

Joint Standards Committee

- To:** Councillors Runciman, Cannon, Hayes, Kramm and Mercer (CYC Members)
Councillors Perrett and Wiseman (Parish Council Members)
Ms Davies and Mr Laverick (Independent Members)
- Date:** Wednesday, 31 January 2018
- Time:** 4.00 pm
- Venue:** The King Richard III Room (GO49) - West Offices

AGENDA

1. Declarations of Interest

Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they might have in respect of business on this agenda.

2. Minutes (Pages 1 - 4)

To approve and sign the minutes of the meeting of the Joint Standards Committee held on 29 November 2017.

3. Public Participation

At this point in the meeting, members of the public who have registered their wish to speak, regarding an item on the agenda or an issue within the remit of the Joint Standards Committee, may do so. The deadline for registering is **5:00 pm on Tuesday, 30 January 2018**. To register to speak please contact the Democracy Officer for the meeting on the details at the foot of the agenda.

Filming or Recording Meetings

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming and Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at

http://www.york.gov.uk/download/downloads/id/11406/protocol_f_or_webcasting_filming_and_recording_of_council_meetings_20160809.pdf

- 4. Monitoring Report on Complaints Received** (Pages 5 - 6)
To receive a routine update report on recent standards complaints.
- 5. Review of the Code of Conduct** (Pages 7 - 68)
This report informs Members of the work of the group set up by this committee to review the City of York Council's code of conduct for councillors and asks them to endorse the proposed revisions to the code.
- 6. A Code of Conduct for Planning Panels** (Pages 69 - 74)
This report asks Members to approve the final version of a code of conduct for members of Ward Planning Panels, following consultation on the draft version considered in April 2017.
- 7. Review of Work Plan** (Pages 75 - 76)
To review the committee's work plan for the remainder of the 2017/18 municipal year and consider whether any changes or additions are required.
- 8. Urgent Business**
Any other business which the Chair decides is urgent under the Local Government Act 1972.

Democracy Officer:
Name: Fiona Young
Contact Details:
Telephone – (01904) 552030
Email – fiona.young@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جا سکتی ہیں۔ (Urdu)

 (01904) 551550

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City of York Council

Committee Minutes

Meeting	Joint Standards Committee
Date	29 November 2017
Present	Councillors Runciman, Cannon, Hayes, Kramm and Mercer (CYC Members) Councillor Perrett (Parish Council Member)
Apologies	Councillor Wiseman (Parish Council Member) Mr Laverick and Ms Davies (Independent Members)

15. Declarations of Interest

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they had in respect of business on the agenda. None were declared.

16. Minutes

Resolved: That the minutes of the meeting of the Joint Standards Committee held on 2 August 2017 be approved and signed by the Chair as a correct record.

17. Minutes of Sub-Committees

Resolved: That the minutes of the Assessments Sub-Committee meeting held on 22 September 2017 be noted, to be signed at the next Sub-Committee meeting by the Chair of that meeting.

18. Public Participation

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

19. Monitoring Report on Complaints Received

Members considered a report which provided an update on recent standards complaints.

Since the last meeting in August, three new cases had been opened. One had been referred to an Assessments Sub-Committee and was ongoing, one was thought not to merit any action and the third was awaiting more information before it could be processed. Another case previously subject to investigation had been discontinued, as the councillor involved had since resigned from the Parish Council.

In response to Members' questions, the Monitoring Officer confirmed that there was no further progress to report on the case considered by the Assessments Sub-Committee on 22 September.

Resolved: That the report be noted.

Reason: To ensure that the committee is aware of current levels of activity.

20. Reviewing the Code of Conduct

Members considered a report which provided an update on progress made by the task group established to review the City of York Council's code of conduct.

The task group had already met twice and had now discussed the whole of the code and identified a number of areas for improvement. At least one more meeting was required to discuss suggested revisions, and the aim was to bring a draft revised code to the Standards Committee on 31 January.

Resolved: That the report be noted.

Reason: To ensure that the Committee is aware of progress being made by the task group.

21. Response to Consultation - Changes to Disqualification Criteria

Members considered a report which sought their views on the proposal by the Department for Communities and Local Government (DCLG) to alter the disqualification criteria in Section 80 of the Local Government Act 1972.

The proposed alteration would update the criteria that disqualified an individual from holding or standing for office as a local authority member, by including anyone subject to:

- The notification requirements in the Sexual Offences Act 2003 (i.e. anyone 'on the sex offenders register');
- A civil injunction under s.1 of the Anti-Social Behaviour, Crime & Policing Act 2014; or
- A Criminal Behaviour Order under s.22 of the same Act.

A draft response to the consultation questions on the proposal was attached as Annex 1 to the report. This broadly supported the changes, but suggested that the criteria should also include people subject to a Sexual Risk Order (Q2) and expressed the view that further legislative changes to provide more effective sanctions in the standards regime would be welcomed (Q6).

Members were invited to accept the draft response (Option 1), make changes to it before submission (Option 2) or not to respond (Option 3). The deadline for responses was 8 December 2017.

Resolved: That the draft response be approved, subject to the addition of wording at Q6 to express Members' view that account be taken of the age of the individual at the time any order or injunction was imposed upon them.

Reason: To endorse this small step in the right direction of reinforcing the legal framework through which good conduct in public life can be regulated, whilst seeking to address the absence of effective sanctions, which remains a significant failing in the current regime.

22. Review of Work Plan

Members considered to the committee's work plan for the remainder of the 2017-18 municipal year and whether they wished to suggest further items for inclusion on the plan.

The Chair indicated that, should there be no business for any meeting other than the routine monitoring report on complaints received, that meeting would be cancelled and the report circulated to Members instead.

Resolved: That the work plan be approved subject to the following additions to the agenda for the meeting on 31 January:

- Review of the CYC's Code of Conduct – advice of the task group
- A code of conduct for Planning Panels.

Reason: To ensure that the committee has a planned programme of work in place.

Cllr C Runciman, Chair

[The meeting started at 4.00 pm and finished at 4.35 pm].



Joint Standards Committee

31 January 2018

Report of the Monitoring Officer

Monitoring Report on Complaints Received

Summary

1. This is a routine report to update the Committee on recent standard complaints.

Background

2. Since the Committee last met in November one new matter has been opened and will be referred to an assessment sub committee.
3. Two older matters are ongoing. The Monitoring Officer is in discussion with one complainant whose complaint was referred to in the last monitoring report as requiring additional information. A third case is still the subject of an investigation.

Recommendations

4. Members are recommended to:
 - 1) Note the report

Reason: To ensure that the Committee is aware of current levels of activity and that the standards complaints system is used for its primary purpose.

Contact Details

Author:

Andrew Docherty
Monitoring Officer
Customer and Business
Support Services
Tel No. 01904 551004

**Report
Approved**

Date 23/01/18

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers:

None



Joint Standards Committee**31 January 2018****Report of the Monitoring Officer****Review of the Code of Conduct****Summary**

1. This report advises Members of the work of a working group established by the Committee to review the City Council's code of conduct for Councillors. The Committee are asked to endorse the proposed revisions.

Background

2. Following the implementation of the Localism Act 2011 Councils became responsible for preparing and adopting their own codes of conduct. The City Council adopted a code based on the former national code, adapted to reflect the new arrangements in respect of disclosable pecuniary interests and with some locally agreed provisions to address issues the Committee had experienced with the previous code.
3. The new Code was reviewed and minor changes made in 2015 but in August 2017 the Committee decided to undertake a more significant review. A working group was established which has met on three occasions. The group has decided to recommend the changes to the code shown in at Annex one. The group also recommends that the Committee endorse accompanying guidance to the code which is set out at Annex two.
4. The key changes which are proposed are:
 - To incorporate the principles upon which the code is based within the Code. Currently the code makes reference to these principles (based on those approved by the Nolan Committee) but the recommended change adds more descriptive text as to what those principles mean (paragraph 1(1)).

- While the Code can only be enforced in respect of Members' behaviour when acting as such, the revised draft includes a statement that the Council expects the principles to be followed by Members in their private lives (paragraph 1(2)).
- The current code describes some circumstances where a Member will be regarded as acting as such. Additional examples of such circumstances have been added (paragraph 2(3)).
- A new expectation of Members has been added – that they will comply with the Council's protocol on member/officer relations (paragraph 4(2))
- The specific reference to bullying and intimidation has been removed. The working group feels that such behaviour would breach both the requirement to treat others with respect and the new requirement to comply with the protocol on member/officer relations.
- The current requirement to give reasons for decisions now only refers to circumstances where that is a legal requirement. This requirements was formerly incorporated within a provision requiring regard to be had to statutory officer advice. The two provisions now appear separately (paragraph 4(11)).
- The draft makes it clear that the requirement to register disclosable pecuniary interests after being elected is a legal one and confirms that the Council requires these to be updated within 28 days of a change occurring (Paragraph 5)
- The draft makes it clear that a registered disclosable pecuniary interest will also be a personal interest under the code. This is considered necessary as some recent case law suggest that a restricted interpretation should be adopted when considering whether a Councillor has a disclosable pecuniary interest in Council business. (Paragraph 7(2))
- The definition of prejudicial interests has been changed to make it clear that the interests of a close associate may be prejudicial. (Paragraph 7(4))

- The schedules to the revised code makes it clear which interests are required to be registered by law and which under the Code
 - Specific reference is made to the Civic party making it clear that the Council does not require the Lord Mayor or other Councillors who are members of the civic party to register gifts or hospitality received in their civic role.
5. Only full Council can approve the adoption of a new code of conduct. The accompanying guidance is a matter for the Committee and can be amended as frequently as the Committee considers necessary.

Recommendations

6. Members are recommended to:
- 1) Recommend that the City Council adopt as the revised code of conduct set out at annex one
 - 2) Agree the guidance set out at annex two and ask the Monitoring Officer to ensure that every Member and co-opted member is provided with a copy

Reason: To ensure that the Council has an appropriate code of conduct in place and that Members are supported to comply with its requirement.

Contact Details

Author:

Andrew Docherty
Monitoring Officer
Customer and Business
Support Services
Tel No. 01904 551004

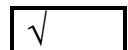
**Report
Approved**



Date 22/11/17

Wards Affected: *List wards or tick box to indicate all*

All



For further information please contact the author of the report

Background Papers:

None

Annexes:

Annex One – Revised draft code of conduct

Annex Two – Revised draft code of conduct with guidance

Part 1: Principles

1. This code of conduct has been adopted by the City Council and is based on the following principles:

• **Selflessness** – Holders of public office should act solely in terms of the public interest. They should not do so to gain financial or other 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 and facts not on personal judgements

• **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 they take. They should be prepared to 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.

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- Leadership – Holders of public office should promote and support these principles by leadership and example.

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2. While this Code only applies to Councillors when acting as such the Council hopes and expects that these principles will be followed by Members both in their public and in their private lives.

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Part 12: General Provisions

Introduction

12. (1) This Code sets out the standards of behaviour required of you whenever you are acting as a Councillor of the City of York Council.
- (2) This Code also applies to any person appointed as a co-opted member of the City Council or any of its Committees when acting as such.
- (3) A person will be acting as a Councillor or as a co-opted member when:
- Present at formal meetings of the Council.
 - Attending informal meetings such as briefings from Officers, Member training events etc.
 - Performing duties entrusted to them by the Council
 - Performing functions associated with the ordinary role of Councillor – such as undertaking casework for residents
 - Otherwise acting, claiming to act or giving the impression that they are acting as a Councillor or co-opted member – including, for example, when using the title of Councillor in written communications

But a person will not be acting as a Councillor or as a co-opted member when acting as a trustee or director of another organisation even where the appointment to that role was made by the Council.

~~(4) The Code has been adopted by the City Council and is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.~~

Definitions

~~23.~~

- (1) A "co-opted member", is a person who is not an elected member of the authority but who –
 - (a) is a member of any committee or sub-committee of the authority, or
 - (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority and
 in either case is entitled to vote at any meeting of that committee or sub-committee
- (2) "meeting" means a meeting of the Council or of any committee, sub-committee, joint committee or joint sub-committee of the authority or of the Executive or any committee of the Executive.
- (3) A "sensitive interest" is one where you consider that disclosure of the details an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees. Section 8 of this Code contains rules for dealing with such interests.

General Duties as to Conduct

~~34.~~ (1) You must treat others with respect.

~~(2) You must comply with the Council's protocol on Member/Officer relations~~

~~(23)~~ You must not do anything which may cause the Council to breach any equality enactment.

- ~~(3) You must not bully or intimidate any person, or attempt to bully or intimidate them.~~
- (4) You must not do anything which compromises the impartiality of anyone who works for or on behalf of the **Authority Council**, or do anything that is likely to compromise their impartiality.
- (5) You must not disclose information which is confidential, unless:
- (a) You have the permission of a person authorised to give it; or
 - (b) You are required by law to disclose the information; or
 - (c) You disclose it to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
 - (d) The disclosure is reasonable; and is in the public interest; and is made in good faith.
- (6) You must not prevent another person gaining access to information which that person is entitled by law.
- (7) You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute, or your position as a Councillor into disrepute.
- (8) You must not use your position as a Councillor improperly to obtain any advantage or disadvantage for yourself or any other person, or attempt to do so.
- (9) When you use or authorise the use by others of the resources of the Council you must:
- (a) abide by the Council's reasonable requirements; and
 - (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

- (10) You must have regard to relevant advice given by the Council's Chief Financial Officer or Monitoring Officer when making decisions
- ~~(11) You and~~ must give reasons for those decisions, in accordance with any requirements imposed by ~~statute or the Council~~law.

Part 23: Interests**Disclosable Pecuniary Interests****Registration of ~~disclosable pecuniary~~ interests**

45. (1) Within 28 days of becoming a member or co-opted member, you ~~must~~ are legally obliged to notify the Monitoring Officer of any 'disclosable pecuniary interests'. These will be included in the register of interests which is published on the Council's website

(2) Under this code you must notify the Monitoring Officer of any changes to these interests or of any new interests within 28 days of becoming aware of them.

Disclosable Pecuniary Interests**Definition of disclosable pecuniary interests**

(23) A 'disclosable pecuniary interest' is an interest of a kind described in the first schedule to this Code. An interest is disclosable if the interest is of yours or of your partner. Your partner means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

Non participation in items of business in the case of disclosable pecuniary interest

- (34) Where a matter arises at a meeting which relates to one of your disclosable pecuniary interests,
- (a) You may not participate in any discussion of the matter at the meeting.
 - (b) You may not participate in any vote taken on the matter at the meeting.
 - (c) If the interest is not registered, you must disclose the interest to the meeting.

- (d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: In addition, Standing Orders require you to leave the room where the meeting is held while any discussion or voting takes place.

Non participation in individual executive decision making in case of disclosable pecuniary interests

- (45) Where an Executive Member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the Executive Member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

Notification of Interests

- ~~5.6~~ (1) In addition to the disclosable pecuniary interests you must, notify the Monitoring Officer of any interests you have of a kind described in the second schedule. You must make that notification within 28 days of this Code coming into effect or of you becoming a Member or co-opted Member if that is later.
- (2) You must notify the Monitoring Officer of any changes to these interests or of any new interests within 28 days of becoming aware of them.

Disclosure of Interests

- ~~67~~. (1) You have a personal interest in any business of your authority where it relates to or is likely to affect you, a body named in the second schedule or any person with whom you have a close association.

Comment [AD1]: Should we include DPLs too given case law

- (2) You also have a personal interest in any business of your authority which relates to or is likely to affect one of your disclosable pecuniary interests in circumstances where you would not be treated as having a disclosable pecuniary interest in that business.

- (32) If you are present at a meeting and you have a personal interest in any matter to be considered or being considered at the meeting: and
- (a) If the interest is not registered, you must disclose the interest to the meeting.
- ~~(b) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.~~
- (43) If you have a personal interest and a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it would be likely to prejudice your judgement of the public interest then you have a prejudicial interest. This is subject to the exceptions set out in paragraph 6.47.5.
- (54) You do not have a prejudicial interest in any business of the authority where that business:
- (a) does not affect your financial position, that of a person with whom you have a close association or the financial position of a person or body named in the second schedule;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you, a person with whom you have a close association -or any person or body described in the second schedule; or
 - (c) relates to the functions of your authority in respect of;
 - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where

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you are in receipt of, or are entitled to the receipt of, such pay;

- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

- (65) A member with a prejudicial interest must leave the room during the debate and voting on the matter in question but may remain in the room for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose.

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Sensitive Interests

78. (1) If you have a sensitive interest which is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.
- (2) If you are required to declare a sensitive interest at a meeting you need only declare the fact of the interest and not the details of the interest itself.

Dispensations

89. (1) The Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting even if he or she has an disclosable pecuniary interest or a prejudicial interest. The Council may grant such a dispensation if:
- ~~It~~ believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or

- considers that without the dispensation the representation of different political groups would be so upset as to alter the likely outcome of any vote relating to the business;~~or~~
 - ~~i~~it is in the interests of the inhabitants in the Council's area to allow the member to take part; or
 - ~~it~~is otherwise appropriate to grant a dispensation.
- (2) The Council has granted the Monitoring Officer in consultation with the Chair of the Joint Standards Committee the power to grant dispensations. These can only be granted following a written request from the Member and the existence of and reason for the dispensation should be recorded in the minutes of the meeting.

**First Schedule – Interests which are Disclosable Pecuniary Interests
in accordance with the Relevant Authorities (Disclosable Pecuniary
Interests) Regulations 2012**

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<i>Interest</i>	<i>Description</i>
Employment, office, trade, profession or vacation	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 you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between 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 your knowledge)— (a) the landlord is the relevant authority; and

Securities

(b) the tenant is a body in which the relevant person has a beneficial interest.

Any beneficial interest in securities of a body where—

(a) that body (to your 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.

These descriptions on interests are subject to the following definitions;

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of committee of management of a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014, other than a society registered as a credit union~~the committee of management of an industrial and provident society;~~

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

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“relevant period” means the period of 12 months ending with the day on which you give a notification for the purposes of section 30(1) or 31(7) of the Act;

“relevant person” means you or **any** your partner as defined in paragraph 45.2-3

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000⁽⁴⁾ and other securities of any description, other than money deposited with a building society.

Second Schedule – Other Interests required to be registered in accordance with this Code

1. Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
2. Any body —
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
3. Any person from whom you have received the offer of a gift or hospitality with an estimated value of more than £50 (whether or not you accept the offer) which is attributable to your position as an elected or co-opted member of the Council. The Council does not require the Lord Mayor or other members of the civic party who are councillors to register gifts or hospitality received in their civic capacity

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Section 5: Codes and Protocols
5A: Members' Code of Conduct

Part 1: Principles

The wording of the code	Guidance for Members
<p>1. This code of conduct has been adopted by the City Council and is based on the following principles:</p> <ul style="list-style-type: none">• <u>Selflessness</u> – Holders of public office should act solely in terms of the public interest. They should not do so to gain financial or other benefits for themselves, their family or their friends.• <u>Integrity</u> – 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.• <u>Objectivity</u> – 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 and facts not on personal judgements• <u>Accountability</u> – 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.• <u>Openness</u> – Holders of public office should be as open as possible about all the decisions and actions they take. They should be prepared to give reasons	<p><i>These are the Nolan principles adopted by the Committee on Standards in Public life. They underpin the code of conduct. Whenever you are considering whether a particular action is appropriate it may be helpful to reflect on these principles and determine which course of action is most consistent with them.</i></p>

<p>for their decisions and restrict information only when the wider public interest clearly demands.</p> <ul style="list-style-type: none"> • <u>Honesty</u> – 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. • <u>Leadership</u> – Holders of public office should promote and support these principles by leadership and example. 	
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<p>2. While this Code only applies to Councillors when acting as such the Council hopes and expects that these principles will be followed by Members both in their public and in their private lives</p>	<p><i>The Localism Act 2011 requires Councils to have codes of conduct dealing with the behaviour of Councillors and co-opted Members when they are acting as such. The Council cannot seek to enforce high standards of conduct in a Member's private life. However, the Standards Committee urges you to remember that, so far as the majority of the public is concerned, you are never off duty. Maintaining high standards of conduct in private as well as in public is essential for the reputation of the individual, the Council and local democracy as a whole.</i></p>
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Part 2: General Provisions

<p>2. (1) This Code sets out the standards of behaviour required of you whenever you are acting as a Councillor of the City of York Council.</p> <p>(2) This Code also applies to any person appointed as a co-opted member of the City Council or any of its Committees when acting as such.</p>	<p><i>The Code applies to councillors and co-opted members when they are acting as such. The Localism Act 2011 defines co-opted members so as to include only voting members of committees and sub committees or any on joint committees. Not every member of a committee or sub committee is entitled to vote. The general principle established by section 13 of the Local Government and Housing Act 1989 is that only elected Members are entitled to vote.</i></p> <p><i>There are though exceptions to this rule. The Health and Well Being Board is formally a Committee of the Council but contains voting members who are Council officers or who represent partner organisations. The code of conduct applies to these individuals.</i></p> <p><i>In addition any church and parent governor representatives on the scrutiny committee which reviews education matters have voting rights. In York that Committee is the Children, Education and Communities Policy and Scrutiny Committee.</i></p> <p><i>The Council's Audit and Governance Committee has co-opted members but they do not have a vote and are not formally covered by the Code.</i></p> <p><i>The Independent Remuneration Panel which advises on</i></p>
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	<p><i>members allowances is not a Committee of the Council. The Independent persons who advise the Standards Committee are prohibited by law from being members of the Council. Accordingly, they fall outside the definition of a co-opted member.</i></p> <p><i>The Standards Committee advises that, as part of the appointment process, candidates for these independent and co-opted roles should be asked to undertake to abide by the Nolan principles and that failure to do should result in their removal from office.</i></p>
<p>(3) A person will be acting as a Councillor or as a co-opted member when:</p> <ul style="list-style-type: none"> • Present at formal meetings of the Council. • Attending informal meetings such as briefings from Officers, Member training events etc. • Performing duties entrusted to them by the Council • Performing functions associated with the ordinary role of Councillor – such as 	<p><i>When does the code apply?</i></p> <p><i>The code applies when you are acting as such. The code sets out circumstances when the code will apply. The most difficult of these is where a Member is acting or giving the impression that they are acting as a Member.</i></p> <p><i>If you are using the title of “Councillor” in any dealings you should expect that the Standards Committee will consider you to be acting as such. This includes circumstances where you are using your Council e-mail address. However, Councillors cannot assume that by using personal e-mail, texts or other communications that they</i></p>

undertaking casework for residents

- Otherwise acting, claiming to act or giving the impression that they are acting as a Councillor or co-opted member– including, for example, when using the title of Councillor in written communications

But a person will not be acting as a Councillor or as a co-opted member when acting as a trustee or director of another organisation even where the appointment to that role was made by the Council.

have brought themselves outside the remit of the code.

Invitations to events, meetings and functions can be problematic. The question will be whether you have been invited because you are a Member of the Council or in some other capacity. An issue which has arisen is where the Member is asked to represent his or her political party on national local government bodies. The Standards Committee takes the view that in those circumstances you would not be not acting as a member of the Council.

Social media is another difficult area. As previously stated a Councillor who is using their official title is likely to be considered to be acting as such. Similarly when discussing Council business a Councillor is likely to be regarded as acting in their official capacity. You should though be aware that if you regularly use social media for Council business it may be difficult for members of the public to recognise that a particular post or tweet is not being sent in your official capacity. You could consider having more than one social media account if you feel that this could present problems for you. That will not automatically safeguard you but will be a factor in determining whether you were acting in a prorate or political capacity as opposed to as a member of the Council.

When they are seeking to secure their election (or that of anyone else) Councillors will be acting is a personal or a political capacity and not in their role as a Councillor.

	<p><i>Accordingly election activities are not covered by the code of conduct.</i></p>
<p>Definitions</p> <p>3.</p> <p>(1) A “co-opted member”, is a person who is not an elected member of the authority but who –</p> <p>(a) is a member of any committee or sub-committee of the authority, or</p> <p>(b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority and in either case is entitled to vote at any meeting of that committee or sub-committee</p>	<p><i>This defines the term co-opted member. As already mentioned only voting members are covered by the code.</i></p>
<p>(2) “meeting” means a meeting of the Council or of any committee, sub-committee, joint committee or joint sub-committee of the authority or of the Executive or any committee of the Executive.</p>	<p><i>Later in the code there are requirements to declare interests at meetings. This definition makes it clear that it is only formal meetings of the Council which are included in that requirement.</i></p> <p><i>However, in the interests of openness you should think about making your interests known in other situations particularly where failing to do so could give rise to an</i></p>

	<i>accusation that you have attempted to exercise influence inappropriately.</i>
3) A “sensitive interest” is one where you consider that disclosure of the details an interest could lead to you, or (a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees. Section 8 of this Code contains rules for dealing with such interests.	<i>Registers of interests are publicly accessible and published on the Council’s website. The Monitoring Officer may agree that for “sensitive interests” that publication is not required. This section of the Cod includes the definition of a “sensitive interest”</i>

General Duties as to Conduct

4. (1) You must treat others with respect.	<p><i>Behaviour which may breach this paragraph could include the use of abusive or demeaning language towards an individual, bullying or seeking to intimidate someone or making unjustified complaints or comments in relation to a person’s integrity.</i></p> <p><i>Within limits it is not intended to cover criticism of the performance of a political opponent or to stifle political debate. A Member who, during a political debate says: “You’re talking drivel” should expect to be called to account by the Chair but will not have breached the Code.</i></p>
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<p>(2) You must comply with the Council's protocol on Member/Officer relations</p>	<p><i>The Standards Committee takes a very dim view of bad behaviour from Members aimed at Officers. The Committee encourages senior officers to make concerns known on behalf of their staff. Where this then results in a matter being referred to a Group Leader or Whip to resolve the Committee expects a proactive response to resolve the matter.</i></p> <p><i>This does not mean that Councillors are prevented from raising concerns about the conduct or performance of Officers. However, concerns relating to individuals should be raised through the process set out in the protocol and not in public. Unlike Councillors, Officers are not free to defend themselves publicly and so higher standards are expected of Members in these circumstances.</i></p>
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<p>(3) You must not do anything which may cause the Council to breach any equality enactment.</p>	<p><i>Under the Equality Act people are not allowed to discriminate, harass or victimise another person because they have any of the protected characteristics.</i></p> <p><i>Protected characteristics are:</i></p> <ul style="list-style-type: none"> <i>Age</i> <i>Disability</i> <i>Gender reassignment</i> <i>Marriage and civil partnership</i> <i>Pregnancy and maternity</i> <i>Race</i> <i>Religion and belief</i>
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	<p><i>Sex Sexual orientation</i></p> <p><i>Direct discrimination means treating one person worse than another because of a protected characteristic</i></p> <p><i>Indirect discrimination mean putting in place a rule or policy or way of doing things that has a worse impact on someone with a protected characteristic than someone without one, when this cannot be objectively justified</i></p> <p><i>Harassment includes unwanted conduct related to a protected characteristic which has the purpose or effect or violating someone's dignity or which creates a hostile, degrading, humiliating or offensive environment for someone with a protected characteristic.</i></p> <p><i>Victimisation is treating someone unfavourably because they have taken (or might be taking) action under the Equality Act or supporting somebody who is doing so.</i></p> <p><i>The Council is liable for any discriminatory acts committed by a Councillor</i></p>
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<p>(4) You must not do anything which compromises the impartiality of anyone who works for or on behalf of the</p>	<p><i>Councillors must not engage in any activity which encourages Officers to behave in a partisan way. That</i></p>
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<p>Council, or do anything that is likely to compromise their impartiality.</p>	<p><i>could include a range of behaviours including applying pressure to write reports in a way which is supportive to a particular cause rather than in accordance with the Officer's professional opinion or use of status to secure some personal advantage such as the withdrawal of a penalty charge.</i></p> <p><i>Officers have an obligation to act in a non partisan way. While they will support the delivery of the administration's priorities their advice needs to be based on their independent professional judgement. You are free to challenge professional judgements and to disagree but must do so in an appropriate manner.</i></p> <p><i>Any behaviour which seeks to undermine the principle that Officers are politically neutral will be treated seriously by the Committee.</i></p> <p><i>The one exception to this is political assistants who are appointed to support a political group. The holders of these posts are not subject to the duty to act impartially. They are, however, still Officers of the Council and the posts they hold are politically restricted.</i></p>
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<p>(5) You must not disclose information which is confidential, unless:</p> <p>(a) You have the permission of a person</p>	<p><i>Information in this context has a wide meaning. It can cover information that is written and in hard copy or in electronic format. It can include information which has only been shared verbally. It can include images and films or even</i></p>
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<p>authorised to give it; or</p> <p>(b) You are required by law to disclose the information; or</p> <p>(c) You disclose it to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or</p> <p>(d) The disclosure is reasonable; and is in the public interest; and is made in good faith.</p>	<p><i>methods of working.</i></p> <p><i>For information to be treated as confidential it must be:</i></p> <ul style="list-style-type: none"> • <i>Confidential in nature meaning that it must have the 'necessary quality of confidence'; and</i> • <i>Disclosed in circumstances importing an obligation of confidence.</i> <p><i>In order for the information to have the 'necessary quality of confidence' it must be something which is not trivial and not public property or public knowledge.</i></p> <p><i>Labelling something as confidential will not make it confidential if the information lacks the quality of confidence. Conversely, if a confidential document is not labelled as such, that does not protect the person who discloses it inappropriately.</i></p> <p><i>An obligation to keep information confidential may either be:</i></p> <ul style="list-style-type: none"> • <i>Imposed by contract.</i> • <i>Implied because of the circumstances of disclosure. this is determined on the basis of whether a reasonable man standing in the shoes of the recipient of the information would have realised that the information was being given to him in confidence</i> • <i>Implied because of the special relationship between</i>
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the parties concerned (for example, that of Councillor and Officer).

For Members the kinds of confidential information that may commonly come into their possession depending on their roles includes:

- *Personal information about an individual's employment or financial situation or about particular services they are receiving.*
- *Commercially sensitive information about contracts the Council is considering entering*
- *Information covered by contractual confidentiality clauses*
- *Information about proposed enforcement activity*
- *Advice to the Council about its legal position covered by legal professional privilege*

Often Councillors will receive this information in reports covered by an exemption under the Local Government Act 1972 and it will be printed on coloured paper. However, that need not be the case – an obvious example is draft reports or reports which are not headed for a decision making body. These are less likely to have such information clearly separated out.

There are though situations in which confidential information can be disclosed by Members and these are

identified in the Code.

It may not always be clear who the right person is to authorise disclosure. If you find yourself in this situation you are advised to seek permission from the relevant Chief Officer.

It will be unusual for you to be required by law to disclose information. The obvious example of where this could arise is where a Court has required the information to be produced. Occasionally Members, especially Executive Members, may be asked to provide information to respond to an FOI request but disclosure in this case will be by the Council and an exemption may well be claimed in any case if information is truly confidential.

The exemption allowing for disclosures which are reasonable, in the public interest and made in good faith is not intended to create a “get out of jail” card for any Member who wants to disclose information provided to them in confidence.

The disclosure must be reasonable. In this regard the identity of the person to whom information is disclosed may be important. A disclosure to the police of alleged wrongdoing is more likely to be reasonable than a disclosure to the local media.

Disclosures relating to serious matters are more likely to be

	<p><i>reasonable than those which are less serious particularly if the disclosure may be interpreted as an attempt to secure a political advantage.</i></p> <p><i>The disclosure must be in the public interest. The public interest and the public being interested are not the same thing. There is a very strong public interest in confidential information being protected. It requires an equally strong public interest to justify disclosure without consent. This may be the case where the information shows that: a crime has been committed, a legal obligation is not being met, there has been a miscarriage of justice, a person is in danger or health and safety obligations are not being met, the environment is being damaged or some other circumstance is occurring of equivalent seriousness.</i></p> <p><i>Disclosures must be made in good faith. A disclosure made to secure a political advantage is unlikely to be seen as having been made in good faith. A Member may be expected to explain why they have not made a request for the information to be released by the Council – either through making an FOI request or simply asking the Council to publicise the matter.</i></p>
<p>(6) You must not prevent another person gaining access to information which that person is entitled by law.</p>	<p><i>This is most likely to arise in the context of subject access requests made under data protection legislation or following freedom of information requests.</i></p>

	<p><i>The Information Commissioner takes the view that Councillors are data controllers for the purposes of the Data Protection Act. She considers that some personal information which a Councillor holds for the purposes of their role will not be held on behalf of the Council. This includes, for example, personal information resulting from case work enquiries which you have received direct from a resident. If the subject of that information requests a copy you must comply unless there is a lawful reason not to. Failure to do so may lead to action under the data protection legislation but will also be a breach of this code.</i></p> <p><i>Similarly, a Councillor may hold information on behalf of the Council which become the subject of a request under the freedom of information legislation. Deliberate failures to disclose that information or attempts to destroy it after the request has been received may be both a criminal offence and a breach of the code.</i></p>
<p>(7) You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute, or your position as a Councillor into disrepute.</p>	<p><i>A member's behaviour may bring the Council or the Councillor's role into disrepute if, viewed objectively, it could reasonably be regarded as:</i></p> <ul style="list-style-type: none"> <i>• Reducing the public's confidence in the member being able to fulfil their role</i> <i>• Damaging the reputation of members generally</i> <i>• Significantly reducing confidence in the Council as a</i>

	<i>whole</i>
<p>(8) You must not use your position as a Councillor improperly to obtain any advantage or disadvantage for yourself or any other person, or attempt to do so.</p>	<p><i>The key word here is “improperly”. You are entitled (and indeed expected) to advocate on behalf of your constituents, voice objection or support on their behalf to proposals being considered by the Council and you may choose to support pressure groups. What you cannot do is use your position to further your private interests or those of your associates over the public interest.</i></p>
<p>(9) When you use or authorise the use by others of the resources of the Council you must:</p> <ul style="list-style-type: none"> (a) abide by the Council’s reasonable requirements; and (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and (c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986. 	<p><i>The Council provides Councillors with a number of resources. These include staff, access to meeting rooms, access to IT systems, an official e-mail address, use of notice boards etc.</i></p> <p><i>These resources are all provided for Council purposes. Using them for case work purposes, arranging councillor surgeries and for political group purposes is all legitimate. Using them for wider political party activities or for electoral purposes is not.</i></p> <p><i>Care must be taken when using any facilities the Council provides for publicity such as the printing of posters or the use of notice boards. The Council is legally prohibited from producing material which appears to be designed to affect support for a political party. In addition there is a statutory code of practice which the Council must follow and which it must ensure Councillors follow when using resources</i></p>

	<p><i>provided by the Council. That code of practice is accessible here:</i></p> <p>https://www.gov.uk/government/publications/recommended-code-of-practice-for-local-authority-publicity</p> <p><i>In particular you need to note the requirements in that code that publicity is even handed and that particular care needs to be taken during election periods.</i></p>
<p>(10) You must have regard to relevant advice given by the Council's Chief Financial Officer and/or Monitoring Officer when making decisions</p>	<p><i>The two officers named have particular statutory duties to ensure the proper governance of the authority. You must take account of any advice they give in their statutory roles. Members may though depart from that advice if they feel they have good reason to do so. There may be circumstances in which it is legitimate to question the advice that is being given. This could occur, for example, where the state of the law is unclear. Members who choose not to take account of advice from the statutory officers need to be in a position to justify their actions. They need to be able give reasons for their decision and the grounds on which they chose not to follow officer's advice.</i></p>
<p>(11) You must give reasons for those decisions, in accordance with any requirements imposed by law.</p>	<p><i>Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, Executive Members must give reasons for their decisions.</i></p>

<p><i>The common law position is more complex but Courts are increasingly likely to criticise Councils for failing to give reasons for decisions affecting the rights of individuals, where the Council is departing from policy or where Officer advice is not being followed. In planning cases Members will be expected to give reasons if they are not following an Officer recommendation.</i></p>

Part 3: Interests

Registration of interests

5. (1) Within 28 days of becoming a member or co-opted member, you are legally obliged to notify the Monitoring Officer of any 'disclosable pecuniary interests'. These will be included in the register of interests which is published on the Council's website

Disclosable pecuniary interests are defined by law and the definitions appear in schedule one to the code. You should look at the schedule for the full descriptions but in summary they include:

- *Your job or other paid offices you hold. This will include outside bodies to which you have been appointed by the Council where payment is made, other than proper expenses.*
- *Payments made towards your electoral expenses or your expenses as a Member*
- *Contracts between you and the Council*
- *Interests affecting land*
- *Significant shareholdings you have in companies which have a place of business or own land in York*

When you first become a Member you have 28 days to complete your register of interests. Failing to do so is a criminal offence. An allegation that this provision has been breached would be referred to the police. If the police choose to take not action the breach may still be considered for action under standards procedures.

<p>(2) Under this code you must notify the Monitoring Officer of any changes to these interests or of any new interests within 28 days of becoming aware of them.</p>	<p><i>The law only requires disclosable pecuniary interests to be registered when you first become subject to the code and for the register to be updated if the Councillor is present at a meeting where relevant business is being discussed. However, the Council has chosen to enhance this requirement by requiring any new or changed interests to be registered within 28 days. A failure to meet this requirement will not be an offence under the Localism Act but will be a breach of the code.</i></p>
<p>Disclosable Pecuniary Interests</p> <p><i>Definition of disclosable pecuniary interests</i></p> <p>(3) A ‘disclosable pecuniary interest’ is an interest of a kind described in the first schedule to this Code. An interest is disclosable if the interest is of yours or of your partner. Your partner means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.</p>	<p><i>It is not only your disclosable pecuniary interest which should be registered but also those of your husband and wife, civil partner or a person with whom you are living as if in one of those relationships.</i></p>
<p><i>Non participation in items of business in the case of disclosable pecuniary interests</i></p>	<p><i>Consequence of having a DPI</i></p> <p><i>If you have a DPI in a matter being dealt with at a formal</i></p>

(4) Where a matter arises at a meeting which relates to one of your disclosable pecuniary interests,

- (a) You may not participate in any discussion of the matter at the meeting.
- (b) You may not participate in any vote taken on the matter at the meeting.
- (c) If the interest is not registered, you must disclose the interest to the meeting.
- (d) If the interest is not registered and is not the subject of a pending notification, you are legally obliged to notify the Monitoring Officer of the interest within 28 days.

Note: In addition, Standing Orders require you to leave the room where the meeting is held while any discussion or voting takes place.

meeting of the Council you must not participate in the debate or vote. The law also requires you to declare the interest if it is not already registered and ensure that it is registered within the next 28 days. It is a criminal offence to breach these requirements.

In the City Council our standing orders require a member to withdraw from the room if they have such an interest.

What to say when you have a DPI

The law does not require you to make a declaration that you have a DPI if it is registered. However, as you will need to leave the room the Standards Committee suggest that you should make a declaration in sufficient detail to allow a member of the public to understand why you are making the declaration e.g. "this application relates to land owned by a company to which the Council has appointed me as a director".

Public Participation rights and DPI's

Government guidance says that this requirement would extend to participating as a member of the public. Many lawyers doubt that making representations as a member of the public amounts to participating in a discussion – where the Councillor is only permitted to speak to the extent that an ordinary member of the public could.. Nevertheless the Government guidance means that you may be at risk if you choose to use public participation rights where you have a

DPI. The Standards Committee would encourage you to seek a dispensation

When do you have a DPI at a meeting?

*Unfortunately the wording of the legislation upon which this part of the Code is based, is poor. It says that if a Member is present at a meeting and has a DPI in the business then they should not participate in the discussion or vote. The Council's code adopts the wording suggested in Government guidance and refers to business which **relates** to a DPI.*

Unlike the previous statutory code or the Council's requirements in respect of other interests, there is no specific reference to the significance of the interest. However, some of the Government guidance suggests that, on occasions, the significance of the interest may be relevant.

Accordingly, although council tax is a tax based on the occupation of property, the Government guidance says that Members do not have a DPI in setting the Council tax. They say that:

"Decisions on the council tax or precept do not materially affect your interest in the land. For example, it does not materially affect the value of your home, your prospects of selling that home, or how you might use or enjoy that land."

Some commentators have gone further and suggested that

*you will only have a DPI in the business if the discussion is **about** the matter which concerns your DPI. There is a small amount of case law which goes some way towards supporting this interpretation.*

*In the case of *The Queen on the Application of Freud v Oxford City Council*, Oxford University made a planning application. The Chair of the Planning Committee had registered a DPI as an employee of the University but participated in determining the application. The Court said that he did not have a DPI in the matter under discussion. He had no pecuniary interest in this subject matter. He was not in any part of the university which was promoting it. He had no contract to deal with it. He had nothing in that respect which could amount to a DPI in that matter. The Court rejected the argument that everyone who is employed by an employer has some pecuniary interest, however indirect in what that employer does.*

*This case was referred to in another case: *Kelton v Wiltshire Council v HPH LTD, HAB Housing*. In that case a developer had identified a housing association as its proposed partner for delivering affordable housing. A Councillor was a paid director of the housing association. He participated in determining the application which was passed by one vote. The Court decided that the councillor did not have a DPI. The Housing association was not the applicant and did not have a contract with the developer. In this case though the planning permission was overturned*

because it was found that there was apparent bias.

In contrast though it is worth noting that Councillor Flower of East Dorset was convicted of an offence of failing to disclose a DPI. He was appointed by the Council to a paid, directorship of a housing company which owned land that was being considered for allocation under the core strategy. He participated in the discussion and vote on the strategy. The fact that there was no direct benefit to him did not protect him from acquiring a criminal record.

In view of the difficulties in interpreting this part of the law the Standards Committee would urge Members who think that they may have a DPI to:

- *Err on the side of openness*
- *Seek advice from the Monitoring Officer*
- *Consider applying for a dispensation*
- *Remember that the Council's own requirements to declare personal interests may apply even if there is no DPI*

Health and Well Being Board Members

The Standards Committee considers that a member of the Health and Well Being Board who has that appointment by virtue of their role in the organisation they represent will not

<p><i>normally have a DPI in business affecting that organisation. In the Committee's view such an interest would only arise if the decision will have a specific and direct impact on that individual personally.</i></p>
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<p><i>Non participation in individual executive decision making in case of disclosable pecuniary interests</i></p> <p>(5) Where an Executive Member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the Executive Member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.</p>	<p><i>An Executive Member who would otherwise be making an individual executive member decision on a matter but has a DPI must notify the Monitoring Officer and not deal with the matter further. The Leader would then be able to deal with the matter or allocate it to another Member.</i></p> <p><i>The Standards Committee would also encourage any Executive Member in this position to be careful about any informal discussions they have on matters in which they have a DPI bearing in mind the potential for it to appear that they may have exerted an undue influence.</i></p>
<p>Notification of Interests</p> <p>6. (1) In addition to the disclosable pecuniary interests under this code you must, notify the Monitoring Officer of any interests you have of a kind described in the second schedule. You must make that notification within 28 days of this Code coming into effect or of you becoming a Member or co-opted Member if that is later.</p> <p>(2) You must notify the Monitoring Officer of any changes to these interests or of any new interests within 28 days of becoming aware of them.</p>	<p><i>The Council has agreed additional interests which it requires to be registered. These are detailed in schedule 2.</i></p> <p><i>They include:</i></p> <ul style="list-style-type: none"> • <i>Outside body appointments made by the Council where you have a managerial or controlling role (the Standards Committee supports the disclosure within your register of interests of any remuneration associated these appointments);</i> • <i>Membership of charitable and similar bodies</i> • <i>Membership of political parties and other organisations who aim to influence public opinion</i> • <i>The identity of anyone who has, because of your</i>

	<i>official role, given you a gift or hospitality valued at £50 or more</i>
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Disclosure of Interests

7. (1) You have a personal interest in any business of your authority where it relates to or is likely to affect you, a body named in the second schedule or any person with whom you have a close association.
- (2) You also have a personal interest in any business of your authority which relates to or is likely to affect one of your disclosable pecuniary interests in circumstances where you would not be treated as having a disclosable pecuniary interest in that business.
- (3) If you are present at a meeting and you have a personal interest in any matter to be considered or being considered at the meeting and the interest is not registered, you must disclose the interest to the meeting.

What interests does this cover?

This provision is one which the Council has agreed. It covers a much wider range of interests than those which constitute DPI's.

It is not only matters which affect you which can be a personal interest. Matters which affect or relate to those bodies listed in the second schedule are also included. In addition you will have a personal interest in matters which affect people with whom you have a close association.

As previously mentioned the Courts have accepted that some business relating to a Councillor's registered disclosable pecuniary interest may not amount to a DPI which the Councillor is obliged to declare by law. In the interests of openness this Code treats such an interest as a personal interest. So, even though no criminal offence may be committed by participating in a decision relating to that interest, you still need to consider whether the interest should be regarded as prejudicial under this code.

The Standards Committee encourages openness and for that reason it would urge you to declare personal interests (if not already registered) even where the effect of a decision on you or one of those through whom you have an interest is quite minor. That said the Committee does not expect you to declare an interest in every piece of business on which your political party or an outside body may have

adopted a policy view.

Who are my close associates?

Your close associates will include members of your family, friends and business associates or someone with whom you come into regular social contact. Casual acquaintances will not be included. In determining whether someone is a close associate it will be relevant to think about:

- *How often you meet?*
- *Do you regularly attend the same social events?*
- *Do you work together or have regular business dealings?*
- *Do you know each other's families?*
- *Do you visit each other's homes?*

You could though be a close associate of someone you do not get on with.

Do I need to check what interests my friends and family have?

You do not need to make enquiries of your close associates to ascertain what interests they may have but, if it is an interest which ought reasonably to have been known to you then the Standards Committee will expect it to have been

	<p><i>declared unless they are persuaded there is some good explanation as to why it was not known to you.</i></p>
<p>(4) If you have a personal interest and a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it would be likely to prejudice your judgement of the public interest then you have a prejudicial interest. This is subject to the exceptions set out in paragraph 7(5).</p>	<p><i>What is the effect of an interest being prejudicial?</i></p> <p><i>Having declared a personal interest (or having a registered interests in business) you may still participate in the discussion or vote unless the interest is seen to be “prejudicial”.</i></p> <p><i>When is an interest prejudicial?</i></p> <p><i>This part of the code defines prejudicial interests as those where a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it would be likely to prejudice your judgement of the public interest. This is then subject to exceptions set out in the next section.</i></p> <p><i>In judging whether an interest is prejudicial it will be relevant to consider how many people it is shared with. An interest which is shared with many people in the area is much less likely to be significant than one which affects only a few people.</i></p> <p><i>The closer the relationship the member has with the person who the business acts the more likely it is to be prejudicial.</i></p> <p><i>Business which affects a fellow Councillor, even one of the same political party, will not automatically be prejudicial It</i></p>

	<p><i>will be relevant to consider how often you meet away from Council business. When viewed objectively would others regard you as being friends?</i></p> <p><i>What do I say when declaring a prejudicial interest?</i></p> <p><i>If you have to declare a prejudicial interest the Standards Committee does not require you to necessarily provide full details. For example a declaration such as: “a friend owns land which adjoins this property” would be sufficient without identifying the friend or the specific land.</i></p>
<p>(5) You do not have a prejudicial interest in any business of the authority where that business:</p> <p>(a) does not affect your financial position, that of a person with whom you have a close association or the financial position of a person or body named in the second schedule;</p> <p>(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you, a person with whom you have a close association or any person or body described in the second schedule; or</p> <p>(c) relates to the functions of your authority in</p>	<p><i>What interests are excluded from the definition of “prejudicial”?</i></p> <p><i>This section restricts the range of interests which may be considered to be prejudicial.</i></p> <p><i>To be prejudicial an interest must be financial or relate to the determination of an approval, consent, licence, permission or registration affecting you or the person or body through which your personal interest arises.</i></p> <p><i>Certain interests are further excluded even where they come within these categories. These are interests in respect of general housing matters if you are a council tenant, interests relating to school meals or travel arising where you are a parent of a school pupil (but if the issue relates solely to the school your child attends then you may still have a prejudicial interest). Interests relating to</i></p>

<p>respect of;</p> <ul style="list-style-type: none"> (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease; (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends; (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay; (iv) an allowance, payment or indemnity given to members; (v) any ceremonial honour given to members; and (vi) setting council tax or a precept under the Local Government 	<p><i>statutory sick pay, members' allowances and ceremonial honours (including being appointed the Lord Mayor) are excluded. No prejudicial interest arises at Budget Council because you are a council tax payer.</i></p>
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Finance Act 1992.	
<p>(6) A member with a prejudicial interest must leave the room during the debate and voting on the matter in question but may remain in the room for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose.</p>	<p><i>The Council requires you to leave the room if you have a prejudicial interest. You may though exercise public participation rights and, unlike the position with a DPI, you will not need to consider seeking a dispensation.</i></p>

<p>Sensitive Interests</p> <p>8. (1) If you have a sensitive interest which is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.</p> <p>(2) If you are required to declare a sensitive interest at a meeting you need only declare the fact of the interest and not the details of the interest itself.</p>	<p><i>The register of interests is publicly accessible and available on the internet.</i></p> <p><i>If you believe that disclosure of the details an interest could lead to you, or a person connected with you, being subject to violence or intimidation you may seek the approval of the Monitoring Officer to it being treated as sensitive. If he or she agrees you will still have to notify the Monitoring Officer of the details but the interest will not appear on the public register.</i></p> <p><i>If the MO disagrees your interest must be declared as normal.</i></p> <p><i>If you need to declare such an interest at a meeting you will simply need to say that you have a personal, prejudicial or disclosable pecuniary interest in the item.</i></p>
<p>Dispensations</p> <p>9. (1) The Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting even if he or she has an disclosable pecuniary interest or a prejudicial interest. The Council may grant such a dispensation if:</p> <ul style="list-style-type: none"> • it believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or 	<p><i>The Council may grant dispensations allowing you to participate in business even where you have a disclosable pecuniary or prejudicial interest.</i></p>

<ul style="list-style-type: none"> • considers that without the dispensation the representation of different political groups would be so upset as to alter the likely outcome of any vote relating to the business • it is in the interests of the inhabitants in the Council's area to allow the member to take part; or • it is otherwise appropriate to grant a dispensation. 	
<p>2) The Council has granted the Monitoring Officer in consultation with the Chair of the Joint Standards Committee the power to grant dispensations. These can only be granted following a written request from the Member and the existence of and reason for the dispensation should be recorded in the minutes of the meeting.</p>	<p><i>The power to grant dispensations lies with the Standards Committee but it has been delegated to the Monitoring Officer acting in consultation with the Chair of the Standards Committee.</i></p> <p><i>The application must be made in writing and in sufficient time to allow the necessary consultation to take place.</i></p> <p><i>If you are granted a dispensation you should declare the fact at the meeting and it should be recorded in the minutes.</i></p>

First Schedule – Interests which are Disclosable Pecuniary Interests in accordance with the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

<i>Interest</i>	<i>Description</i>	<i>Commentary</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.	<i>This covers a range of activities from which you make an income. Importantly it includes any office to which you are appointed by the Council if you make a financial gain. The recovery of expenses which include no element of remuneration will not bring a post within this provision.</i>
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 you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.	<i>The details to be declared are those of anyone who has contributed to your expenses in the 12 months preceding you completing or updating the register. This includes payments made by a political party.</i>
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial	<i>This covers contracts between the Council and you or between the Council and your spouse, civil partner or equivalent. It covers only contracts</i>

	<p>interest) and the relevant authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>	<p><i>for the supply of goods or services. The contract need only be registered for so long as it is force. Once the contract has been fully completed it no longer needs to be registered.</i></p>
Land	<p>Any beneficial interest in land which is within the area of the relevant authority.</p>	<p><i>“Land” has a wide definition. It will include buildings on the land such as your house.</i></p> <p><i>It can include other interests in land but only where they give a right to occupy or receive income from it. You would not, for example, therefore have to register a right of way you have over a neighbour’s land. That would not be a DPI but it could create a personal interest under the Code.</i></p> <p><i>There is more than one way in which you can have a beneficial interest in land.</i></p> <ul style="list-style-type: none"> • <i>You may own the freehold</i> • <i>You may have a long lease</i> • <i>You may have a tenancy</i>

		<p><i>In each case you would normally register that interest here.</i></p> <p><i>However, sometimes the legal owners hold it on trust for a third party. In that case the person on whose behalf it is held will have the beneficial interest. As a trustee you would not have a disclosable pecuniary interest but you would still have a personal (and possibly prejudicial) interest under the Council's code in any business at a meeting affecting the land.</i></p> <p><i>If you have an interest in land other than your home it may also need to be registered here. Think about any business premises you occupy, any allotment you occupy or garage that you let separately.</i></p>
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Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer	<p><i>Licenses are another way of occupying land. They may include quite informal arrangements, for example, being a lodger in a friend's home.</i></p> <p><i>Unless you are living outside York it will be surprising for you to have neither registered a beneficial interest inland or a license.</i></p> <p><i>You also need to think about any non residential property that you have the right to occupy and which you hold on license.</i></p>
Corporate tenancies	<p>Any tenancy where (to your knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest</p>	<p><i>You will need to register here any tenancy where the Council is the landlord and the tenant is a firm in which your or your spouse etc. is a partner. This would include a company to which you have been appointed by the Council.</i></p> <p><i>The same would apply if the tenant is "body corporate" and you or your spouse etc. are a director of the body or have shares or other securities (as described below) in it.</i></p>
Securities	Any beneficial interest in securities of a	<i>If you hold shares (or other securities</i>

	<p>body where—</p> <p>(a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <ul style="list-style-type: none"> i. the total nominal value of the securities exceeds £25,000 or ii. one hundredth of the total issued share capital of that body; or <p>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.</p>	<p><i>as defined below) in a company you need to consider whether you have to register an interest here.</i></p> <p><i>The requirement only arises where the company has a place of business or own land in York.</i></p> <p><i>It is not designed to cover small shareholdings in larger companies with large numbers of shareholders. So either the nominal (not the market) value of the shares must exceed £25K or you must own more than 1% of either the total shares or those of a particular class.</i></p>
<p>These descriptions on interests are subject to the following definitions;</p> <p>“the Act” means the Localism Act 2011;</p> <p>“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;</p> <p>“director” includes a member of the committee of management of a registered society within the meaning given by section 1(1) of the Co-</p>		

operative and Community Benefit Societies Act 2014, other than a society registered as a credit union;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“relevant period” means the period of 12 months ending with the day on which you give a notification for the purposes of section 30(1) or 31(7) of the Act;

“relevant person” means you or your partner as defined in paragraph 5.3

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

Second Schedule – Other Interests required to be registered in accordance with this Code

<p>Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;</p>	<p><i>Where the Council appoints you to a management position on an outside body that appointment should be included here.</i></p>
<p>Any body —</p> <ul style="list-style-type: none"> (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), <p>of which you are a member or in a position of general control or management;</p>	<p><i>This section covers a wider range of bodies of which you are a member or in a position of management or control.</i></p> <p><i>Bodies exercising functions of a public nature will include public bodies but also other bodies which carry out a public service. It may include being on a school governing body, sitting on an NHS body or being a member of a body which performs functions which have been outsourced from the public sector.</i></p> <p><i>Bodies directed to charitable purposes will include those which are formally established as charities but will also include other non profit making bodies whose aims are broadly charitable as that is generally understood.</i></p> <p><i>The Standards Committee would consider that membership</i></p>

	<p><i>of the Freemasons and similar societies with philanthropic objectives should be registered under paragraph (b).</i></p> <p><i>If you are a member of a political party or trades union you should declare that as a body whose principal purposes include influencing public opinion. Membership of other campaigning organisations such as Greenpeace, Amnesty International etc should also be registered</i></p>
<p>Any person from whom you have received the offer of a gift or hospitality with an estimated value of more than £50 (whether or not you accept the offer) which is attributable to your position as an elected or co-opted member of the Council.</p> <p>The Council does not require the Lord Mayor or other members of the civic party who are councillors to register gifts or hospitality received in their civic capacity</p>	<p><i>You should register gifts or hospitality you are offered as a Councillor even if you do not accept it. Sometimes it may not be clear on what basis the gift or hospitality is being offered. In the interests of openness you should register any gift or hospitality which might reasonably be viewed as relating to your role as a councillor.</i></p> <p><i>If you receive a series of gifts or hospitality over a short period of time which are each below the £50 threshold but collectively would exceed it then these should be declared.</i></p> <p><i>It may not always be clear what the value is and you are not expected to ask. Bearing in mind the principles of the code you should use your best judgement. However, if the cost is readily available e.g. for a theatre ticket or sporting event, the Standards Committee is unlikely to accept lack of knowledge to be an adequate explanation.</i></p>

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Joint Standards Committee**31 January 2018****A Code of Conduct for Planning Panels****Background**

- 1) At the meeting on 19th April 2017, Members approved for consultation a draft code of conduct for Planning Panel Members. Initial and helpful feedback was received from the Communities and Equalities team who support the Ward Committees from which Planning Panels are drawn. Whilst supportive of the principles underpinning the code, they suggested that some changes to the wording could help the code being received more positively.
- 2) At the meeting on 5th July 2017, Members approved the draft code with further suggested wording changes and made further revisions to the code. A recommendation was made that further consultation with Planning Panel members of the revised draft code be carried out by the Communities and Equalities team and that any further feedback be reported back to the Committee. This consultation has now been carried out and feedback has been received from the Communities and Equalities team.
- 3) The final, up to date version of the draft code, which contains the revisions made by Members and also the Planning Panel can be found at Annex One.
- 4) Questions asked by the Panel members centred around section 2.5 of the draft code, namely whether Panel members home addresses had been added to the register. They also sought clarification as to whether the registration would include their home address or other property interests they would have in their particular Ward.

Recommendations

- 5) Members are recommended to approve the final draft code of conduct.

Reason: To ensure that Planning Panels can command public confidence.

Contact Details

Author:

Rachel Antonelli, Senior Solicitor
Legal Services
Tel No. 01904 551043

Report Approved

Date

Wards Affected: *List wards or tick box to indicate all* **All**

For further information please contact the author of the report

Annexes

Annex One – Draft Code of Conduct for Planning Panel

Background Papers:

None

Code of Conduct for Ward Planning Panel Members

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1. Background

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1.1 -Planning panels are made up of ~~residents~~resident volunteers appointed at Ward Committee meetings who come together to discuss and respond to local planning applications. Planning Panels operate in non parished areas of the city.

1.2 Planning panel representations do not have a special status in the planning system. ~~They are~~Their comments and feedback is treated in the same way as any other representations from members of the public. They receive no additional information or authority over the planning system than other members of the public. Nevertheless because the Panels have been established through the City Council there is a particular expectation that Panels will operate in accordance with high ethical standards. This Code aims to help Planning Panels to do so and is based on the Nolan principles . Members of Planning Panels should follow this code whenever they are acting in that capacity.

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2. Code of Conduct

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2.1 Selflessness

Representations put forwards by Planning Panels ~~should~~must be made in the interests of the community living in the Ward and not for any personal motive.

2.2 Integrity

Planning Panel Members must not involve themselves in applications which affect them personally. They ~~should~~must withdraw from the consideration of any application made by themselves, a relative, a friend or other close associate or their employer.

They should not take part in the consideration of any other application which might affect them more than other people in the Ward such as an application by a near neighbour.

In cases of doubt they should declare their interest and seek the opinion of other Members as to whether they can properly participate.

2.3 Objectivity

Planning panel Members must make their representations fairly and on merit. They must act without discrimination and bias.

2.4 Accountability

Planning panel Members are accountable to the Ward Committee for their work and must be prepared to respond to questions ~~form~~ from the Ward Committee in relation to it.

2.5 Openness

Planning panel Members ~~should~~ must be open as to the reasons for their representations and as to any personal interests they have in a particular application.

Planning panel Members should record their ownership or occupation of any land in the area covered by the Panel on a register ~~published on the Council's website. This information should be held by the planning team for reference should an allegation arise.~~

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2.6 Honesty

Planning panel members should be truthful.

2.7 Leadership

Planning panels ~~should~~ must work in a respectful way but Members should be prepared to challenge each other if they have reason to believe that any of the principles of this Code are being breached.

3. Private roles

3.1 Members of Planning Panels may respond to consultations on planning applications in their personal capacity and nothing in this

code prevents that. However, when doing so, they must not hold themselves out as acting as a Planning Panel member and must withdraw from the consideration of the application.

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Work Plan for Joint Standards Committee 2017-2018

<u>Meeting Date</u> (4.00pm start time)	<u>Items</u>	<u>Notes</u>
Wednesday 5 July 2017	<ul style="list-style-type: none"> • Appointment of Chair • Appointment of Vice-Chair • Monitoring report in respect of complaints received • Review of Complaints for the last municipal year 	Standard items for 1 st meeting of municipal year Standard item Annual item
Wednesday 2 August 2017	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received 	Standard item
Wednesday 4 October 2017	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received 	Standard item
Wednesday 29 November 2017	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received • Review of Member Code of Conduct • Response to Consultation - Changes to Disqualification Criteria 	Standard item
Wednesday 31 January 2018	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received • Review of CYC's Code of Conduct – Advice of the Task Group • A Code of Conduct for Planning Panels 	Standard item
Wednesday 18 April 2018	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received 	Standard item

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