable to fines if they do not comply with the duty to make returns etc.
- 3.10 Further guidance and advice can be obtained from the Charities Commission. A trustee who seeks advice from the Charity Commissioners in a particular situation and acts on that advice will generally avoid personal liability.

### Indemnities

- 3.11 An indemnity may be given from the trust fund provided the trustee has acted properly and within his/her powers. Trustees may take out insurance to protect themselves against personal liability but not for criminal acts, fraud etc. There will be no problem if the trustees themselves pay the premiums but if they are paid out of the charitable funds the trustees will need the consent of the Charity Commissioners unless the trust deed allows it.

## **4. UNINCORPORATED ASSOCIATIONS**

- 4.1 Another form of outside body with which Councillors or officers may become involved is the "unincorporated association." An unincorporated association is an informal organisation which may arise whenever several people join together, with the intention of creating legal relations, to carry out a mutual purpose otherwise than for profit.
- 4.2 The rules governing the members' duties and liabilities will usually be set out in a written constitution, which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for the election by the members of a management committee, which will be responsible for the everyday running of the organisation. The constitution may also provide for

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members to have annual general meetings, to deal with business such as the accounts and the appointment of the management committee etc.

- 4.3 Because the association is not a separate legal entity from its members, it cannot hold property in its own name. Any property which it controls will therefore have to be vested in an individual, or individuals, who are usually called the trustees of the association. They will hold the asset, subject to the direction of the members, or (more usually) the management committee.
- 4.4 Where an unincorporated association is a registered charity the members of the management committee may also be charity trustees. As such their role and responsibilities will be determined not only by the association's constitution but also by the general law relating to trusts and charities as referred to above.

### Duties

- 4.5 The members of the Management Committee, and the trustees appointed to hold any assets for the association, must act within the constitution, and must take reasonable care in exercising their powers

### Liabilities

- (1) Generally the Management Committee members are liable for the acts or omissions of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the Committee members are personally liable for the shortfall.
- (2) If one person is appointed by the constitution to act as the agent of the organisation for certain purposes, then that person acts as the agent for all the members, who have joint liability for the agent's actions.
- (3) Management Committee members will have personal liability if they act outside the authority given to them or if they do not comply with statute e.g. the payment of employees' tax etc

### Indemnities

- 4.6 The members of an unincorporated association will be entitled to an indemnity if they act in accordance with the constitution and are not at fault. It is possible (subject to the rules in the constitution) for insurance to be taken out, to cover trustees and members of the management committee for their potential liabilities. As with companies Councillors or officers who are management Committee Members should satisfy

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themselves that the organisation has adequate insurance cover in this respect.

### **5. REGISTRATION AND DISCLOSURE OF OUTSIDE INTERESTS FOR MEMBERS**

5.1 In accordance with Part 111 of the Local Government Act 2000 the Council has adopted a Code of Conduct for Members. Each Member of the authority, elected or co-opted, has signed an undertaking to observe the provisions of the Code. The requirements of the Code of Conduct for Members can be summarised as:

- (1) a requirement to comply with specific rules in respect of the member's conduct as a Councillor, but also, in a couple of respects, in his or her private life;
- (2) a requirement to notify the Council's Monitoring Officer of membership of or employment by any outside body, which information is then included in a public register of interests;
- (3) when any matter affecting such an outside body comes before the Council and the Member would in any manner be involved in consideration of that matter, to disclose the Member's interest in that outside body, and, in cases where a significant conflict of interest arises, to withdraw from taking part in that consideration.

5.2 Where a Member fails to register all such interests, fails to disclose such an interest, or fails to withdraw when required to do so, any person may make a complaint to the Standards Board for England. If a member is adjudged by a Case Tribunal to have failed to comply with the Code of Conduct, a Case Tribunal can suspend the member, in whole or in part, for up to one year, or can disqualify the Member from being a Member of any local authority for up to five years.

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## General Rules of Conduct

- 5.3 The Model Code sets out some general rules of conduct which must be observed by Members. The most important rules, in the context of outside bodies are as follows:
- (a) a Member must not disclose information given to him/her in confidence by anyone, or information acquired which he/she believes is of a confidential nature, without the consent of the person authorised to give it, or unless he/she is required by law to do so;
  - (b) a Member must not in his/her official capacity, or any other circumstance, conduct him/herself in a manner which could reasonably be regarded as bringing his/her office or authority into disrepute;
  - (c) a Member must not in his/her official capacity, or any other circumstance, use his/her position as a member to improperly confer on or secure for him/herself or any other person, an advantage or disadvantage;
  - (d) a Member must when using or authorising the use by others of the resources of the authority ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the Member has been elected or appointed.

## Registration of Interests

- 5.4 The Code of Conduct for Members requires every Member to notify the Monitoring Officer of any registrable interests which he/she holds, within one month of election or appointment. Members declarations of registrable interests are then held in a public register of interests. The Member may not act as a Member until he/she has completed that declaration. In addition, the Member must notify the Monitoring Officer of any change in his/her registrable interests within 28 days of becoming aware of that change.
- 5.5 Membership of an outside body can be a registrable interest under any of the following headings:
- (a) any employment or business carried on by him/her;
  - (b) the name of the person who employs or has appointed him/her, the name of any firm in which he/she is a partner, and the name of any company for which he/she is a remunerated director;

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- (c) a description of any contract for goods, services, or works made between the authority and the member of a firm in which he/she is a partner, a company for which he/she is a remunerated director or a body in which the member has a with a shareholding with a nominal value exceeding £25,000;
- (d) the address or other description (sufficient to identify the location) of any land in which he/she has a beneficial interest and which is in the area of the authority;
- (e) the address or other description (sufficient to identify the location) of any land where the landlord is the authority and the tenant is a firm in which the member is a partner, a company for which he/she is a remunerated director, or a body of the description specified in sub-paragraph (d) above;
- (f) the address or other description (sufficient to identify the location) of any land in the authority's area in which he/she has a licence (alone or jointly with others) to occupy for 28 days or longer;
- (g) membership of or a position of general control or management in any body to which he/she has been appointed or nominated by the authority as a representative;
- (h) membership of or a position of general control or management in any public authority or body exercising functions of a public nature;
- (i) membership of or a position of general control or management in any company, industrial and provident society, charity or body directed to charitable purposes;
- (j) membership of or a position of general control or management in any body whose principal purposes include the influence of public opinion or policy; and
- (k) membership of or a position of general control or management in any trade union or professional association

### Disclosure of Interests

- 5.6 There are a number of rules which Members must be aware of, which may limit the extent to which they are able to take part in debates or votes on issues. These rules extend to matters involving outside bodies of which Members are members or representatives. In general, the rules require that in certain situations, Members should disclose the fact that they have an interest in the matter under discussion. They may also

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be required not to take part in any debate or discussion on the matter, and may have to leave the chamber during the item.

### Personal Interests

- 5.7 Whenever a Member is present at a meeting at which a matter is under consideration in which he/she has a personal interest, he/she must disclose both the existence and the nature of that interest before the start of consideration of that matter.
- 5.8 A Member will have a personal interest in any matter which relates to any registerable interest within paragraph 5.5 above, or where a decision on the matter might reasonably be regarded as affecting to a greater extent than other council tax payers, ratepayers or inhabitants of the authority's area, the well-being or financial position of the member him/herself, a relative or friend or –
- (a) any employment or business carried on by such persons;
  - (b) any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (c) any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
  - (d) any body listed in sub-paragraphs (g) to (k) of paragraph 5.5 above in which such persons hold a position of general control or management.
- 5.9 For this purpose “relative” means a spouse, partner (a member of a couple who live together) parent, parent-in-law, son, daughter, step-daughter, step-son, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew niece or the spouse or partner of any of the preceding persons.

### Prejudicial Interests

- 5.10 In some instances the conflict between the interests of the authority and a Members' interest may be of such a substantial nature that the Members interest is not only “personal” but also “prejudicial.” The test of whether an interest is prejudicial is the “probable bias” test, namely whether the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest.



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- 5.11 However, there are some exceptions to this rule so that a Member who has what would otherwise be a prejudicial interest is given a discretion to regard him/herself as not having a prejudicial interest but merely a personal interest in a matter if that matter relates to –
- (a) another relevant authority of which he/she is a member;
  - (b) another public authority in which he/she holds a position of general control or management; or
  - (c) a body to which he/she has been appointed or nominated by the Council as its representative.
- 5.12 Where a Member does have a prejudicial interest he/she must withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting and must not seek improperly to influence a decision about that matter. “Meeting” means any meeting of the Council, or any of its Committees, Sub-Committees as well as any Joint Committee or Area Committee.

## 6. DISCLOSURE OF OUTSIDE INTERESTS FOR OFFICERS

### Declaration of Interests

- 6.1 Section 117(1) of the Local Government Act 1972 requires that if it comes to the knowledge of any officer of a local authority that the authority has entered or proposes to enter into any contract in which he/she has a pecuniary interest, whether or not he/she would actually be a party to the contract, he/she must give notice in writing to the authority. A pecuniary interest should be interpreted as any circumstance in which he/she or a member of his/her immediate family stand to gain or lose financially as a result of the contract.

### Conflicts of interest

- 6.2 Where an officer has been appointed to an outside body by the Council and a conflict of interest arises, this should always be disclosed to the officer's immediate manager who should, in appropriate cases, seek advice from the Council's Corporate Law Team. Such conflicts may be dealt with in a number of different ways, depending on the nature and seriousness of the conflict. If the conflict is insubstantial then it should simply be recorded and no further action need be taken. Where there is a discreet conflict this may preclude the officer from undertaking a particular discreet task, such as dealing with the administration of a planning application, but would not be incompatible with the general performance of their job. In the case of a more serious incompatible conflict it may be determined that the nature of the conflict of interest is

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such that the officer must resign their position on the outside body and/or re-arrange their duties in a manner which avoids the conflict.

### 7. GIFTS AND HOSPITALITY

- 7.1 Councillors and officers must never accept any gift or consideration as an inducement for doing or forbearing to do anything in their roles as Councillors or officers of the authority. In the case of officers accepting any such gift or consideration from anyone who has or is seeking a contract with the authority, the gift or consideration is deemed to have been accepted corruptly unless the officer can prove the contrary. It is therefore very important to be completely open about any significant gift or hospitality to avoid the suspicion of misconduct.
- 7.2 Councillors are required by the Code of Conduct for Members to notify the Monitoring Officer, in writing, on receipt of any gift or hospitality with a value of more than £25, whatever the motivation for such a gift.  
*Members should note that they only need to register gifts and hospitality worth more than £25 that are received in connection with their official duties as a Members. Gifts received by Members in a personal/private capacity do not need to be registered.*
- 7.3 Officers are required to disclose offers and receipts of gifts and hospitality which must be recorded in the register of gifts and hospitality held by their director, in accordance with the Code of Conduct for Officers. Officers should note that the limitation of registering gifts and hospitality worth more than £25 applies only to Members and not to Officers. Officers should therefore read the Code of Conduct for Officers to be clear as to the kind of gifts and hospitality that must be registered.
- 7.4 A particular issue arises for officers seconded to work on outside bodies, as section 117(2) of the Local Government Act 1972 provides that an officer shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his/her proper remuneration. Where an officer is to be seconded and might be in receipt of any remuneration, bonus or allowances from the authority to which he/she is to be seconded, the seconding authority must agree that his/her proper remuneration shall henceforth include any remuneration, bonus or allowances paid to the officer by the body to which he/she is seconded.