

**PROTOCOL  
FOR THE OPERATION  
OF THE  
ANTRIM AND  
NEWTOWNABBEY  
PLANNING COMMITTEE**

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## INTRODUCTION

- 1 On 1 April 2015, the planning function previously delivered through the Department of the Environment's Area Planning Offices transferred to the 11 local Councils in Northern Ireland.
- 2 Elected Members should refer, as necessary, to the mandatory Councillors' Code of Conduct, guidance issued on the Code by the Commissioner for Complaints, and to any relevant advice and guidance issued by the Department in relation to planning. A copy of the Councillors' Code of Conduct is included at Appendix 1.

## **REMIT OF THE PLANNING COMMITTEE**

### ***Development Management***

- 3 The main role of the Planning Committee is to consider applications made to the Council as the local planning authority and decide whether or not they should be approved. To this end the Planning Committee has full delegated authority, meaning that the decisions of the Committee will not go to the full Council for ratification.

### ***Development Plan***

- 4 The Council is required by Section 8 of the Planning Act (Northern Ireland) 2011 to prepare a plan for its district to be known as a plan strategy. The strategy must set out the Council objectives in relation to the development land in its district, and its strategic policies for the implementation of those objectives. After the plan strategy has been adopted the Council must then prepare a local policies plan. This will set out the Council policy in relation to what type and scale of development is appropriate and where it should be located.
- 5 Both these documents comprise the Local Development Plan. This plan forms the basis for public and private investment decisions, providing a degree of certainty as to how land will be developed. In law, planning applications must be determined in accordance with the development plan unless other material considerations indicate otherwise. This means that where land is zoned for a particular use, the Planning Committee should ensure it is reserved for that use: for example, an application for housing in an area zoned for housing should be approved unless the design and layout fails in terms of the environmental, open space and access standards, or its design and layout has a detrimental impact on the character of the area or neighbouring amenity.
- 6 The Planning Committee's role in relation to the local development plan is to contribute to the development of and approve the local development plan before it is passed by resolution of the Council. The Planning Committee should also ensure that the local development plan is monitored annually, particularly in terms of the availability of housing and economic development land, and that it is reviewed every five years, giving consideration to whether there is a need to change the plan strategy or the zonings, designations and policies as contained in the local policies plan.

## **SIZE OF COMMITTEE**

- 7 The Planning Committee will be comprised of 12 Members and the quorum for meetings will be 6 Members.

- 8 The Chief Executive, the Director of Economic Development and Planning, the Deputy Director of Planning and other relevant Planning, Legal and Administration Officers will attend the Planning Committee meetings as required to do so. It is expected that the Deputy Director of Planning or their nominated deputy will attend all meetings.

### **FREQUENCY OF MEETINGS**

- 9 The Planning Committee will meet monthly. A schedule of meetings can be found on the Council's website. Meetings will be held, unless there is a requirement to be held in another location, in the Council Chamber at Mossley Mill, Carnmoney Road North, Newtownabbey, BT36 5QA.

### **ENFORCEMENT & SCHEME OF DELEGATION**

- 10 Section 31 of the Planning Act (Northern Ireland) 2011 requires each Council to introduce Schemes of Delegation.
- 11 A Scheme of Delegation for the Planning function including Enforcement matters has been agreed by the Council and is included at Appendix 2.
- 12 In addition to those cases presented to the Planning Committee, the Deputy Director of Planning or his/her nominated Officer will prepare a quarterly report on enforcement including the progress of formal enforcement cases which will be circulated to all elected Members, not just Planning Committee Members (this will include; the number of live cases, details of notices issued, prosecutions and any other information deemed relevant).
- 13 The Planning (Development Management) Regulations (NI) 2015 state that an appointed officer cannot determine an application for planning permission where the application is made by the Council or an elected Member of the Council, or the application relates to land in which the Council has an interest. Instead, these applications must be determined by the Planning Committee. The Scheme of Delegation agreed by the Council reflects these restrictions.

### **REFERRAL OF DELEGATED APPLICATIONS TO THE PLANNING COMMITTEE**

- 14 The scheme of delegation agreed by the Council includes the provision for Members (including those not on the Planning Committee) to request, where they consider it appropriate, that an application, which would normally fall within the Scheme of Delegation, can be referred to the Planning Committee for determination. In addition, the Deputy Director of Planning can also refer any matter which he/she considers suitable for determination by the Planning Committee. Members of the public cannot directly request that an application be referred to the Planning Committee. Any referral request by a Council Member must be made in writing and must clearly specify the planning grounds on which the request is being made to ensure that applications are not unduly delayed.
- 15 The number and nature of applications referred to the Planning Committee will be reviewed on a regular basis.

### **FORMAT OF PLANNING COMMITTEE MEETINGS**

- 16 The Council operates its Planning Committee having regard to its approved Standing Orders. In doing so the following procedural arrangements will apply:

- the Planning section will prepare a weekly document which will be circulated to all Members (including those not on the Planning Committee). This will comprise of 2 key components;
    - a list of all valid applications for that week, as well as;
    - a list of those applications to be delegated to Officers under the agreed Scheme of Delegation.
  - all Planning Committee Members should be sent the agenda 3 working days in advance of the meeting with a report on each application not delegated to Officers;
  - Officers will prepare an addendum report(s) to advise Members about any updated information received that is required to inform a decision since the agenda was issued, or an Officer may update the Members verbally at the meeting in respect of the same; and
  - the Chairperson and Vice Chairperson of the Planning Committee along with relevant Officers should hold a briefing session with Planning Officers on each application to be considered in advance of the Planning Committee meeting.
- 17 The Planning Committee meeting will be presided over by the Chairperson and Vice Chairperson of the Planning Committee. Following apologies, elected Members will be asked to declare any interests they have on the agenda items, which should be recorded in the minutes of the meeting. The elected Member must not speak on the item and must leave the meeting for that item.
- 18 The only exception to this rule is in cases where the elected Member is the applicant. In such circumstances, the Member will declare his/her interest at the start of the meeting and will remove themselves from the decision-making process on the application. He/she may however speak as the applicant under the Public Speaking procedures.
- 19 The Planning section will prepare a report which will be circulated in advance. The application will be presented by a Planning Officer and a recommendation made on whether the application should be approved, approved with conditions or refused. Plans and photographs may be shown as appropriate.
- 20 After the Planning Officer presents the report, elected Members will have an opportunity to listen to speakers, ask questions of the Officer relating to the proposed development and debate the case. The Planning Committee then discusses the application before taking a vote (proposed and seconded followed by a show of hands if it is an in person meeting only, or by the calling of the names of Committee Members if it is a hybrid meeting (i.e., in person and remote meeting) on whether or not to agree with the officer's recommendation. The Chairperson has a casting vote.
- 21 Should a Member wish to have their objection to a decision recorded this will be reflected in the minutes of the meeting. A recorded vote may also be requested in certain circumstances whereby the names of Members voting for and against the proposal will be recorded.
- 22 Elected Members can add conditions to a permission but they cannot amend the application itself (for example, by allowing a one-bedroom flat if the application is for a two-bedroom flat). Any additional conditions should be proposed and

seconded before being voted on by Members. Members should be aware that conditions can be tested at appeal and based on planning case law there are a number of requirements that they should therefore meet, namely that they should be necessary, relevant to planning and the development under consideration, enforceable, precise and reasonable in all other respects.

- 23 Members must be present for the entire item, including the Officer's introduction and update; otherwise they cannot take part in the debate or vote on that item.

## **PRE-DETERMINATION HEARINGS**

24 In order to enhance scrutiny of applications for major development which may raise issues with particular sensitivity for a local area, Regulation 7 of the Planning (Development Management) Regulations (NI) 2015 sets out a mandatory requirement for pre-determination hearings for those major developments which have been subject to notification (i.e. referred to the Department for call-in consideration, but that have been returned to a Council for determination). In such cases the Planning Committee will hold a hearing prior to the application being determined.

25 In addition, the Planning Committee may also hold pre-determination hearings, at its discretion, when considered necessary, to take on board local community views, as well as those in support of the development. The intention is to give applicants and those who have submitted relevant representations the opportunity to be heard by the Planning Committee before it takes a decision. This will make the application process for major development more inclusive and transparent.

26 The scope to hold these hearings is likely to apply only to those applications for major developments. The Planning Committee will therefore judge when a significant body of relevant planning objections is a sufficient material consideration to warrant a pre-determination hearing, taking account of:

- the relevance of the objections in planning terms;
- the extent to which relevant objections are representative of the community, particularly in the context of pre-application community consultation; and
- the numbers of representations against the proposal in relation to where the proposal is and the number of people likely to be affected by the proposal.

27 Any hearing should take place after the expiry of the period for making representations on the application but before the Planning Committee decides the application. It will be for the Planning Committee to decide whether it wishes to have a hearing on the same day as the related planning application is determined by the Planning Committee or to hold a separate hearing. The scale and complexity of the planning issues will have to be considered. In holding a hearing, the Planning Committee procedures can be the same as for the normal Planning Committee meetings (e.g. number of individuals to speak on either side, time available to speakers etc.). The Planning Officer will produce a report detailing the processing of the application to date and the planning issues to be considered. If the Planning Committee decides to hold the hearing on the same day as it wishes to determine the application the report to elected Members should also contain a recommendation.

28 This Planning Protocol and the Councils Standing Orders will apply to the above mentioned.

## **PUBLIC SPEAKING**

29 The following procedures will apply when conducting Planning Committee meetings:

- Planning Committee meetings will be open to the public;
- Requests to speak, including whether the person is attending in person or on-line, should be received by the Council's Planning Section (in writing to the Planning Section, Mossley Mill, Newtownabbey, BT36 5QA or by email to [planning@antrimandnewtownabbey.gov.uk](mailto:planning@antrimandnewtownabbey.gov.uk)) no later than 12.00 noon, two working days prior to the meeting setting out the planning reasons the speaker wishes to raise; any information that the speaker wishes to bring to the attention of Members of the Committee **must** also be provided at this time to the Council's Planning Section at the above address or email. Where such information is received it will be uploaded to the Planning Portal for Members attention. Speakers may fall within the groups listed below and all speakers must request to speak as outlined above. The speaking order will be as follows:
- The speaking order will be as follows:
  - Councillor not on the Planning Committee.
  - Objectors: an objector against the application or their representative – only those objectors who have made written representations on the application being considered will be permitted to speak at the Committee.
  - Supporters including Applicants: a supporter of the application including the applicant or their representative.
- Other elected Members not on the Planning Committee may attend and speak about an application but only Planning Committee Members can vote;
- Elected Members may speak for 3 minutes each, up to a maximum of 18 minutes.
- Members of the public (including agents/representatives etc.) may speak for 3 minutes each;
- In addition to elected Members addressing the Planning Committee, two people from those objecting to the proposal and two people in support of the proposal (including the applicant) should be allowed to speak. Each person will have 3 minutes each to speak. Where there is more than two requests to speak, the 6 minutes should be shared between the speakers;
- Where someone registers to speak and they subsequently do not wish to exercise their speaking rights, their 3 minutes of speaking rights cannot be transferred to another person;
- People may accompany registered speakers for the purposes of answering questions if requested by the Planning Committee.
- The Planning Committee may seek clarification of those who have spoken on any issues raised by them but not enter into a debate with them;
- No documentation should be circulated at the meeting to Members by speakers;
- Live enforcement matters will not be discussed in the public domain;
- Any defamatory, slanderous or non-planning relating matters cannot be referred to.
- applications where there will be speakers from the public should be taken first, as far as is practicable; and
- Planning Officers can address any issues raised and the Planning Committee can question Officers.

## **DECISIONS CONTRARY TO OFFICER RECOMMENDATION**

30 The Planning Committee has to reach its own decision. Officers offer advice and make a recommendation. Planning Officers' views, opinions and recommendations may, on occasion, be at odds with the views, opinions or decisions of the Planning Committee or its Members. This is acceptable where planning issues are finely balanced as there should always be scope for Members to express a different view from Officers. The Planning Committee can accept or place a different interpretation on, or give different weight to, the various arguments and material planning considerations.

### **Overturning recommendation to approve**

31 Any elected Member who does not agree with the Officer's recommendation to approve an application can propose reasons for refusal, which need to be seconded by another Member and then voted on. Any decision by the Planning Committee must be based on proper planning reasons. The Planning Officer should always be given the opportunity to explain the implications of the Planning Committee's decision. The reasons for any decisions which are made contrary to the Planning Officer's recommendation must be formally recorded in the minutes and a copy placed on the planning application file/electronic record.

32 Elected Members who reject a planning application that Officers have advised them to accept, risk being overturned on appeal (to the Planning Appeals Commission), with the potential for costs awarded against the Council if no sound reasons for the decision have been given. The Chairperson should seek the views of Officers (including the Council's legal advisers) before going to the vote in terms of reasons for refusal that are contrary to an Officer's recommendation. Officers should endeavour to summarise what are considered to be the main reasons for refusal referred to by Members during the debate and include advice on what would be reasonable and what would not be reasonable reasons for refusal. In such circumstances a recorded vote of Members names will be taken.

33 If Officers consider that the suggested planning refusal reasons are reasonable and capable of being defended on appeal, Members should vote on the reasons for refusal. If the view of Officers is that the reasons for refusal are either in whole or in part not capable of being defended, then Members should give consideration to deferring determination of the planning application until the next Planning Committee and ask for a further report (and/or site visit) to ensure it has all the relevant information it considers necessary to inform its decision. Advice and assistance should be sought from the Council's legal advisers, as necessary.

34 In the event of an appeal against a refusal of planning permission contrary to an Officer's recommendation, it is a matter for the Planning Committee to decide who should attend the appeal to defend the decision. The following options may be considered in such circumstances:

- the Planning Committee may require Planning Officers to prepare the case for written submissions and / or attend the appeal even if it is against their recommendation;
- the Members who proposed and seconded a motion to refuse consent contrary to an officer's recommendation may be called as Council's witnesses;
- planning consultants or different Planning Officers than those who made the original recommendation may be appointed.

### **Overturning recommendation to refuse**



35 If the Planning Committee decides to approve an application against an Officer's recommendation to refuse, the Planning Committee should be aware that, while there is no right of third party appeal, there is the possibility that the decision could be subject to judicial review. In such circumstances a recorded vote of Members names will be taken and the Planning Committee will decide, from amongst those Members supporting the proposal who will defend the Committee's decision in court.

### **DECISIONS CONTRARY TO LOCAL DEVELOPMENT PLAN**

36 Planning decisions should be taken in accordance with the local development plan (in so far as it is relevant to the application) unless material considerations indicate otherwise. Should a Planning Committee Member propose, second or support a decision contrary to the local development plan they will need to clearly identify and understand the planning reasons for doing so, and clearly demonstrate how these reasons justify overruling the development plan. The reasons for any decisions which are made contrary to the development plan must be formally recorded in the minutes and a copy placed on the planning application file / electronic record.

### **DEFERRALS**

37 The Planning Committee can decide to defer consideration of an application to a future meeting for further information, further negotiations or for a site visit. Such a decision should be proposed, seconded and subject to a majority vote. Members of the Committee should be aware, however, that deferrals will inevitably have an adverse effect on processing times and will prolong future meetings. Members should therefore restrict themselves, where possible, to one deferral only. In addition, there should be clear reasons why a deferral is necessary.

### **DECISIONS**

38 When the Planning Committee make a decision on a planning application the planning application cannot thereafter be withdrawn.

### **FURTHER INFORMATION**

39 Only substantial new material information received after the Planning Committee make their decision on a planning application and before the decision notice is issued, will be brought back to the Planning Committee to consider. Officers will provide Members with a quarterly report for noting outlining what information was received in such circumstances which was deemed by Officers not to be substantial new material information.

### **MINUTES**

40 Written minutes will be recorded at all Committee meetings as well as oral recordings which will be published on the Council's website. All minutes taken at Committee meetings must accurately reflect the discussions and decisions taken during the meetings as these could be used as evidence should any complaints be made about how decisions were taken. Elected Members may wish to consider taking their own notes on controversial applications.

## **SITE VISITS**

- 41 Where required, the need for site visits may be identified by Officers in consultation with the Chairperson, or they may be asked for by Planning Committee Members. It is anticipated these should only be necessary where the benefit is expected to be of considerable value to help Committee Members make a decision on a planning application (e.g. where the impact or effect of the proposed development is difficult to visualise from the plans or photographs, or the application is particularly contentious. Members of the Planning Committee should make an effort to attend these site visits.
- 42 A Planning Officer or other appropriate Officer should contact the applicant/agent to arrange access to the site. Invitations should then be sent to Members of the Planning Committee. Site visits are not an opportunity to lobby elected Members or to be used to seek to influence the outcome of a proposal prior to the Planning Committee meeting. Members of the Planning Committee are advised not to carry out their own unaccompanied site visits where they require access to land as permission may be required in such cases, and it may in some circumstances, for example, where an elected Member is seen with an applicant or objector, lead to allegations of bias. It is recommended that only Planning Committee Members, Officers, and other elected Members (for the Council area) should be permitted to attend the site visit. Where possible, the full Planning Committee should attend site visits. An administration officer or other relevant officer to the Planning Committee should record the date of the visit, attendees and any other relevant information.
- 43 However, a Member may already be familiar with the site and therefore feel there is no need to attend, or a Member may familiarise themselves with the site at their own convenience (without accessing the land), or a Member is content to make a decision based on the information before them.
- 44 Planning Officers should prepare a written report, or provide an oral update, on the site visit which should then be presented to the next Planning Committee meeting at which the application is to be determined.

## **TRAINING**

- 45 Elected Members sitting on the Planning Committee will receive training and it is recommended that participating Members continue to attend relevant training on planning matters as required and/or provided.

## **REVIEW OF DECISIONS**

- 46 On an annual basis Members of the Planning Committee should inspect a sample of implemented planning decisions in order to assess the quality of decision-making. This should include a sample of decisions delegated to Officers to give assurance that the scheme of delegation is operating effectively and in line with the Council's views.

## **LEGAL ADVISER**

- 47 The Council has a legal adviser to support the planning function and it is intended that he/she/they will attend each Planning Committee meeting.

## **APPENDIX 1**

# **THE NORTHERN IRELAND LOCAL GOVERNMENT CODE OF CONDUCT FOR COUNCILLORS**

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## 1. **INTRODUCTION**

### **Effective Date of the Northern Ireland Local Government Code of Conduct for Councillors (the Code)**

- 1.1 Parts 1 to 8 came into force on 28 May 2014 and Part 9 (Planning) shall come into force on 1 April 2015. The Code has been laid in draft and approved by a resolution of the Assembly. The Code may be amended or revised at any time but such amendment or revision is subject to the same Assembly procedure.

### **Background**

#### **The Local Government Act (Northern Ireland) 2014 (the 2014 Act)**

- 1.2 As a consequence of decisions taken by the Northern Ireland Executive on the future shape of local government, the 2014 Act contains a number of provisions for the reform of local government. These include a new ethical framework for local government in Northern Ireland, a key element of which is the introduction of a mandatory code of conduct for councillors. Previously, councillors were guided by the non-mandatory Northern Ireland Code of Local Government Conduct which issued in April 2003.
- 1.3 The 2014 Act:-
- provides for the introduction of a mandatory Northern Ireland Local Government Code of Conduct for Councillors;
  - imposes a requirement for councillors to observe the Code; and
  - establishes mechanisms for the investigation and adjudication of written complaints that a councillor has failed, or may have failed, to comply with the Code.
- 1.4 The 2014 Act requires the Department to consult councils and such associations and bodies representative of councils and council officers and such other persons as appear to it to be appropriate, before issuing or revising the Code.

## **Public expectations**

- 1.5 The Northern Ireland public has the right to expect high standards of behaviour from councillors and the manner in which they should conduct themselves in undertaking their official duties and in maintaining working relationships with fellow councillors and council employees. As a councillor, you must meet those expectations by ensuring that your conduct complies with the Code. The Code details the principles and rules of conduct which you are required to observe when acting as a councillor and in conducting council business. Therefore your behaviour will be judged against these standards of conduct.

## **Guidance**

- 1.6 To assist you in understanding your obligations under the Code, you should read the guidance available from:
- the Northern Ireland Commissioner for Complaints, on the application of the Code and the complaints procedure,
  - the Department, on planning matters, and
  - the Equality Commission for Northern Ireland on section 75 obligations.
- Information on where you can find this guidance and additional contact details are provided at Annex A.

## **2. REQUIREMENT TO COMPLY WITH THE CODE**

### **Who does the Code apply to?**

- 2.1 The Code applies to councillors of councils established in accordance with section 1 of the Local Government Act (Northern Ireland) 1972 Act (the 1972 Act) as amended by the Local Government (Boundaries) Act (Northern Ireland) 2008.
- 2.2 The Code will also apply to councillors of existing councils<sup>1</sup> and shall continue to apply until those councils are dissolved in April 2015.

<sup>1</sup> "existing councils" refers to those councils currently in place prior to the local government elections on 22 May 2014

- 2.3 The 1972 Act requires a councillor to serve on the Chief Executive of their council, a declaration of acceptance of office before they can act in the capacity of councillor. This declaration includes an undertaking that the councillor has read and will observe the Code (as revised from time to time).
- 2.4 The 2014 Act requires that a person who is not an elected person, but who becomes a Member of any committee of a council, may not act as such unless they have given a written undertaking to the Chief Executive of the council and, in the case of a joint committee, to each of the Chief Executives of the councils constituting the committee. This includes an undertaking that they have read and will observe the Code (as revised from time to time).
- 2.5 In summary, the Code applies to the following persons-
- (a) any person who is elected to office within a council,
  - (b) any person chosen under section 11(4b) of the Electoral Law Act (Northern Ireland) 1962 to fill a casual vacancy,
  - (c) any person treated as a non-voting Member by section 17 of the 2014 Act, and
  - (d) any person who is not an elected representative as mentioned in section 28(4) of the 2014 Act.

Throughout the Code, where the term "councillor" is used, it shall refer to those persons mentioned in sub-paragraphs (a) to (d) above.

- 2.6 As a councillor, it is your responsibility to make sure that you are familiar with the provisions of the Code and that you comply with those provisions.

### **When does the Code apply?**

- 2.7 You must observe the Code:
- (a) whenever you conduct the business, or are present at a meeting, of your council;
  - (b) whenever you act, claim to act or give the impression you are acting in the role of a councillor; and
  - (c) whenever you act, claim to act or give the impression you are acting as a representative of your council.



- 2.8 You must also observe the Code if you are appointed or nominated to represent your council on another body **unless:**
- (a) that body has its own code of conduct relating to its Members, in which case you must observe that code of conduct; or
  - (b) compliance with the Code conflicts with any other lawful obligations to which that body may be subject. (You must draw such conflict to the attention of your council and to the other body as soon as it becomes apparent to you.)
- 2.9 In addition to the circumstances stipulated in paragraphs 2.7 and 2.8, you must observe the Code at all times in relation to:
- (a) conduct which could reasonably be regarded as bringing your position as councillor or your council into disrepute (including such conduct that relates to your appointment to another body, even if that appointment did not arise from your position as a councillor);
  - (b) conduct relating to the procuring, advocating or encouraging of any action contrary to the Code;
  - (c) conduct relating to the improper use, or attempted use, of your position to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage; and
  - (d) conduct relating to the use, or the authorisation of the use by others, of the resources of your council.

### **Enforcement of the Code**

- 2.10 The 2014 Act gives the Northern Ireland Ombudsman, in his capacity as the Northern Ireland Commissioner for Complaints (the Commissioner), responsibility for the operation of the enforcing mechanisms of this Code. The 2014 Act extends the functions of the Commissioner's Office to include the investigation of, and adjudication on, alleged failure to comply with the Code.

- 2.11 The Commissioner may investigate written complaints from any person that a councillor (or former councillor) has failed, or may have failed, to comply with the Code. The Commissioner may also investigate cases of alleged failure to comply with the Code which come to his attention as a result of an investigation of a written complaint.
- 2.12 Where the Commissioner, having undertaken an investigation, determines that he should make an adjudication on the matters investigated, he will decide whether or not there has been a failure to comply with the Code. Where the Commissioner decides that there has been such a failure, he will decide whether no action should be taken or whether he should-
- (a) censure the person found to have failed to comply with the Code;
  - (b) suspend, or partially suspend, the person from being a councillor for a period of up to one year; or
  - (c) disqualify the person for being, or becoming, a councillor for a period of up to five years.

### 3. **PRINCIPLES OF CONDUCT**

- 3.1 The Code is based on 12 principles of conduct (the Principles), which are intended to promote the highest possible standards of behaviour for councillors. The Principles draw on the seven principles of conduct that the Committee on Standards in Public Life believed ought to underpin public life<sup>2</sup>, and the five further principles of conduct that have been adopted by the Northern Ireland Assembly. As a councillor, you must observe these Principles.
- 3.2 The rules of conduct set out in the Code (the Rules) are the specific application of the Principles. Your compliance with the Rules, which is required under the Code, will help you meet the high standards of conduct promoted by the Principles.

<sup>2</sup> Committee on Standards in Public Life, Members of Parliament, ministers, civil servants and quangos (First Report) May 1995

3.3 The 12 principles of conduct are:

### **Public Duty**

You have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in you.

You have a general duty to act in the interests of the community as a whole.

You have a special duty to your constituents and are responsible to the electorate who are the final arbiter of your conduct as a public representative.

### **Selflessness**

You should act in the public interest at all times and you should take decisions solely in terms of the public interest. You should not act in order to gain financial or other material benefits for yourself, your family, friends or associates.

### **Integrity**

You should not place yourself under any financial or other obligation to outside individuals or organisations, which might reasonably be thought by others to influence you in the performance of your duties as a councillor.

### **Objectivity**

In carrying out council business, including considering public appointments, awarding contracts or recommending individuals for rewards and benefits, you should make choices on merit.

### **Accountability**

You are accountable to the public for your decisions and actions and for the way that you carry out your responsibilities as a councillor and must submit yourself to whatever scrutiny is appropriate to your responsibilities.

### **Openness**

You should be as open as possible about the decisions and actions that you take. You should give reasons for your decisions when required and restrict information only when the wider public interest clearly demands it.

## **Honesty**

You should act honestly. You have a duty to declare any private interests relating to your public duties. You should take steps to resolve any conflicts between your private interests and public duties at once and in a way that protects the public interest.

## **Leadership**

You should promote and support these principles by leadership and example in order to establish and maintain the trust and confidence of your constituents, and to ensure the integrity of your council and its councillors in conducting business.

## **Equality**

You should promote equality of opportunity and not discriminate against any person by treating people with respect regardless of race, age, religion, gender, sexual orientation, disability, political opinion, marital status and whether or not a person has dependants.

## **Promoting Good Relations**

You should act in a way that is conducive to promoting good relations by providing a positive example for the wider community to follow and that seeks to promote a culture of respect, equity and trust and embrace diversity in all its forms.

## **Respect**

It is acknowledged that the exchange of ideas and opinions on policies may be robust but this should be kept in context and not extend to individuals being subjected to unreasonable and excessive personal attack. You should keep in mind that rude and offensive behaviour may lower the public's regard for, and confidence in, councillors and councils. You should therefore show respect and consideration for others at all times

## **Good Working Relationships**

**Between councillors** — you should work responsibly with other councillors for the benefit of the whole community. You must treat other councillors with courtesy and respect. You must abide by your council's standing orders and should promote an effective working environment within your council.

**Between councillors and council employees** - The relationship between councillors and employees must at all times be professional, courteous and based on mutual respect. You should show respect and consideration for council employees at all times and ensure that your actions do not compromise their impartiality.

## **4. RULES OF GENERAL CONDUCT**

### **Your obligations as a councillor**

- 4.1 Councillors hold public office under the law and must act:
  - (a) lawfully;
  - (b) in accordance with the Code; and
  - (c) in accordance with the standing orders of your council.
- 4.2 You must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a councillor, or your council, into disrepute.
- 4.3 You must review regularly (at least annually and when your particular circumstances change) your personal circumstances and to take steps to mitigate any conflict of interest in relation to your functions as a councillor. Such conflict may arise as a result of circumstances such as a change of business interests, a change in direct or indirect pecuniary interests required to be declared under section 28 of the 1972 Act or involvement on a new committee.
- 4.4 You must report, either through your council's own reporting procedure or directly to the proper authority, any conduct by any other person which you believe involves, or is likely to involve, criminal behaviour.

- 4.5 You must not, at any time, whether in the course of your duties as a councillor or in private, procure, advocate or encourage any action contrary to the Code.
- 4.6 You must comply with any request of the Commissioner in connection with an investigation conducted in accordance with the Commissioner's statutory powers.
- 4.7 You must not make vexatious, malicious or frivolous complaints against other councillors or anyone who works for, or on behalf of, your council.
- 4.8 You must maintain and strengthen the public trust and confidence in the integrity of your council. You must promote and support the Code at all times and encourage other councillors to follow your example.
- 4.9 You must co-operate with your council with regard to providing the necessary information to be included in the annual accounts of the council.
- 4.10 You must assist your council to act, as far as possible, in the interests of the whole community. Although individuals are entitled to pursue their own personal concerns about local issues, you must not represent their views over the wider public interests.
- 4.11 You must ensure that you are aware of your council's responsibilities under equality legislation, and that you are familiar with the relevant legislative statutes and provisions, in particular, with the obligations set out in your council's equality scheme.

This will enable you to have due regard to the need to promote equality of opportunity on grounds of age, marital status, disability, political opinion, race, religious belief, sex, sexual orientation, and whether or not people have dependants; and to have regard to the desirability of promoting good relations between people of different racial groups, religious belief or political opinion.

- 4.12 You are entitled to legally express any political opinion that you hold. In doing so, however, you should have regard to the Principles of Conduct and should not

express opinions in a manner that is manifestly in conflict with the Principles of Conduct.

### **Behaviour towards other people**

4.13 You must:

- show respect and consideration for others;
- not use bullying behaviour or harass any person; and
- not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your council.

4.14 You must work responsibly and with respect, with others and with employees of councils. The "Protocol for Relations between Councillors and Employees in Northern Ireland District Councils<sup>3</sup>", which is included as Appendix 3 in the Code of Conduct for Local Government Employees, is available on the Local Government Staff Commission's website:

[http://www.lgsc.org.uk/fs/doc/publications/EMPLOYEE\\_CODE\\_FEBRUARY\\_2004.doc](http://www.lgsc.org.uk/fs/doc/publications/EMPLOYEE_CODE_FEBRUARY_2004.doc)

### **Disclosure of information**

4.15 You must not disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required to do so by law.

### **Use of your position**

4.16 You must not:

- (a) use, or attempt to use, your position improperly to confer on, or secure, an advantage for yourself or any other person;
- (b) use, or attempt to use, your position improperly to seek preferential treatment for yourself or any other person; or

<sup>3</sup> The Department notes this Protocol is being reviewed and will update this reference to any revised version

- (c) use, or attempt to use, your position improperly to avoid a disadvantage for yourself or any other person, or to create a disadvantage for any other person.

These provisions apply both to your actions in your official capacity, including as a Member of a body to which you are appointed by the council, and to any dealings you may have with the council on a personal level (for example, as a council ratepayer, tenant, or recipient of a council service or as an applicant for a licence or consent granted by the council).

- 4.17 You must avoid any action which could lead Members of the public to believe that preferential treatment is being sought.

### **Use of council resources**

- 4.18 You must not use, or authorise others to use, the resources of your council:
- (a) imprudently;
  - (b) in breach of your council's requirements;
  - (c) unlawfully;
  - (d) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of your council or of the office to which you have been elected or appointed;
  - (e) improperly for political purposes; or
  - (f) improperly for private purposes.

### **Expenses and allowances**

- 4.19 You must observe the law and your council's rules governing the claiming of expenses and allowances in connection with your duties as a councillor

### **Acceptance and registration of gifts and hospitality**

- 4.20 You must:
- (a) in accordance with any standing orders of your council and within 28 days of receipt of any gift, hospitality, material benefit or service, which is above a value specified in a resolution of your council, provide written notification to your chief executive of the existence and nature of that gift, hospitality, material benefit or service;



- (b) not accept from anyone gifts, hospitality, material benefits or services for yourself or any other person, which might place you, or reasonably appear to place you, under an improper obligation; and
- (c) discourage gifts and offers of hospitality to any family Members which might place you, or reasonably appear to place you, under an improper obligation above a value specified in a resolution of your council, provide written notification to your chief executive of the existence and nature of that gift, hospitality, material benefit or service;

## **5 RULES RELATING TO THE REGISTRATION OF INTERESTS**

### **The role of the Chief Executive**

- 5.1 Section 62 of the 2014 Act requires every Chief Executive to ensure that their council has established and maintains a register of Member's interests. The Code recommends that a register for gifts and hospitality should also be established and maintained and that procedures are in place for dealing with relevant declarations of interests.

### **Interests**

- 5.2 Subject to paragraphs 5.4 and 5.6, you must, within 28 days of your election or appointment to office (if that is later), register your **personal interests (both financial and otherwise)** where they fall within a category mentioned below, in your council's register by providing written notification to your Chief Executive.

### **Categories of interests**

- a) any employment or business carried on by you;
- b) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated or non-remunerated director;
- c) any person, other than your council, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a councillor;

- d) any corporate body which has a place of business or land within your council's district, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
- e) any contract for goods, services or works made between your council and you or a firm in which you are a partner, an unincorporated body (i.e. Industrial & Provident Society), a company of which you are a remunerated director, or a body of the description specified in subparagraph (d) above;
- f) any land in which you have a beneficial interest and which is within your council's district;
- g) any land where the landlord is your council and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (d) above;
- h) any body to which you have been elected, appointed or nominated by your council;
- i) any —
  - (aa) public authority or body exercising functions of a public nature;
  - (bb) company, industrial and provident society, charity, or body directed to charitable purposes;
  - (cc) body whose principal purposes include the influence of public opinion or policy;
  - (dd) trade union or professional association; or
  - (ee) private club, society or association operating within your council's district, in which you have Membership or hold a position of general control or management; and
  - (dd) any land within your council's district in which you have a licence (alone or jointly with others) to occupy for 28 days or longer.

**Registration of financial and other interests and Memberships and management positions**

5.3 You must, within 28 days of becoming aware of any interest that falls within a category mentioned in paragraph 5.2 or any change to an interest already registered, register that interest or change by providing written notification to your Chief Executive.

### **Sensitive information**

5.4 Where you consider that the information relating to any of your personal interests is sensitive information, and your Chief Executive agrees, you need not include that sensitive information when registering that interest or, as the case may be, a change to the interest.

5.5 In the Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

5.6 You must, within 28 days of becoming aware of any change of circumstances which means that sensitive information previously excluded from your council's register of Members interests due to it being sensitive is no longer sensitive, notify your Chief Executive asking that the information be included in the register.

## **6. RULES RELATING TO THE DISCLOSURE AND DECLARATION OF INTERESTS**

### **Pecuniary interest**

6.1 Section 28 of the 1972 Act requires you to declare any pecuniary interest, direct or indirect, that you may have in any matter coming before any meeting of your council. Such interests will be recorded in the register kept by your council for this purpose.

6.2 You must not speak or vote on a matter in which you have a pecuniary interest. If such a matter is to be discussed by your council, you must withdraw from the meeting whilst that matter is being discussed.

### **Private or personal non-pecuniary interest**

6.3 You must also declare any significant private or personal non-pecuniary interest

in a matter arising at a council meeting. In addition to those areas set out in paragraph 5.2, an interest will also be significant where you anticipate that a decision on the matter might reasonably be deemed to benefit or disadvantage yourself to a greater extent than other council constituents. Any sensitive information mentioned in paragraphs 5.4 to 5.6 is not required to be given.

- 6.4 You must declare any significant private or personal non-pecuniary interests in a matter as soon as it becomes apparent. You must then withdraw from any council meeting (including committee or sub-committee meeting) when the matter is being discussed. It is your own personal responsibility to determine, having regard to council advice and guidance, whether you have any such interest.

### **Dispensations**

- 6.5 In exceptional circumstances, you may be able to get a dispensation to speak and vote at a council meeting in spite of a pecuniary interest. The Department may grant such a dispensation under section 29 of the 1972 Act.
- 6.6 On occasions, you may feel that it would be to your council's benefit if you were to remain in a council meeting when a matter in which you have a significant private or personal non-pecuniary interest is to be debated. Before doing so, you must consider whether your interest is so significant that it would be wrong in any circumstances for you to remain. Your council may have specific guidance on such matters. Subject to this, you may speak and vote on such a matter if **(but only if)**:
- at least half of the council or committee would otherwise be required to withdraw from the debate due to their personal interests in the matter; or
  - your withdrawal, together with that of other councillors of the council or committee who are required to withdraw due to their personal interests in the matter, would leave the council or committee without a quorum.

6.7 In those circumstances outlined in the preceding paragraph, you should take advice on the matter from a relevant senior council employee. If you decide to remain in the meeting, you must declare that decision and your reasons for doing so.

6.8 In the case of a sub-committee which is very small and where a large proportion of councillors declare a personal interest in the matter, it will usually be more appropriate for the matter to be referred to the parent committee.

6.9 It would, however, be appropriate for you to remain at a council meeting and speak and vote on a matter in which you have declared a significant private or personal non-pecuniary interest if your interest arises because you are:

- a Member of a public body; or
- a Member or supporter of a charity, voluntary body or other organisation formed for a public purpose (i.e. not for the personal benefit of Members).

However, except where you have been appointed by your council as a representative on the organisation, you must not vote (although you may speak) on any matter directly affecting the finances or property of the organisation if you are a Member of the organisation's management committee or governing body.

6.10 Section 30 of the 1972 Act requires you to disclose to the council, in writing, any relevant family relationship, as set out in paragraph (6) of that section, known to exist between you and any person you know either holds, or is a candidate for appointment to, any office in the council.

6.11 The requirement to make your relevant interests known on matters, in council and committee meetings, also applies in your dealings with council employees and in your unofficial relations with fellow councillors.

## **7. RULES RELATING TO LOBBYING AND ACCESS TO COUNCILLORS**

7.1 In order for a council to fulfil its commitment to being open, accessible, and

responsive to the needs of the public, it should encourage appropriate participation by organisations and individuals in the decision-making process. Clearly, however, the desire to involve the public and other interest groups in the decision-making process must take account of the need to ensure transparency and probity in the way in which the council conducts its business.

- 7.2 As a councillor you will need to be able to consider evidence and arguments advanced by a wide range of organisations and individuals in order to perform your duties effectively. Some of these organisations and individuals will make their views known directly to individual councillors or council committees. The rules in this Code set out how you should conduct yourself in your contacts with those who seek to influence you.
- 7.3 You may be lobbied by a wide range of people including individuals, organisations, companies and developers. As a general rule, it is an essential element of the democratic system **that** any individual should **be able** to lobby the council or a councillor.

#### **Rules of Conduct regarding lobbying**

- 7.4 If you are lobbied on matters such as applications made under regulatory powers or matters of a quasi-judicial nature, such as the determination of certain licence applications, and you will have a role in the council's decision on that matter, you must:
- 7.5 If you are asked to decide on such matters, you must not:
- (a) organise support for a particular recommendation on the matter;
  - (b) organise opposition to a particular recommendation on the matter;
  - (c) lobby other councillors about the matter;
  - (d) comply with political group decisions on the matter where these differ from your own views; or
  - (e) act as an advocate to promote a particular recommendation in relation to the matter.
- 7.6 Paragraphs 7.4 and 7.5 also apply in relation to individual staffing matters such as the appointment or discipline of employees.

- (a) make it clear that you are not in a position to lend support for or against any such application; and
- (b) direct any such representations, to the appropriate department of the council.

This does not prevent you from seeking factual information about the progress of the case.

## **8. RULES RELATING TO DECISION-MAKING**

8.1 When participating in meetings or reaching decisions regarding the business of your council, you must:

- (a) do so objectively, on the basis of the merits of the circumstances involved, and in the public interest;
- (b) have regard to any relevant advice provided by your council's officers, in particular, by the chief executive, the chief financial officer (where appropriate) or the council's legal advisers;.
- (c) take into account only relevant and material considerations and discount any irrelevant or immaterial considerations;
- (d) give reasons for your decisions, when required to do so, in the interests of fairness, openness and accountability and in accordance with any statutory requirements;
- (e) act in accordance with any relevant statutory criteria;
- (f) act fairly and be seen to act fairly;
- (g) ensure that all parties involved in the process are given a fair hearing (insofar as your role in the decision making process allows);
- (h) not prejudge or demonstrate bias, or be seen to prejudge or demonstrate bias, in respect of any decision;
- (i) not organise support for, or opposition against, a particular recommendation on the matter being considered;
- (j) not lobby other councillors on the matter being considered;
- (k) not comply with political group decisions on the matter being considered where these differ from your own views; and
- (l) not act as an advocate to promote a particular recommendation in relation to the matter being considered.

## 9. **APPLICATION OF THE CODE OF CONDUCT WITH REGARD TO PLANNING MATTERS**

- 9.1 The following section relates to the application of the Code of Conduct in relation to planning matters. This section should be applied in conjunction with the Principles and Rules of the Code.
- 9.2 Care must be taken when dealing with planning matters. All councillors will have contact with planning issues, either as advocates for or against planning applications, as Members of the planning committee, or as Members of the full council. Your specific role will vary depending on whether you are on a planning committee or not.
- 9.3 Your role as a councillor is to represent the views and aspirations of your community through development of the local development plan, discussions with developers and council planning officers or deciding on planning applications. This Code (and any associated guidance) is intended to assist you in balancing the interests of developers and interest groups with taking planning decisions, by applying your local knowledge and the advice and guidance of planning officers, in a fair, impartial and transparent way, for the benefit of the whole community. This Code applies to councillors at all times when involving themselves in the planning process, including taking part in the decision-making meetings of the council or when involved in less formal occasions, such as meetings with officers or the public. It applies equally to local plan development and planning enforcement as it does to planning applications.

### **Development management**

- 9.4 As a councillor your involvement in the development management process is crucial. Whether you sit on a planning committee or not, you can encourage developers and others to engage with the council and residents in the planning process. It is important that you represent the needs of your community in discussions with developers. Lobbying is therefore a normal and perfectly proper part of the political process.



- 9.5 However, particular considerations apply if you are a Member of the decision-making planning committee, as lobbying can lead to the impartiality and integrity of a councillor being called into question. Given that a decision on a planning application cannot be made before the planning committee meeting has been held, when all relevant information relating to the application is available and has been considered, you must not make public statements about a pending decision or state your intention to vote in a particular way before the committee meeting has taken place. However, other councillors who are not part of the decision-making process can make representations and address the relevant committee
- 9.6 It is entirely appropriate for councillors, including those who will have a decision-making responsibility, to make known to planning officers what representations from constituents and prospective developers they have received on a planning application, to attend public meetings/events and to assist constituents in making their views known to the relevant planning officer. While planning committee Members are free to attend public meetings/events they must not express a 'for' or 'against' view by advocating a position in advance of the decision-making meeting.
- 9.7 If you are a Member of the planning committee and an approach is made to you by an applicant, agent or other interested party in relation to an existing or proposed planning application, you should restrict yourself to either giving procedural advice (e.g. advising those who are lobbying that they should contact the relevant planning officer so their opinions can be included in the officer's report to the committee) or advise them to write or speak to a Member who is not on the planning committee. This does not mean that Members who are on planning committees should not listen to the views the lobbyist wishes to express.
- 9.8 If, however, as a planning committee Member, you decide you cannot remain impartial and wish to make representations on behalf of constituents or other parties, you may attend a committee meeting and make representations, after which you must leave the room while the Members consider it and not take part in the voting.

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

- 9.9 You must not seek to apply undue pressure towards planning officers to provide a particular recommendation on any planning decision. If you propose, second or support a decision contrary to an officer's recommendation, you must only do so on the basis of sound planning considerations which must fairly and reasonably relate to the application concerned. These considerations include planning policy, landscaping, impact on the neighbourhood, planning history, etc.

### **Decisions contrary to the local development plan**

- 9.10 If you propose, second or support a decision contrary to the development plan, you must only do so on the basis of sound planning considerations, which must fairly and reasonably relate to the application concerned, and you must clearly demonstrate how these considerations justify overruling the development plan.

### **Policy and strategic issues**

- 9.11 Councillors have a vital role in facilitating engagement with their communities in the production of planning policy by encouraging them to express their views on the plan-making process. In your key role in establishing planning policies for the area, you are fully entitled to express your views or advocate proposals for the making, approval or amendment of the development plan, including supplementary planning guidance published by the council.
- 9.12 Planning legislation requires councillors of a council to determine all planning applications in accordance with the development plan, unless material considerations indicate otherwise. You must undertake this responsibility without undue influence or personal interest.

### **Other interests**

- 9.13 If you have substantial land, property or other interests which would prevent you from voting on a regular basis, you must not sit on a decision-making committee that deals with planning applications.

- 9.14 You must not act on behalf of, or as an agent for, an applicant for planning permission with the council other than in the course of your professional role which you have registered.
- 9.15 You must not take any further part in the development management process following submission of an application for yourself or for a family Member, friend or close personal associate. You have the same rights to explain your proposal to an officer but you must not seek to improperly influence the decision.
- 9.16 If you work as a lobbyist for a developer, you must declare this as an interest and you should not then be involved in any decision-making process relating to or potentially affecting that developer.

### **Unauthorised development**

- 9.17 If you are made aware of an unauthorised development and you refer the matter to the council for possible enforcement action, you must advise all subsequent inquirers to deal directly with the relevant department/officer, and you should not lobby for a particular outcome. This does not prevent you from seeking factual information about the progress of the case.
- 9.18 Where you have an interest in the outcome of a planning committee decision on enforcement action, you must disclose that interest and not take part in, or seek to influence, the decision.

**Annex A**

**SOURCES OF GUIDANCE RELATING TO THE CODE**

<p><b>The Northern Ireland Commissioner for Complaints</b></p>	<p><b>Equality Commission for Northern Ireland</b></p>
<p> <b>Telephone</b> : 028 902 33821 <b>OR</b>  <b>Text phone</b> : 028 908 97789  <b>OR</b>  <b>Email</b> : <a href="mailto:ombudsman@ni-ombudsman.org.uk">ombudsman@ni-ombudsman.org.uk</a>  <b>OR Via Post</b>             The Ombudsman            Freepost <b>BEL</b> 1478            Belfast            BT1 6BR   <b>OR</b>             The Ombudsman            33 Wellington Place            Belfast             BT1 6HN         </p>	<p> <b>Equality House</b>  <b>7 - 9 Shaftesbury Square</b>  <b>Belfast</b>  <b>BT2 7DP</b>   <b>Telephone</b> : 028 90 500 600  <b>Textphone</b> : 028 90 500 589  <b>Fax</b> : 028 90 248 687  <b>Email</b> : <a href="mailto:information@equalityni.org">information@equalityni.org</a>   <b>Website</b>: <a href="http://www.equalityni.org">www.equalityni.org</a> </p>
<p><b>The Department of the Environment</b></p>	
<p>           Local Government Policy Division 1            Causeway Exchange            1-7 Bedford Street            Town Parks            Belfast, BT2 7EG.   <b>Website</b>: <a href="http://www.doeni.gov.uk">www.doeni.gov.uk</a>  <b>E-mail</b>: <a href="mailto:LGPD@doeni.gov.uk">LGPD@doeni.gov.uk</a>  <b>Textphone</b> 028 905 40642         </p>	

**GLOSSARY**

In this Code:

**"the 1972 Act"** means the Local Government Act (Northern Ireland) 1972;

**"the 2014 Act"** means the Local Government Act (Northern Ireland) 2014;

**"Councillor"** for the purposes of this Code means-

- (a) any person who is elected to office within a council,
- (b) any person chosen under section 11(4b) of the Electoral Law Act (Northern Ireland) 1962 to fill a casual vacancy,
- (c) any person treated as a non-voting Member by section 21 of the 2014 Act, and
- (d) any person who is not an elected representative as mentioned in section 32(4) of the 2014 Act;

**"council"** means the council of a local government district established in accordance with the Local Government (Boundaries) Act (Northern Ireland) 2008<sup>4</sup>;

**"Chief Executive"**, means a person appointed as clerk of a council; and

**"meeting"** means any meeting—

- (a) of the relevant council or of a committee or sub-committee of the relevant council,
- (b) of the executive of the relevant council or of a committee or subcommittee of the executive of the relevant council,
- (c) of a joint committee or sub-committee of a joint committee which includes the relevant council, or
- (d) where Members or officers of the relevant council are present, including circumstances where a Member of an executive or officer of the council, acting alone exercises a function of the council.

<sup>4</sup> Until 31 March 2015, "council" shall also include those councils in place prior to the Local Government Elections of 22 May 2014 and the Code shall apply to the councillors of those councils.

## **SANCTIONS APPLIED BY THE COMMISSIONER**

Under section 62(3) of the Local Government Act (Northern Ireland) 2014, where the Commissioner decides that a person has failed to comply with the Code, the Commissioner must decide whether no action should be taken or whether the nature of the failure is such that the Commissioner should-

- a. censure the person in such terms as the Commissioner thinks appropriate;
- b. suspend or partially suspend the person from being a councillor for such a period, and in the way, as the Commissioner thinks appropriate. However, that period shall not exceed one year or, if shorter, the remainder of the person's term of office; or
- c. disqualify the person for being, or becoming (whether by election or otherwise) a councillor, for such a period as the Commissioner thinks appropriate but not exceeding five years.

## Appendix 2

### **Scheme of Delegation: Delegation of Planning Applications, Enforcement, Local Development Plan and other Planning Matters (Revised December 2020, March 2022)**

#### **Introduction**

Part 4 Section 7 (4) (b) Local Government Act (Northern Ireland) 2014 allows a Council Committee to delegate certain matters to an officer of the Council. In relation to the scheme of delegation for planning applications, enforcement, local development plan and other planning matters the person appointed by the Council to exercise delegated powers is the Deputy Director of Planning within the Council and those Senior Officers<sup>1</sup> nominated by this Officer in writing (the "Appointed Officers").

Where the Council gives authority for the implementation of any duty under this scheme of delegation, the Appointed Officers shall be entitled to take all necessary steps for the completion of such a duty.

Nothing in this Scheme of Delegation shall prejudice the validity of any actions taken by the Appointed Officers under any other scheme or power.

#### **Delegation of Planning Applications**

This scheme of delegation (as revised) for the determination of planning applications has been agreed by Antrim and Newtownabbey Borough Council and approved by the Department for Infrastructure. The scheme of delegation (as revised) is in accordance with Section 31 of The Planning Act (NI) 2011 and takes effect on 1 May 2022.

#### **Part A – Planning Applications required under the Planning Act to be determined by the Planning Committee**

Statutory provisions within the Planning Act (NI) 2011 require that certain types of planning application must be determined by the Planning Committee. Accordingly, the following categories of application cannot be delegated to officers:

- (a) An application that falls within the Major category of development;
- (b) An application for planning permission where the application is made by the Council or an elected Member of the Council, and
- (c) An application relating to land in which the Council has an interest.

#### **Part B – Delegated Planning Applications**

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<sup>1</sup> For the purposes of this scheme of delegation a senior officer is defined as Head of Planning Development Management, Legal Officer, Principal Planning Officer or a Senior Planning Officer employed by the Council.

The Council has agreed that the person appointed is empowered to determine all planning applications that fall within the Local category of development whether for approval or refusal with the following exceptions:

- (a) An application made by a Senior Officer of the Council (Head of Service or above), a staff member of the Planning Section or their immediate families or the immediate family<sup>2</sup> of an elected Member.
- (b) An application that would introduce fundamental changes to a major application that has been determined by the Planning Committee;
- (c) An application which is a significant departure from the Development Plan and which is recommended for approval.
- (d) An application subject to objections from more than 2 postal addresses within the Neighbour Notification area or 5 objections from occupied properties in the wider area;
- (e) An application recommended for refusal, except where the refusal decision relates to:
  - a retrospective application where there is an Enforcement Notice in place;
  - cases where information required to determine the application has not been submitted following a reasonable request; or
  - an application for an advertisement(s) not located within the curtilage of the business premises to which it relates.
- (f) An application which the Deputy Director of Planning considers should be considered and decided by the Committee;
- (g) An application where a legal agreement under Section 76 of Planning Act (Northern Ireland) 2011 is required; and
- (h) An application which is referred to the Committee by a Member of the Council. Any such referral must be made in writing to the Head of Planning within 21 calendar days of validation of the application and accompanied by a sound planning reason.

## **Delegation of Enforcement and other Planning Matters**

### **Part C – Enforcement**

As well as determining planning applications, the Council is also responsible for the enforcement of planning control and a range of other planning matters, including the processing of other planning consents.

The Council has agreed that all matters associated with the enforcement of planning control are delegated to the person appointed by the Council with the following exceptions:

- (a) The service of an Enforcement Notice, Listed Building Enforcement Notice, Stop Notice, Temporary Stop Notice, Breach of Condition Notice or Fixed Penalty Notice, except in the following circumstances:
  - where the person appointed considers the breach of planning control could result in immediate public danger or development which may result in permanent damage to the environment. Examples include: the demolition of, or works to, a listed building; the felling of protected trees; the demolition of a building in a conservation area; or the commencement of building operations without permission; or

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<sup>2</sup> For the purposes of this scheme of delegation immediate family refers to a spouse, partner, children and parents.



- it relates to service of Notices on an existing offender in relation to any further breach(es) of control on the same site, or adjoining lands within the same ownership, in cases where formal action has already been taken. The service of any such Notice will be reported to the next available Planning Committee for ratification.

- (b) The instigation of court proceedings with the exception of direct offences in relation to advertisement control, Tree Preservation Orders, Conservation Areas and Listed Buildings and prosecution for non-compliance with a Planning Contravention Notice and a Submission Notice as well as non-compliance with any formal Notices or action taken by the Council. Court proceedings will be reported in the Quarterly Enforcement Report; and
- (c) Any other enforcement matter which the Deputy Director of Planning considers should be considered and decided by the Committee.

#### **Part D – Determination of other Planning Matters**

In relation to other planning responsibilities the Council has agreed that the following matters are also delegated to the person appointed:

The issuing of a certificate of lawful use or development;

- (a) The making of a non-material change to a planning permission;
- (b) The discharge of planning conditions;
- (c) The issuing of a correction notice (once this provision is commenced);
- (d) The power to formulate the precise wording of decision notices following decisions made by the Planning Committee;
- (e) The power to provide draft conditions or reasons of refusal (as appropriate) to the Planning Appeals Commission on Non-Determination Appeals subject to the agreement of the Chair and Vice-Chair of the Planning Committee; and
- (f) The screening of and determination decisions on development proposals required under the Environmental Impact Assessment or Habitats Regulations.

The Council has also agreed that the following matters are delegated to the person appointed subject to the same exceptions set out under Part B above:

- (g) Determination of any application for listed building consent;
- (h) Determination of any application for conservation area consent;
- (i) Determination of any application for advertisement consent;
- (j) Determination of any application to carry out works to a protected tree (i.e. a tree the subject of a Tree Preservation Order); and
- (k) Determination of any hazardous substance consent.

The Council has also agreed that the following matters are delegated to the person appointed in circumstances where awaiting the Planning Committee meeting could result in serious environmental or amenity damage arising:

- (l) The serving of a Provisional Tree Preservation Order; and
- (m) The affixing of a Building Preservation Notice.

The use of these powers will be reported to the next available Planning Committee meeting for ratification.

## **Delegation of Local Development Plan Matters**

### **Part E – Local Development Plan**

(a) The Appointed Officers shall be entitled to represent the Council at any Independent Examination held under section 10 (1) of the Planning Act (Northern Ireland) 2011.

(b) During the course of any Independent Examination held under section 10 (1) of the Planning Act (Northern Ireland) 2011, the Appointed Officers may carry out the functions set out in (i) below:

- (i) propose and agree on behalf of the Council minor modifications to the development plan document which is under examination.

(c) For the purposes of this Scheme of delegation, "minor modifications" means typographical, clarificatory, or factual modifications which do not, in the judgement of the Appointed Officers, materially alter the operation of substance of the development plan document or relevant policies within it.

(d) During the course of any Independent Examination held under Section 10 (1) of the Planning Act (Northern Ireland) 2011, the Appointed Officers may carry out the functions set out in (i) below, but only in accordance with the conditions set out in paragraph (e) below:

- (i) propose and agree on behalf of the Council to modifications to the development plan document which go beyond "minor modifications" (as defined in this Scheme), but which do not amount to a "major change" as defined in Part 2, Article 2 of the Constitution (defined in this Scheme as "non-minor modifications").

(e) Before proposing or agreeing to "non-minor modifications", the Appointed Officers must first bring the matter to the Planning Committee for decision. Where there is not enough time to wait for a Planning Committee meeting or to schedule a special meeting of the Planning Committee, Officers will consult with Members of the Planning Committee and having done so, the Appointed Officers may only propose or agree to the non-minor modifications in question if a majority of those Members have indicated in writing that they consent to the Appointed Officers doing so.

### **Part F – Publicity**

The Council has made a copy of this Scheme of Delegation available on the Council's website at [www.antrimandnewtownabbey.gov.uk](http://www.antrimandnewtownabbey.gov.uk) and it is also available on request at the Council's offices in Mossley Mill and Antrim Civic Centre.

A Public Notice for the scheme of delegation (as revised) has been placed in the local press.

### **Part G – Review**

This Scheme of Delegation will be subject to review by the Planning Committee every 2 years or at any such time as requested by more than 50% of the Members of the Committee.