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**North
Northamptonshire
Council**

Meeting: Democracy and Standards Committee

Date: Tuesday 16th November, 2021

Time: 7.00 pm

Venue: Council Chamber Swanspool House Wellingborough NN8 1BP


To:

Members of the Democracy and Standards Committee:

Councillors Lora Lawman (Chair), Macaulay Nicholl (Vice-Chair), Lyn Buckingham, Emily Fedorowycz, Kirk Harrison, Gill Mercer and Michael Tye.

Substitutes:

Councillors Paul Bell, Jonathan Ekins, Philip Irwin and Kevin Watt (Conservative), Dez Dell (Green Alliance) and Leanne Buckingham (Labour).

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<p>Adele Wylie, Monitoring Officer North Northamptonshire Council</p>  <p>Proper Officer Monday 8 November 2021</p>			

This agenda has been published by Democratic Services.

Committee Administrator:

Carol Mundy

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✉ **Carol.Mundy@northnorthants.gov.uk**

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Members' Declarations of Interest

Members are reminded of their duty to ensure they abide by the approved Member Code of Conduct whilst undertaking their role as a Councillor. Where a matter arises at a meeting which **relates to** a Disclosable Pecuniary Interest, you must declare the interest, not participate in any discussion or vote on the matter and must not remain in the room unless granted a dispensation.

Where a matter arises at a meeting which **relates to** other Registerable Interests, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but must not take part in any vote on the matter unless you have been granted a dispensation.

Where a matter arises at a meeting which **relates to** your own financial interest (and is not a Disclosable Pecuniary Interest) or **relates to** a financial interest of a relative, friend or close associate, you must disclose the interest and not vote on the matter unless granted a dispensation. You may speak on the matter only if members of the public are also allowed to speak at the meeting.

Members are reminded that they should continue to adhere to the Council's approved rules and protocols during the conduct of meetings. These are contained in the Council's approved Constitution.

If Members have any queries as to whether a Declaration of Interest should be made please contact the Monitoring Officer at – monitoringofficer@northnorthants.gov.uk

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Minutes of a meeting of the Democracy and Standards Committee

Held at 7pm on Thursday 16 September 2021 in the Council Chamber,
The Corby Cube, George Street, Parklands Gateway, Corby, NN17 1QG

Present:

Members:

Councillor Lora Lawman (Chair)
Councillor Lyn Buckingham
Councillor Emily Fedorowycz
Councillor Kirk Harrison

Councillor Macaulay Andrew Nichol
Councillor Gill Mercer
Councillor Michael Tye

Officers:

Adele Wylie, Director of Legal &
Democratic Services

Carol Mundy,
Senior Democratic Services Officer
(Committees/Members)

17 Apologies for non-attendance

There were no apologies.

18 Members' Declaration of Interest

There were no declarations.

19 Minutes of the meeting held on 26 July 2021

RESOLVED that the minutes of the meeting held on 26 July 2021 be confirmed and signed.

20 Notifications received to address the meeting

A request to address the meeting had been received from Mr R Dixon in relation to report 4 of the agenda, North Northamptonshire Constitution. The chairman permitted Mr Dixon to speak.

He commented on the proposed recommendation from the Constitution Review Working Group contained in Appendix A points 2.2 and 2.3 of such report. He considered that the planning officer should continue to provide the committee with updates, but not actually present the report, as the committee members would already have received and read such report. He also considered that the said planning officer should then be permitted to speak again at the end after all other speakers to answer any questions and clarify any points raised. He also further referenced 2.3 and considered that more than one person should routinely be allowed to speak for and against and suggested that a fairer number would be three he also considered that the number of speakers permitted should be at the chair's discretion dependent on the application and the demands of the public to address a meeting.

The chairman thanked Mr Dixon for his comments

21 North Northamptonshire Constitution

The annexed circulated report of the director of legal and democratic services was received to recommend amendments to the Constitution to provide clarity and reinforce best practice.

The constitutional review working group, at its meeting on 23 August 2021, proposed changes to the Constitution as highlighted in red in Appendix A to this report, for recommendation to full Council or for approval under the monitoring officer's delegated powers.

The chair referenced the amendments and asked members for their comments thereon.

Councillors discussed the comments made by Mr Dixon, who was also asked to provide his presentation to the chair. Some members suggested that it was not necessary for a planning officer to present the report and that to provide an update at the beginning of an item was adequate. Other members considered that the planning officer presenting the report, along with an update, was useful. At 2.3 it was agreed that the planning officer should also be able to sum up, following other speakers, to clarify any outstanding comments and points. The monitoring officer confirmed that she could add this to 2.3 as point f). Members confirmed this would be acceptable.

In relation to the permitted number of speakers, some members were concerned that public participation was being suppressed and that the number of speakers should depend on the type of application and the public interest on an application. It was pointed out that the public had several ways to comment on a planning application and that public speaking was not the only option available to them. It was also commented that speaker numbers would need to be carefully managed to prevent duplication of issues raised and that potentially a reduction in the time for each speaker could be implemented. It was considered that this was covered within the constitution at 2.5 as the chair could use their discretion to permit more speakers if appropriate.

The monitoring officer referred to the amendments as detailed in red and clarified that she had delegated powers to make minor amendments to the Constitution rather than it being put before council. She also clarified that an update to the Constitution would be available on the website and that a printed copy of amended pages could be provided if members wished to have them.

The recommendation to committee was proposed by Councillor G Mercer and seconded by Councillor Nichol. On being put to the vote it was declared carried.

RESOLVED to:

- (i) **Recommend** the proposed changes to the procedures for speaking at Planning Committee within the Constitution, with the addition of the planning officer being allowed to speak again, after the other speakers at point 2.3 f);

- (ii) note that minor and consequential amendments to the Constitution, as detailed in Appendix A, be made by the monitoring officer under her delegated power.

22 Outside Bodies Procedure Rules

The annexed circulated report of the director of legal and democratic services was received to recommend the approval to full Council of the Outside Bodies Procedure Rules for inclusion in the Constitution.

The monitoring officer clarified that 'Outside Bodies' were external organisations and partnerships, to which an elected member had been appointed. The procedure rules, as appended to the report, detailed how the list of outside bodies had been compiled and how it would be maintained, and considered national, regional and local organisations and the level of involvement required from councillors. The outside bodies would also be reviewed each year prior to annual council, where nominations and appointments would be made thereto. She also clarified that guidance notes would be issued to outside bodies to ensure that the correct governance structure, Insurance and other items were in place as appropriate.

Members thanked the monitoring officer for the work that had gone into condensing the outside bodies into a manageable list and considered that it would be beneficial for town and parish representatives to have the opportunity to be involved with some community based outside bodies. The monitoring officer clarified that there would be opportunities for this to happen. There would also be an opportunity for nominations and appointments to be made at the council meeting.

RESOLVED to recommend to full council that these rules be approved and included in the council's Constitution.

23 Draft Constitutional Amendments

The annexed circulated report of the director of legal and democratic services was received to consider potential amendments to the Constitution.

Following consideration by the constitutional review working group at its meeting on 23 August 2021, suggested amendments were proposed to be made in relation to:

- Substitute Allocations;
- Democracy and Standards Committee Voting Rights;
- Start time of full Council meetings

These were discussed in more detail by members.

Substitute Allocations

In summary it was proposed that guidance be put in place in relation to the substitute arrangements for all the council's committees as detailed in Appendix A to the report. The monitoring officer confirmed that a member submitting their apology for a meeting needed to contact one of the substitute members as soon as possible to ask them to attend in their place. She clarified that democratic service officers issued the agenda

and reports to all members of the committee along with the substitutes to ensure they were aware of the meeting.

Democracy and Standards Committee Voting Rights

It was proposed that caveats, as detailed in Appendix B to the report, be placed upon what Town and Parish Council representatives would be permitted to vote upon, in relation to the committee's responsibilities. The main purpose of the Town and Parish representative's role related to the 'standards regime' and the member code of conduct. The Constitution did not stipulate any restrictions on what the representatives could vote upon, and it was considered inappropriate for the representatives to be able to vote upon issues which did not directly fall under their responsibility.

Members raised general concern over the appointment of Town and Parish representatives on the committee and the potential political balance implications of the representatives. There was also concern over the quorum of meetings and the terms of reference.

The monitoring officer responded and confirmed that the quorum of the committee was adequate as substitutes were in place to be called upon should a member submit apologies. If members wished a review could be undertaken of the terms of reference and voting rights of the committee by the Constitutional Review Working Group, this would result in the recruitment of town and parish council representatives being delayed.

Members considered the options and agreed to defer this item to enable the working group to carry out a review.

Start time of Full Council Meetings

As detailed in Appendix C, it was suggested that the normal start time of full council meetings be moved from 7pm to 2pm (whilst recognising that the full Council budget meeting may need to commence earlier). The constitutional working group had considered this change thoroughly. There had been some concern that bringing the start time of full council meetings forward may create difficulties for some councillors, however, it was noted that council meetings were infrequent and that a 7pm meeting running late into the evening was also not conducive to decision-making. It was noted that in some circumstances, councillors were allowed time off from work for public duties and that a start time of 2pm would allow for work in the morning.

Members discussed this item at length. The main area of concern was over the start time change potentially preventing members of the public from contributing to meetings. Other councillors mooted that this was generally not the case, and that daytime meetings encouraged attendance, due to the availability of public transport and the public feeling happier to attend a meeting in the daytime.

Reference was made to the council meeting held in July which concluded after 11pm. Many councillors had complained that decision making late at night, was not the best way forward and that there was a duty of care to both councillors and council employees over the hours worked along with the concern of travelling home late at night. Working councillors often attended meetings straight from their workplace, with work again the following morning. It was felt that most employers would enable a

working councillor to take half a day off as annual leave a few times per year and that before putting themselves forward as councillors they would have been informed that some council work would need to be carried out during the day time.

Some members asked if rather than updating the constitution at this point, there could be a trial period of different time options. It was also noted that the Constitution stipulated that the chair had discretion to call a meeting at a different place or time. It was also commented that some members needed to be curtailed from speaking at length during meetings, as sometimes it was deemed unnecessary and repetitive. Other suggestions included the reduction of the number of agenda items, giving more delegation to officers, or meeting on a Saturday. It was also strongly felt that the time of the budget meeting should be brought forward to 10am so that both members and the public were aware of this well in advance. Should it be agreed that the time of the meeting be changed, it was suggested that this be a pilot and that it be subject to review.

The monitoring officer was asked where future meetings would be held as many councillors felt that meeting in one location prohibited the public from attending in the evening due to the lack of public transport. A question was also raised about webcasting and participation through Zoom which some considered had been more effective for public participation and inclusivity.

The monitoring officer confirmed that a decision on location for meetings had yet to be agreed. The Council Chamber at the Corby Cube would be used for the next council meeting in September and equipment would be hired in to enable the meeting to be webcast so the public could participate by watching the meeting. She clarified that there was currently no legislation in place to permit Zoom meetings.

After a lengthy debate the following was proposed by Councillor L Lawman and seconded by Councillor Nichol:

- (a) that it be recommended that the substitute allocations set out at Appendix A be approved;
- (b) that the constitutional review working group carry out a review of the democracy and standards voting rights and terms of reference and report back in due course;
- (c) that it be recommended to council that the time for full council meetings be 2pm, other than the Council meeting to discuss the budget which should commence at 10am.

A request was made that the following additional words 'subject to review prior to the Annual Council meeting' be included at (c) above. This addition was agreed.

On being put to the vote the motion and agreed addition was unanimously declared carried.

RESOLVED that:

- (i) it be **recommended** that the proposal for substitute allocations as set out in Appendix A to the report be approved for inclusion in the constitution;

- (ii) the proposal for democracy and standards committee voting rights be deferred to enable a review of this, and the terms of reference, to be carried out by the constitutional review working group;
- (iii) it be **recommended** that the proposal for an amended commencement time of 2pm for full council meetings be approved, with the exception that the budget setting council meeting commence at 10am, this would be subject to review prior to the Annual Council meeting.

Chair

Date

The meeting closed at 8.25pm

Democracy and Standards Committee 16th November 2021

Report Title	Democracy and Standards Committee – Constitutional Amendments
Report Author	Adele Wylie – Director of Legal & Democratic Services (Monitoring Officer) adele.wylie@northnorthants.gov.uk

There are no constitutional amendments to report at this meeting.

Democracy and Standards Committee 16th November 2021

Report Title	Democracy and Standards Committee – Terms of Reference
Report Author	Adele Wylie – Director of Legal & Democratic Services (Monitoring Officer) adele.wylie@northnorthants.gov.uk

List of Appendices

Appendix A – Draft Democracy and Standards Committee – Terms of Reference

1. Purpose of Report

- 1.1. For the committee to recommend to Full Council approval of amended Terms of Reference for the Democracy and Standards Committee.

2. Executive Summary

- 2.1 The current Terms of Reference for the committee were included in the Council's Constitution approved by Annual Council on 25th March 2021. The Constitution had largely been drafted by the previous Shadow Authority.
- 2.2 The committee is being requested to agree amended Terms of Reference for the committee, which if agreed, would be forwarded to Full Council for approval.

3. Recommendations

- 3.1 It is recommended that the committee:
- Agree the draft Terms of Reference (Appendix A) and forward to Full Council with a recommendation to approve;
 - If (a) above is agreed, request that Full Council authorise the Monitoring Officer to arrange for a pool of town or parish councillors (a maximum of 4) to be recruited and the successful nominees to be ratified by the Democracy and Standards Committee; and
 - If (a) and (b) above be agreed, request that Full Council authorise the monitoring officer to make any ancillary amendments to the Constitution as required.

3.2 Reason for Recommendations –

- To ensure the Terms of Reference of the committee is appropriate and assist in effective and efficient decision making.

4. Report Background

- 4.1 The Democracy and Standards Committee has overall responsibility for reviewing the Council's Constitution and decision-making governance and recommending any proposed changes to Full Council. In addition, the committee is responsible for monitoring the effectiveness of the "standards regime", the Code of Conduct and determining allegations of breaches of said Code by councillors through the approved procedure.
- 4.2 The current terms of reference allow for a committee membership comprised of seven x North Northamptonshire Councillors (NNC), two x town councillors and two x parish councillors.
- 4.3 Under the "standards regime" the involvement of town or parish representatives is a vitally important component when the authority is considering allegations of breaches of the Code of Conduct by a town or parish councillor.
- 4.4 The current arrangements have been in place for over 6-months. Up to this point there has been no recruitment into the vacant positions of town and parish representatives, as prescribed in the current terms of reference.
- 4.5 If the suggested amendments are agreed, it is intended to take forward recruitment to the positions of town and parish representatives; there would be a pool of four representatives, whose appointment would be determined by the committee. These four representatives would not be full members of the committee but would be called upon to assist in any assessment or hearing sub-committees called where a local councillor has alleged to have breached the Code.

5. Issues and Choices

- 5.1 Whilst town and parish representatives are an important partner in dealing with matters relating to the potential misconduct of their peers, there is no requirement for them to determine matters relating to the governance of the Authority, or other aspects of the work of the committee.
- 5.2 It is felt that their current seats on the main committee would be better allocated to NNC councillors, whose responsibilities cover all of the committee's terms of reference. Town and parish representatives would continue to play their legitimate role within the "standards regime" and would be consulted by the committee as required in relation to Code of Conduct and associated issues. Town and parish councillors could address the committee in the normal way through the Council's public participation policy on other items.
- 5.3 Following discussion with the Constitutional Working Group (CWG), it is being suggested that the town and parish membership of the committee be deleted, and that the committee membership be increased to allow for 13 NNC members. This is comparable with other committees and given the workload of the committee will allow for its work to be more evenly distributed among its members. Political proportionality rules would continue to apply.

6. Implications (including financial implications)

6.1 Resources and Financial

6.1.1 None specific to this report.

6.2 Legal

6.2.1 The monitoring officer has delegated authority to make administrative changes to the Constitution to reflect changes in the law, changes to the council's management structure and other changes with no significant impact. The proposed amendments to the terms of reference fall outside of this delegation.

6.2.2 By ensuring that town and parish representatives are involved in the process for considering any allegations of breaches of the Code by their peers, the council is complying with its legal obligations.

6.3 Risk

6.3.1 The council needs to ensure that the efficiency and effectiveness of its governance systems are monitored, and clear approved procedures are put in place with regard to decision-making.

6.4 Consultation

6.4.1 Constitutional Working Group

6.5 Consideration by Scrutiny

6.5.1 N/A.

6.6 Climate Impact

6.6.1 None specific to this report.

6.7 Community Impact

6.7.1 None specific to this report.

7. Background Papers

7.1 Council Constitution.

Democracy and Standards Committee (Extract from the Council Constitution)

The Council has established a Democracy and Standards Committee. The functions that are to be discharged by the Committee are not Executive functions and cannot be discharged by the Executive.

The purpose of the Committee is to make necessary decisions in relation to decision making governance; to make necessary decisions in relation to Elections and to have responsibility for Community Governance and Boundary Reviews on behalf of the Council. The Standards responsibilities of the Committee are to oversee and develop the Council's Code of Conduct and the overall standards of conduct for Council Members, co-opted Members, and Parish and Town Councillors of North Northamptonshire.

These Rules detail the membership of the Committee and what the roles and responsibilities of the Committee are.

1. MEMBERSHIP BREAKDOWN OF THE COMMITTEE

Representing	Number of Representatives	Term of Office	Method of Appointment	Voting Rights
North Northamptonshire Council	137	Appointed annually	Council appointment	Full voting rights
Parish Representatives	2	4-years	Approved by Committee	Full voting rights
Town Representatives	2	4-years	Approved by Committee	Full voting rights
Total	1341			

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- 1.1. Appointments shall be politically balanced. Members to have completed relevant training.
- 1.2. ~~There shall be a standing invitation to the Councils appointed Independent Persons~~ Independent Persons, appointed by the Council for the purposes of assisting with the Authority's obligations to deal with allegations of breaches of the Code of Conduct, may be invited to meetings of the Committee by the Chair.
- 1.3 ~~Town and Parish Representatives, appointed by the Council for the purposes of assisting with the Authority's obligations to deal with allegations of breaches of the Code of Conduct, may be invited to meetings of the Committee by the Chair.~~

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2. SUBSTITUTIONS

- 2.1. Named substitutes. Substitutes to have completed relevant training.

3. CHAIRMANSHIP/VICE CHAIR

- 3.1. ~~The Chair and Vice Chair of the Committee will be elected/appointed by Annual Council each year.~~
~~Term of office will be one year.~~

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- 3.2. As per Part 3.2 Meeting Procedure Rules s.22, where a vacancy occurs in either office during the course of a year, an election will be held at the next ordinary meeting of the Committee, the successful nominee serving for the remainder of the Municipal Year.

~~The appointment /removal of the Chair and Vice Chair shall be determined by Council.~~

4. QUORUM

- 4.1. The quorum shall be a quarter of voting members, but no less than 4 members.

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5. TERMS OF REFERENCE

5.1. Democratic functions of the Committee

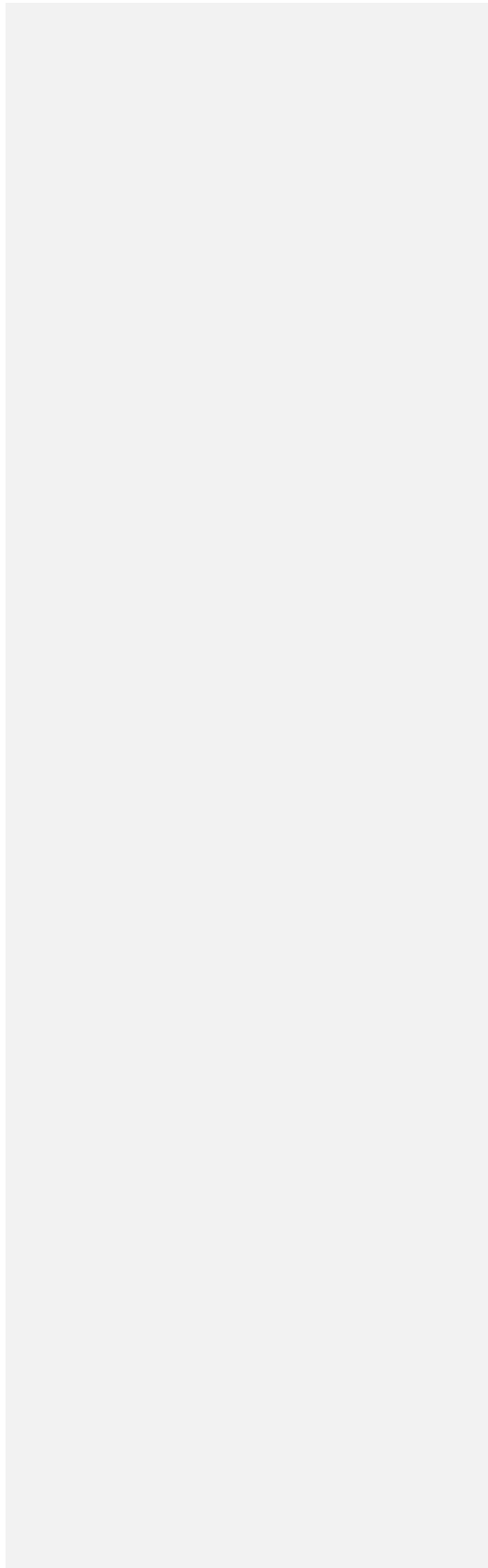
- a) To have overall responsibility for reviewing the Council's Constitution and Decision-Making Governance and recommending any proposed changes to the Council.
- b) To have delegated responsibility for the conduct of polling station reviews and other election functions which it is necessary for the Council to decide (but not the functions delegated directly by statute to the Returning Officer or Electoral Registration Officer).
- c) To have delegated responsibility for preparing submissions on behalf of the Council to the Local Government Boundary Commission for England in relation to the governance of the area.
- d) To have delegated responsibility for preparing submissions on behalf of the Council to the Parliamentary Boundary Commission for England.

5.2. Standards functions of the Committee

- a) To promote and maintain high standards of conduct by Members and co-opted Members of the Council, Parish and Town Councils.
- b) To keep the Member Code of Conduct and where appropriate the Planning Code of Conduct under review and make recommendations to Council on any amendment or revisions to the Codes when appropriate.
- c) To advise, train or arrange training for Members and co-opted Members of the Council, Parish and Town Councils on matters relating to the Member Code of Conduct and the Planning Code of Practice.
- d) To give general guidance and advice to Members and Co-opted Members of the Council, Parish and Town Councils on Members' interests and keep under review the Register of Members' Interests and Register of Gifts and Hospitality, as maintained by the Monitoring Officer.
- e) To grant dispensations to Members and co-opted Members from requirements relating to interests.
- f) To keep the Council's Arrangements for Dealing with Standards Complaints under review and make recommendations to Council on any amendment or revisions to the Arrangements when appropriate.
- g) In accordance with the Council's Arrangements for Dealing with Standards Complaints, to assess and / or refer for investigation allegations of misconduct on the part of Members and co-opted Members of the Council, Parish and Town Councils, if so requested by the Monitoring Officer.
- h) To determine allegations of misconduct on the part of Members and co-opted Members of the Council, Parish and Town Councils.
- i) To be a consultee in relation to the Council's Officer Code of Conduct.
- j) To make recommendations to Council with regard to the appointment of Independent Persons.
- k) To oversee the Council's Protocol on Member / Officer Relations.
- l) To receive an annual report from the Monitoring Officer detailing complaints received, complaints dealt ~~with~~with, and resolutions achieved.

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m) To exercise all the Council's functions, as specified in Regulation 2 of the Local Authority (Functions and Responsibility) (England) Regulations 2000 insofar as such functions are not the responsibility of the Council or any other Committee of the Council.

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5.3. Sub Committees

5.3.1. The Democracy and Standards Committee has the power to appoint such sub-committees as may from time to time be necessary to discharge its duties.

5.3.2. Sub Committees shall have a quorum of three.

5.3.3. In relation to Sub Committees established for the purpose of discharging functions relating to ~~standards complaints, when consideration of standards complaints, when~~ there is a complaint lodged against a Parish Councillor or Town Councillor, ~~complaint~~ one member of the Sub Committee must be a Town or Parish representative (from a different Parish or Town Council).

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~~representative.~~

5.3.4. For unitary complaints, all members of the Sub Committees shall be Unitary Councillors.

5.3.5 Serving North Northamptonshire Council councillors may not act as the Parish or Town Council representative on a Sub Committee.

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5.4. Assessment Sub Committee

5.4.1. To determine, in accordance with the Council's Arrangements for Dealing with Standards Complaints, whether standards complaints should be referred for investigation.

5.4.2 The Assessment Sub Committee shall have a maximum of 5 members. Where the matter relates to a town or parish councillor, the membership will include one town or parish representative previously appointed for that purpose.

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5.5. Hearing Sub Committee

5.5.1. To determine, in accordance with the Council's Arrangements for Dealing with Standards Complaints, complaints referred to the sub-committee following completion of an investigation into allegations of misconduct on the part of Members and co-opted Members of the Council, Parish and Town Council.

5.5.2 The Hearing Sub Committee shall have a maximum of 5 members. Where the matter relates to a town or parish councillor, the membership will include one town or parish representative previously appointed for that purpose.

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5.6 Working Groups

The Committee may establish working groups to assist in informing the decisions of the Committee. A working group may be established by a resolution of the Committee.

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6.0 Public Participation at a meeting of the Committee

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6.1 Members of the public or other non-Committee councillors may address the Committee on items detailed on the formal public agenda for that meeting.

6.2 These Public Participation rules do not apply to meetings of the Assessment Sub Committee or the Hearing Sub Committee.

6.3 A request to address the Committee must be submitted in writing/email at least by 5:00 pm prior to two clear working days before the meeting date. If the deadline for requests to speak falls at 5:00 pm on a Friday the deadline will be extended to 9:00 am the following Monday.

6.4 An individual speaker will be limited to a maximum of 3 minutes to address the Committee on an item.

6.5 A period of 15 minutes will be allocated for Public Participation (subject to Chair's discretion to extend this period subject to the demands to address the Committee).

6.6 If there is overdemand, the Chair will consider the following in determining whether to use their discretion –

- (i) Was the request to speak submitted within the deadline (as detailed in 6.3 above);
- (ii) Has the person requesting to speak already been allocated a slot to address the Committee albeit on a separate item;
- (iii) Is there an excessive number of speakers on one item, taking-up the 15-minute allocation, whilst other requests to speak on other items may need to be refused;
- (iv) Is the request to speak from a non-Committee councillor, who has the opportunity to have their views/opinions expressed by a colleague sitting on the Committee or they may have the opportunity to talk on the item at another meeting. The assumption would be public speakers take precedence over councillors for the purposes of Public Participation.

6.7 If the Committee invite external representatives or other individuals to attend its meeting, to provide information or act as "expert witnesses" on specific agenda items, their participation in discussions would be through the Chair.

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Democracy and Standards Committee 16th November 2021

Report Title	Planning Protocols
Report Author	Rob Harbour (Assistant Director - Growth & Regeneration)

List of Appendices

Appendix A – Draft Planning Protocol

Appendix B – Draft Planning Committee Site Visit Protocol

1. Purpose of Report

- 1.1. For the committee to consider a draft Planning Protocol and a draft Planning Committee Site Visit Protocol.

2. Executive Summary

- 2.1 This report requests that the committee agree two protocols for referral to Full Council for approval.
- 2.2 The aim of the Planning Protocol is to ensure the integrity of the planning system as open and fair to all parties, that planning decisions are made in an open, impartial manner and subject to material planning consideration, and to mitigate against accusations of bias that may be made against the Planning Authority.
- 2.3 The Site Visit Protocol provides clear guidance to members in undertaking site visits, where required, prior to determining applications for planning consent.

3. Recommendations

- 3.1 It is recommended that the committee:
- a) Agree the Planning Protocol (Appendix A) for referral and approval by Full Council; and
 - b) Agree the Planning Committee Site Visit Protocol (Appendix B) for referral and approval by Full Council.

(Reason for Recommendations – to ensure that appropriate codes and protocols are in place to provide guidance to members of the Authority's planning committees when undertaking their duties and responsibilities).

4. Report Background

- 4.1 It is considered good practise to provide additional guidance and direction to members of the Authority's planning committees to assist them in undertaking their quasi-judicial role in determining applications for planning consent. The proposed protocols are supplemental to the Authority's Members Code of Conduct and members obligations under law.

5. Issues and Choices

- 5.1 The draft Planning Protocol covers the significant elements that members need to consider when undertaking their duties and responsibilities on behalf of the Planning Authority. These include: - general principles of decision making, pre-determination and predisposition, lobbying of councillors, contact with developers, applicants, and objectors etc.
- 5.2 The draft Planning Committee Site Visits Protocol develops recommended good practise and itemises key considerations that need to be considered both before, during and after agreed visits to a site. It is noted that site visits would normally only be conducted by exception, with most determinations of applications for planning consent being made without the need for a site visit. During discussions in the preparation of the draft protocol, members expressed a desire for new technology to be expanded to assist members of the Planning Authority and reduce the need for on-site visits to be made; this will be considered by officers in due course.

6. Implications (including financial implications)

6.1 Resources and Financial

- 6.1.1 None specific to this report.

6.2 Legal

- 6.2.1 The Planning Protocol(s) substantially follow codes adopted by former sovereign authorities and based on good practise. The protocol(s) will apply to all formal meetings of the Planning Authority when determining applications for planning consent. The protocols re-enforce the statutory requirements placed on all members as detailed in the Member Code of Conduct.
- 6.2.2 Adoption of the protocols, and their application, will assist in ensuring that successful challenge of the Planning Authority's decision-making process is reduced.
- 6.2.3 Application of the protocols will be kept under ad hoc review to ensure that any amendments are considered to improve advice to members and improve the decision-making process.

6.3 Risk

- 6.3.1 Failure to adopt the protocols and apply their provisions may result in future decisions of the Planning Authority being open to successful challenge. It is important that the Authority have appropriate measures in place to guide members in decision making and provide confidence to the public and applicants that decisions are made in a fair, equitable and transparent manner, based upon material planning considerations and relevant statute.

6.3.2 Failure to follow the provisions of the Member Code of Conduct and the proposed protocols may result in either complaints registered with the Local Government and Social Care Ombudsman, the Planning Inspectorate or in certain circumstances the courts.

6.4 Consultation

6.4.1 The Constitutional Working Group considered the draft protocols at their meeting on 4th November 2021. The views of the Group have been incorporated into the drafts tabled for consideration by Committee.

6.5 Consideration by Scrutiny

6.5.1 Not applicable to this report.

6.6 Climate Impact

6.6.1 None specific to this report.

6.7 Community Impact

6.7.1 Adopting the protocols, and their subsequent application, will assist in increasing confidence among the public and planning applicants that the Authority will determine applications, and undertake their statutory duties in a fair and transparent manner.

7. Background Papers

7.1 Members Code of Conduct
Council Constitution
Constitutional Working Group - Draft Protocols 4th November 2021.



**North
Northamptonshire
Council**

PLANNING PROTOCOL

1 Background and Scope

- 1.1 This Planning Protocol substantially follows the Code previously produced by the Association of Council Solicitors and Secretaries following consultation with the Audit Commission, the Local Government & Social Care Ombudsman, and the former Standards Board for England. It should be read in conjunction with the Terms of Reference provided for the Strategic Planning Committee and the Area Planning Committees.
- 1.2 The Planning Protocol takes into account the ethical framework introduced by the Localism Act 2011, the National Planning Policy Framework and relevant planning practice guidance, and the Code of Conduct for Members adopted by North Northamptonshire Council (“the Council”).
- 1.3 The aim of this Protocol is to ensure that:
 - a) The integrity of the planning system as open and fair to all parties.
 - b) Planning decisions are made openly, impartially with sound judgement, and for justifiable planning reasons; and
 - c) Throughout the planning process there are no grounds for suggesting that a decision is the subject of bias, not impartial or not well founded in any way.
- 1.4 The Planning Protocol applies to Members of the Planning Committees and officers.

2 Introduction

- 2.1 The Council’s Planning Committees operate in a quasi-judicial manner. There is recourse through the courts and the Planning Inspectorate if a decision on a regulatory planning matter is not correctly made - with possible financial penalties for the Council. This places an important responsibility on those who serve on the Planning Committees.
- 2.2 The role of Members of the Local Planning Authority is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. This involves balancing representing the needs and interests of the area as a whole with the need to maintain the ethic of impartial decision-making on what can be highly controversial proposals.
- 2.3 This Protocol has therefore been established to provide guidance for Members and officers in dealing with planning matters to avoid grounds for allegations of malpractice.

- 2.4 This Planning Protocol applies at all times when Councillors are involved in the planning process, and it is therefore incumbent upon Members to abide by the content of this Protocol. (This includes, where applicable, when part of decision-making meetings of the Council in exercising the functions of the Planning Authority or when involved in less formal occasions, such as meetings with officers or the public and consultative meetings.) It applies as equally to planning enforcement matters or site-specific policy issues as it does to planning applications.
- 2.5 A Member shall not accept a nomination to serve on a Planning Committee unless he/she agrees to abide by the terms of the Planning Protocol.
- 2.6 If a Member has any doubts about the application of this Planning Protocol to their own circumstances, they should seek advice early, from the Monitoring Officer, preferably well before any meeting takes place.
- 2.7 In this Planning Protocol “Planning Meeting” covers all meetings of the Strategic Planning Committee and the Area Planning Committees.

3 Relationship to Members’ Code of Conduct

- 3.1 The rules in the Council’s Members’ Code of Conduct should be applied first and must always be complied with throughout the decision-making process.
- 3.2 The rules of this Planning Protocol seek to interpret and supplement the Members’ Code of Conduct for the purposes of planning control. The Protocol is designed to help safeguard the Council and its Members. Please be aware that if the Planning Protocol is not followed, you may put:
- i. the Council at risk of proceedings on the legality or maladministration of the related decision; and
 - ii. yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Code of Conduct, a complaint being made to the Standards Committee.

4 General Roles and Conduct

- 4.1 The basis of the planning system is the consideration of private proposals against wider public interests, with often strongly opposing views. Whilst Members should take account of those views, they should not favour any person, company, group, or locality; nor put themselves in a position where they appear to do so. Decisions should clearly be based upon the development plan and material planning considerations.
- 4.2 The role of Members at a Planning Committee is not to represent the views of their electorate, but to consider planning applications in the interests of the whole Council area. When voting on applications, Members may therefore decide to vote against the views expressed by their electorate.

- 4.3 Members who do not feel that they can act in this way should consider whether they are best suited to serving on a Planning Committee.
- 4.4 Members whose business or other interests bring them into frequent contact with the planning system should consider whether it is appropriate or practical to accept appointment to a Planning Committee: nor should other Members seek to appoint such a Member to a Planning Committee.
- 4.5 The role of officers at Planning Committee is to advise the Members on professional matters, and to assist in the smooth running of the meeting.
- 4.6 If Members have questions about a development proposal, they are encouraged to contact the planning case officer in advance. The officer will then provide advice and answer any questions about the report and the proposal, which will result in more efficient use of the Planning Committee's time and more transparent decision making.

5 Training

- 5.1 No Member shall attend any meeting of a Planning Committee as a Committee Member or a substitute for a Committee Member unless he or she has undergone such mandatory training in planning procedures as the Council requires.
- 5.2 Members should endeavour to attend any other specialised training or informal briefing sessions provided, to improve and keep up-to-date knowledge of planning law, regulations, procedures, Codes of Practice, and the Development Plans beyond the minimum referred to in 5.1 above.

6 General Principles for Dealing with Planning Matters

- 6.1 A Member should consider the interests of local residents and businesses as a whole and should not favour any individuals or groups. He or she should also act in the interests of the whole Council area.
- 6.2 Members (and officers) should not act as either paid or unpaid agents or consultants on planning matters within the jurisdiction of the Council as the local planning authority.
- 6.3 Planning applications will be determined in a transparent, fair, and open manner and Members should have regard only to the development plan and material planning considerations and should disregard all other factors.
- 6.4 Members participating at meetings should ensure that they are present for the whole presentation by officers and subsequent debate on a particular matter. This is to ensure that they are able to hear all the relevant evidence and debate in relation to a proposal. In the event that a Member misses part of an item being discussed then they must not vote. (This does not apply to any site visit that might be arranged, where although Members should make best endeavours to attend, it is not mandatory.)
- 6.5 Members should retain an open mind about planning matters until they are in possession of all the relevant information to be presented.

- 6.6 Members should pay full regard to officers' professional recommendations, relevant national/regional planning statements and guidance, and relevant Development Plan Policies.
- 6.7 Members are recommended to be cautious of social contact with applicants and agents.
- 6.8 Members should not disclose to a third-party information submitted to them or a committee on a confidential basis.

7 Disclosable Pecuniary and Personal Interests

- 7.1 The Council's Code of Conduct sets out requirements for Members on declaring personal and disclosable pecuniary interests and the consequences of having such interests. These must be followed scrupulously, and Members should review their situation regularly.
- 7.2 Members should avoid membership of the Planning Committees if it entails, or would entail, frequent declarations of disclosable pecuniary interests.
- 7.3 A Member with a disclosable pecuniary interest in respect of a particular planning matter must declare it and take no part in the discussion or the determination of the proposal. The Member may in their personal capacity and if registered to speak, make representations in line with the Council's Public Speaking procedure prior to any debate on the matter, but thereafter should leave the room while the item is considered and determined. The responsibility for this rests with each Member and they may wish to consult with the Monitoring Officer or legal advisor to the committee at the earliest opportunity if in any doubt.
- 7.4 Ward Members who are also members of the Planning Committee may participate in the Committee debate on an application in their ward and subject to any disclosable pecuniary interest will normally be allowed to vote on the application.
- 7.5 A Member who has a disclosable interest in a planning matter is still able to represent the interests of his or her Ward at Committee meetings in respect of that matter, subject to the Council's rules on Public Participation at Committees. Alternatively, the Member could advise their electorate to address their representations to another ward member.

8 Pre-determination and Predisposition

- 8.1 Members of the Planning Committee need to take account of the general public's expectation that a planning application will be processed and determined in a transparently open and fair manner, in which members taking the decision will take account of all the evidence presented before arriving at a decision, not take into account irrelevant evidence or representations and that to commit themselves one way or the other before hearing all the arguments and evidence makes them vulnerable to an accusation of partiality. A Member may voice their concerns publicly before a

meeting, but they should make it clear that they will not form a final opinion until they have considered all the information.

- 8.2 Members must not prejudice their ability to participate in planning decisions at a Planning Committee by making up their mind, or clearly appearing to have made up their mind (particularly in relation to an external interest or lobby group), on how they will vote on any planning matter prior to formal consideration of the matter at the relevant Planning Committee and hearing the officer's presentation and evidence and arguments on both sides.
- 8.3 Pre-determining a matter in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- 8.4 If a Member has made up their mind prior to the meeting or have made public comments which indicate that they might have done and is not able to reconsider their previously held view, then they will not be able to participate on the matter.
- 8.5 Members who are members of a Planning Committee and who in that capacity attend any ancillary meeting or committee need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application or on planning policies. Section 25 of the Localism Act 2011 provides that a Member should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular meeting, provided they remain open to listening to all the arguments and changing their mind in the light of all the information presented at a relevant meeting. A Member in this position will always be judged against an objective test of whether the reasonable onlooker with knowledge of the relevant facts, would consider that the Member was biased.
- 8.6 Circumstances may also arise where a Member has had significant personal involvement with an applicant, agent or interested party (whether or not in connection with the particular matter before the Planning Committee), which could lead an observer who knows the relevant facts to reasonably think the Member's interest is so significant that it is likely to prejudice the Member's judgement of the public interest. In these circumstances the Member should declare a disclosable interest, observe the Council's rules on Public Participation at Committees, and withdraw from the meeting.
- 8.7 Members must be aware that they are likely to have pre-determined a matter where the Council is the landowner, developer or applicant and they have acted as, or could be perceived as being, a chief advocate for the proposal.
- 8.8 For advice on predetermination and predisposition, Members should seek the advice of the Monitoring Officer.

9 Lobbying of Councillors

- 9.1 Lobbying is a normal part of the planning process. It is recognised that those affected by a proposal will often seek to influence the decision by an approach to their local

Member or to Members of a Planning Committee. However, such lobbying can lead to the impartiality and integrity of a member being called into question. The information provided by lobbyists may represent a selective and incomplete picture of the relevant considerations in respect of a planning matter.

- 9.2 Members of a Planning Committee are free to listen to any point of view about a planning proposal. Even though they may agree with a particular view Members of a Planning Committee should take care not to express an opinion which may be taken by the public as indicating that they or the authority had already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such situations, Members should restrict themselves to giving procedural advice, including suggesting to those who are lobbying, that they should speak or write to the relevant officer in order that their opinions can be included in the officer's report to the Committee. If they do express an opinion, it should be made clear that the Member will only be in a position to take a final decision after having heard all the relevant evidence and arguments at Committee.
- 9.3 Members can raise issues which have been raised by their electorate with officers. It is always good practice that they make it clear that they can only make a final decision after hearing all the relevant arguments and taking into account all relevant material and planning considerations at Planning Committee. Remember if Members of a Planning Committee, your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, you should not improperly favour, or appear to improperly favour, any person, company, group, or locality.
- 9.4 If a Member of the Planning Committee responds to lobbying by deciding to make public their support of a particular outcome; or actively campaigns for it, they should make clear in their public comments and/or at committee when the decision is under consideration that the views expressed are/were provisional and they will come to a final view once they have weighed all the evidence and listened to all the arguments presented at the committee meeting. If a Member is of the view that they are unable to make an unbiased decision they should not participate in the decision. If they consider the public comments they have made mean the public perception is that they will be unable to make a decision without bias, the Member of Planning Committee may in the interests of maintaining public confidence decide not to participate in a decision.
- 9.5 If any Member, whether or not a committee member, speaks on behalf of a lobby group at the decision-making committee, they must withdraw once they have spoken in order to counter any suggestion that their presence may have some influence on the said committee in making its final decision.
- 9.6 Neither members or officers should accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and remember to register the gift or hospitality where its value requires this.
- 9.7 Members should copy or pass on any lobbying correspondence you receive to the relevant Head of Service at the earliest opportunity.

- 9.8 Members should promptly refer to the relevant Head of Service any offers made to you of planning gain or constraint of development, through a proposed s.106 planning obligation or otherwise.
- 9.9 If you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), you should report this to the Monitoring Officer who will in turn advise the appropriate officers to follow the matter up.
- 9.10 If a Member requires advice about being lobbied, they should seek advice from the Monitoring Officer as soon as possible and preferably well before any meeting takes place at which they think the issue might arise.

10 Political Influence

- 10.1 Given that the point at which a decision on a planning application is made cannot occur before a Planning Committee meeting, when all available information is to hand and has been duly considered, any political group meeting prior to the committee meeting should not be used to decide how Members should vote and political whips must not be used.
- 10.2 Members of the planning committees should avoid organising support for or against a planning application and avoid lobbying other Members. Such actions can easily be misunderstood by parties to the application and by the general public. Where a member of a Planning Committee wishes to act as a facilitator to a local group regarding a particular application, they should indicate that they will need to absent themselves from the vote on that particular application when it was being considered

11 Contact with Developers, Applicants and Objectors

- 11.1 It is recognised that pre-application discussions can be of great benefit to the planning process, provided that they take place within clear parameters and governance arrangements.
- 11.2 Members should refer those who approach you for planning, procedural or technical advice to officers.
- 11.3 A dialogue between a potential applicant and the Council prior to the submission of an application can be a significant benefit to both parties. Such discussions should not, however, become or be seen to become, part of a lobbying process. Any such discussions should therefore be arranged through officers and take place within clear guidelines.
- 11.4 Where Members are involved in pre-application discussions, at least one officer should be present at any meetings and a follow-up letter is advisable, particularly when documentary material has been left with the Council. A written note should be made of all meetings.

11.5 Any advice that is given should not be partial, nor seen to be partial, by any party involved. It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional. Advice and observations should be based on the adopted plan and material considerations.

11.6 The following terms of engagement shall apply:

- i. Presentations by applicants should be limited to the development proposal and a question-and-answer session on factual matters. The understanding must be that the engagement is in order to improve understanding. Where appropriate, such meetings may take place on site and incorporate a site visit. Officers of appropriate seniority should attend presentations.
- ii. Members should maintain an impartial listening and questioning role and avoid expressing an opinion or giving advice beyond outlining the adopted local policies. Questions to clarify aspects of a proposal, or the expressions of policy concerns are legitimate, as long as they do not develop into negotiations. It should be made clear at the outset of the meeting that discussions are not binding, and that views expressed are not part of the determination process. It should be made clear in introductory remarks that any statements should be categorised as 'without prejudice'.
- iii. If the applicant requests the views of the authority, these will be communicated subsequently and in writing by officers. In such communication, officers will make it clear that any views expressed prior to formal determination of an application are preliminary.
- iv. A written note of the proceedings should be kept - to include a record of officer attendance and follow up.
- v. Follow up to the meeting should occur with a letter emphasising the informative nature of the meeting.
- vi. A note should also be taken of any potentially contentious telephone discussions in respect of an application.

12 Call-Ins to Committee

12.1 Planning applications can be 'called-in' by Members to the appropriate Planning Committee for determination.

12.2 The Council has a separate procedure set out in the Council's Constitution that deals with the Call-In of planning applications by Councillors in more detail.

13 Membership of Other Councils and Outside Bodies

13.1 Be aware that, whilst the Members' Code of Conduct provides for a presumption that you may regard yourself as not having a prejudicial interest in matters which relate to

the organisations mentioned below, you must exercise your discretion in deciding whether or not to participate in each case.

- 13.2 Where you have been significantly involved in the preparation, submission, or advocacy of a planning proposal on behalf of:
- i. another local or public authority of which you are a member; or
 - ii. a body to which you have been appointed or nominated by the Council as its representative; or
 - iii. you are a trustee or company director of the body submitting the proposal and were appointed by the Council

you should always disclose a prejudicial as well as personal interest and withdraw.

- 13.3 A Member is able to take part in the debate on a proposal by a consultee body (for example as a member of a parish council) provided:
- i. The proposal does not substantially affect the wellbeing or financial standing of the consultee body;
 - ii. The Member makes it clear to the consultee body that:
 - a. Their views are expressed on the limited information before them only;
 - b. They must reserve judgement and the independence to make up their own mind based on their overriding duty to the whole community and not just to the people in that area, ward, or parish.

13.4 Members will disclose the interest regarding their membership or role when the relevant Planning Committee comes to consider the proposal.

13.5 Members may take the opportunity to exercise their separate speaking rights as a local Member.

13.6 When exercising this right, they should:

- i. Advise the committee that they wish to speak in this capacity in accordance with the Public Speaking arrangements;
- ii. Remove themselves from the Member seating area for the duration of that item; and
- iii. Ensure that their actions are recorded.

14 Site Visits

14.1 The primary aim of a site visit is to enable Members to judge for themselves the likely impacts of the proposed development and appreciate the issues involved. All members

of the Planning Committee should make best endeavours to attend the site visits although there is not an absolute requirement to attend.

- 14.2 Site visits should only be conducted where it is felt the complexities of the site require clarification prior to committee members considering the officer's report, or where the committee, having considered the report, feel more clarification is required. When deciding whether a site visit is necessary, all circumstances should be considered including whether:
- i. Matters of judgement are involved on the context of the site such as the effect on landscape, impact on character, residential amenity, or highway considerations rather than purely on principle;
 - ii. It is a finely balanced case; or
 - iii. It is a contentious application where there are strong local views.
- 14.3 The site visits will normally be held once the officer report has been prepared and prior to the meeting of the Planning Committee.
- 14.4 Where visits are arranged, they must be undertaken in a consistent manner. The Council has a separate Protocol for Site Visits that provides the detailed procedure that should be followed by Members and officers.
- 14.5 Members should not carry out unaccompanied site inspections (other than for the purpose of seeing the site), contact landowners themselves or arrange to go onto sites without a Planning Officer present. Members need to exercise caution with regard to being lobbied on such site inspections.

15 Conduct of Ward Members (non-members of the Planning Committee)

- 15.1 Ward Members have an important role to play as representatives of their communities and to bring local information to the decision-making process. Ward Members may therefore become involved in discussions with officers about individual applications. However, they should remember that it is very easy to create the impression that they are using their position to influence the progress of the application. Any discussions with officers should be seen to be open and above board. Officers should make a note on the file of any such discussions.
- 15.2 Ward Members who are not members of a Planning Committee can make representations on planning applications in their Ward and may attend meetings of the Planning Committee and, with the Chairperson of Planning Committee's agreement, can address the Planning Committee on such applications in accordance with the Council's procedure on Public Speaking.
- 15.3 Any representations or address should relate to the planning merits of a planning application. This will not apply if the Member is also a Parish/Town Councillor, and the Parish/Town Council is the applicant. In that circumstance, if the Member wishes to address the Committee directly, they should register to speak and make clear at the start of their representation in which capacity they are addressing the Committee.

- 15.4 When making representations on behalf of their electorate, Members should make it clear that it is their electorates' views and not their own that are being expressed. Furthermore, any representations on behalf of their electorate must be expressed in such a way that no individual or group feels that they have been unfairly represented.
- 15.5 If a Ward Member speaks on behalf of a lobby group at the decision-making committee, they should withdraw from the meeting once any public or Ward Member speaking opportunities have been completed.
- 15.6 A Member who has declared a prejudicial interest in a planning application and is therefore unable to represent the interests of their Ward in respect of that application, should advise their electorate to address their representations to another Ward Member who is not so affected.
- 15.7 Being a Member of another Council that has expressed a view on an application does not prevent a Planning Committee Member reaching the same or a different view when the application is considered on its merits by the Planning Committee. However, the Member should approach the decision-making process afresh and not express a final view in advance of the committee meeting, or act as an advocate for another Council. To do so would give an appearance of bias.

16 Development Proposals submitted by Councillors and Officers

- 16.1 A Member who acts as an agent to people pursuing a planning matter or who has submitted, or intends to submit, or is closely connected with someone (e.g., a spouse, close relative, or close social acquaintance) who has submitted, or intends to submit, a planning application should play no part in the decision-making process for that proposal. This includes refraining from any form of lobbying of other Members.
- 16.2 Nor should such a Member:
- i. Use his or her position to gain access to officers to pursue his or her interest; or
 - ii. Bring improper pressure to bear on officers.
- 16.3 They should preferably appoint an agent to act on their behalf in negotiations or discussions, particularly in respect of major or controversial developments.
- 16.4 Members should notify the relevant head of Service and/or the Monitoring Officer of any application with which they are connected directly or indirectly before it is submitted to the Council.
- 16.5 Where a Member or officer, or their agent, submits an application in a personal capacity (either as an individual or through a company, firm or body with which they are connected) it shall always be considered by the Planning Committee. The Monitoring Officer shall be notified of the application and confirm in the report to Committee that the application has been dealt with in accordance with this Protocol.

- 16.6 A Member of a Planning Committee contemplating making a planning application for development which is clearly contrary to approved planning policies should consider whether they should resign from the committee before submitting it.
- 16.7 A Member who has received (or is closely connected with someone who has received) a planning permission should ensure that the terms of that planning permission are scrupulously observed, both in respect of compliance with the submitted documents and in respect of compliance with the conditions imposed.

17 Planning Applications by the Council

- 17.1 The Council itself requires planning permission to carry out or authorise certain types of development on land it owns. Where these are major applications, they will be determined by the relevant Planning Committee. Proposals for the Council's own development will be treated with the same transparency and impartiality as those by private developers.

18 The Role of Officers

- 18.1 Councillors and officers have different but complementary roles. Both serve the public, but Councillors are responsible to the electorate whilst officers are responsible to the Council as a whole. Their relationship is based upon mutual trust and understanding, and this must never be abused or compromised. Instructions to officers can only be given through a decision of the Council, the Executive or Committee, or under delegated powers and not by individual Councillors acting outside those powers.
- 18.2 Members should contact the planning case officer in advance of the planning committee if they have any questions about a development proposal that is on the Committee agenda. The officer will then provide advice and answer any questions about the report and the proposal, which will result in more efficient use of the Planning Committee's time and more transparent decision making.
- 18.3 Members must not put pressure on officers to put forward a particular recommendation. (This does not prevent them from asking questions or submitting views to the relevant Head of Service, which may be incorporated into any committee report.)
- 18.4 It should be recognised that officers are part of a management structure. Where Members wish to discuss proposals that are not on the Committee agenda, outside of any arranged meeting, they should first do so with the relevant Head of Service or those officers who are authorised by the Head of Service to deal with the proposal at a Member level.
- 18.5 Members should also recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Officer Code of Conduct and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the planning committee or its Councillors.

18.6 Members and officers should be aware and mindful of the Council's Member and Officer Protocol for Working Effectively.

19 Officer Reports to Committee

19.1 Reports should be accurate and cover, among other things, the relevant planning matters of objections and the relevant planning matters raised by people who have been consulted in respect of an application.

19.2 Relevant points will include a clear exposition of the site or related history, the relevant Development Plan Policies, and all other relevant material planning considerations.

19.3 Reports should include a clear written recommendation of action.

19.4 Reports should list the topics that will be addressed by conditions and if possible, also include draft Heads of Terms (where applicable) to a legal agreement, if the recommendation is to grant planning permission.

19.5 Reports should contain a technical appraisal which clearly justifies the recommendation made by the officer.

19.6 If the recommendation in the report is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.

19.7 Where an application is recommended for refusal the reasons will be set out in full in the officer's report.

20 Determination of Planning Applications

20.1 Members determining applications will take account of all the relevant information presented before reaching a decision and should not commit themselves to a final opinion before having done so.

20.2 In considering the merits of planning applications Members should have regard only to relevant planning matters and should disregard all other factors and considerations.

20.3 Members should pay full regard to the professional officer recommendation, relevant national/regional planning guidance and relevant Development Plan Policies.

20.4 Members can always ask for clarification from officers. However, if there are issues which require factual clarification, preferably these should be directed to the case officer before the committee meeting, not at the meeting itself.

20.5 Members will then debate the application, including giving an indication of how they intend to vote.

20.6 After Members have debated the application, a vote will be taken.

- 20.7 Whilst officers will provide professional advice and a recommendation on every application and matter considered, it is the responsibility of Members, acting in the interests of the whole Council, to decide what weight to attach to the advice given and to the considerations of each individual application. In this way, Members may decide to apply different weight to certain issues and can of course, reach a decision contrary to officer advice.
- 20.8 If in moving contrary to the advice and/or recommendation in an officer's report Members require further advice about the details of the motion, the meeting can be adjourned for a short time to allow Members and officers to draft the motion. This can include reasons for the decision which are relevant to the planning considerations on the application, and which are capable of being supported and substantiated should an appeal be lodged.
- 20.9 Where Members propose to determine a planning matter contrary to officers' advice, full and proper reasons based on material planning considerations must be given at decision time.
- 20.10 Members may move that any vote should be recorded at any meeting of the Planning Committee. This means that a formal record is taken of how each individual Member voted (For, Against, or Abstain).

21 Review of Decisions

- 21.1 Members of the Planning Committees should from time to time visit a sample of implemented planning permissions to assess the quality of the decisions made. It is recommended that such a review should be undertaken annually.

PLANNING COMMITTEE SITE VISIT PROTOCOL

Introduction

Site visits may be used to assist Members of Planning Committees in understanding the issues concerning the site and/or the area around the site. Visits should only be conducted where it is felt the complexities of the site require clarification prior to committee members considering the officer's report, or where the committee, having considered the report, feel more clarification is required.

Any site visit should be conducted to garner facts and seek clarification. Debate on the merits of an application or on the views of relevant parties should not be conducted. Discussion and debate should be restricted to the formal meeting where the application is to be determined and conducted subject to the council's normal rules in the interests of openness and transparency of decision making.

A site visit can be agreed to be conducted:

- i) Prior to a committee, by agreement of the Chair, Vice Chair, and senior planning officer; or
- ii) By formal resolution of the committee.

In considering whether a site visit is required **prior** to the committee considering the application, the Chair, Vice Chair, and senior planning officer should consider the complexities of the site, the responses from statutory consultees and the material planning considerations involved.

A committee on receiving the officer's report, the representations from the applicant, objectors, and other interested parties, may determine to conduct a site visit. A simple resolution of committee duly **MOVED** and **SECONDED**, with the majority of those voting in favour would be sufficient. Site visits can cause delay and additional cost for both the developer and the council and should only be used where the expected benefit is substantial.

If a site visit is conducted, all members of the committee will be notified of the time and date and invited to attend.

Members of planning committee should make best endeavours to attend site visits, but attendance is not an absolute requirement in order to take part in the debate at planning committee.

Procedure On Site

The following procedural rules will be observed in the holding of all Planning Committee site visits:

- (a) Officers will arrange the site visit in advance with relevant parties. There is no right to enter on private land without permission of the landowner. Where appropriate, officers will obtain permission from the landowner or his/her agent for those invited to attend the site visit to enter the land. If permission is not given for Members and Officers and other interested parties to enter, the site will have to be viewed from the public highway/areas.

- (b) The Democratic Services officer will agree with the relevant senior development management representative a timetable and a plan for any site viewings that are required including the notification arrangements. The site viewings will usually be held on a working day shortly before the relevant planning committee. This information will be circulated to relevant parties.
- (c) A senior development management representative and the case officer will be in attendance.
- (d) All attendees at the site viewings will normally be required to make their own arrangements for attending the site visit.
- (e) The Chair (or Vice Chair) will control proceedings throughout.
- (f) The Chair will explain that the purpose of the site visit is to obtain information relevant to the determination of the application. They will summarise the proceedings and the constraints as set out below.
- (g) The Chair will introduce the Planning Officer who will describe the proposals to Members with reference to features on the ground and the submitted plans and summarise the relevant issues and material considerations.
- (h) Other officers may be present to provide other specialist/expert advice/information where relevant/required (e.g., Highways Engineers, Environmental Health/Protection Officers etc).
- (i) The applicant and/or their agent or representative will be invited to attend the site viewing. Ward Member(s) may attend the site visit to observe and, only at the request of the Chair, may clarify factual matters. At no time will the Ward Member, applicant, agent, or any local resident be permitted to address or question Members of the Committee. Presentations from these attendees should on no account be made. Occasionally it may be appropriate for such attendees to be asked, through the Chair, to point out important or relevant site features. At no point during the site visit will debate or comment on the planning merits or otherwise of the proposal be permitted, as the proper time for such debate/comment is at the relevant meeting of the Planning Committee.
- (j) During the site visit, no separate discussions regarding the application must take place with officers or Members and either applicants, objectors, or supporters.
- (k) No hospitality will be accepted by Officers and Members from the applicant or any other interested party present at the site visit.
- (l) The Planning Officer(s) present at the site visit will make a note of those attending. Planning Committee Members who did not attend the site visit should pay particular attention to the site visit feedback provided those members who did attend.
- (m) The Chair (or Vice Chair) will conclude the site visit. No indication of the views of Members or the likely outcome of the Planning Committee's deliberations on the application will be given. To do so might imply that a Member's mind is already made up.

- (n) If Members require further information or clarification of any aspect of the development, the officer(s) attending the site visit will be asked to ensure that such information is available by the time the application is considered by Members at the relevant meeting of the Planning Committee.

NB. A copy of this Protocol will be issued to all those invited to attend the site visit.

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Democracy and Standards Committee 16th November 2021

Report Title	Recording of Council Meetings by the Press and Public Protocol
Report Author	Adele Wylie – Director of Legal & Democratic Services (Monitoring Officer) adele.wylie@northnorthants.gov.uk

List of Appendices

Appendix A – Draft Recording of Council Meetings by the Press and Public Protocol

1. Purpose of Report

- 1.1. For the Committee to recommend to Full Council approval of a recording of Council Meetings Protocol applicable to the press and public attending meetings.

2. Executive Summary

- 2.1 It is proposed that a protocol be adopted to ensure that the rights and responsibilities of the Council, press and public are detailed in relation to the recording of Council meetings. This protocol only applies to those Council meetings (in full or in part) which are open to attendance by the press and public.
- 2.2 The suggested Protocol was adopted by the Shadow Authority and is similar to that previously used by former sovereign councils.
- 2.3 The Committee are being requested to agree amended Terms of Reference for the Committee, which if agreed, would be forwarded to Full Council for approval.

3. Recommendations

- 3.1 It is recommended that the Committee:
- a) Agree the Protocol (Appendix A) and forward to Full Council with a recommendation to approve.
- 3.2 Reason for Recommendations –
- To ensure that there are clear rules in place governing the recording of Council meetings by the press and public. Adoption of the Protocol will assist in ensuring consistency in application across all public Council meetings.

4. Report Background

- 4.1 The rights of access to Council meetings are prescribed in law and within the Council's Constitution. Meetings covered by the Local Government Act 1972 (as amended) allow press and public access except under certain specified circumstances. Details of press and public access are detailed within Part 2 Public Participation and Rights s.8 of the Council's Constitution.
- 4.2 Best practice and Government guidance suggests that the press and public be permitted to record those meetings of the Council (in full or in part) where press and public are permitted to attend. It is considered best practice to enshrine rules regarding recording of meetings, for the benefit of the Council, the press, and the public. This will assist in ensuring consistency of approach across the various meetings held by the Authority.
- 4.3 The suggested Protocol (Appendix A) is based on rules previously adopted by the Shadow Authority, which were themselves based on rules introduced by former sovereign councils.
- 4.4 It is important to note that a Chair of a meeting has responsibility for the good conduct of said meeting and ensuring that the business prescribed on the agenda is dealt with in an efficient and effective manner. Should attendees (whether councillors, officers, press or public) in their actions disrupt the smooth running of a meeting, the Chair is permitted to take reasonable steps to ensure such disruption is addressed.
- 4.5 Approving a Protocol will assist in ensuring consistency of approach by the various Chairs appointed by Council and will assist the press and public in knowing the rules governing the recording of meetings. It is recognised given the various venues utilised by the Council for the holding of meetings that application of the Protocol may vary. It is important that the Protocol be adhered to, taking into account any physical limitations on the venue in use for a particular meeting.

5. Issues and Choices

- 5.1 It is suggested that the contents of the Protocol provide a reasonable approach to this topic, ensuring the aspirations of press and public are recognised and accommodated, and ensuring that the Council can conduct its business in an efficient and effective manner.
- 5.2 The Protocol relates to on-site attendance by the press and public. In relation to virtual meetings, the Council currently has rules within Part 2 Meeting Procedure Rules (Appendix 1 - Remote Procedure Rules) introduced as a result of the COVID-19 pandemic. Those rules will be subject to review, particularly as it is intended that the live streaming of Council's committees will be re-introduced in due course; this is subject to the installation of appropriate equipment. Currently only some of the Executive Advisory Panels are live-streamed.
- 5.3 As stated previously, the Chair of a meeting has responsibility for the good conduct of a meeting, subject to advice from the appropriate officers in attendance. Application of the Protocol would be the responsibility of the Chair;

it is expected that the Chair will apply the Protocol in a reasonable and compliant manner subject to the need to conduct the business of a meeting in an efficient and effective manner.

6. Implications (including financial implications)

6.1 Resources and Financial

6.1.1 None specific to this report.

6.2 Legal

6.2.1 The Monitoring Officer has delegated authority to make administrative changes to the Constitution to reflect changes in the law, changes to the Council's management structure and other changes with no significant impact. The proposed protocol falls outside of this delegation.

6.2.2 The rights of the public and other attendees not to be filmed should be protected. Whilst there is an assumption that councillors and officers in formal attendance at a meeting have deemed consent, those in the public gallery and other attendees cannot be assumed to have given consent. Attendees in the area designated as the "public gallery" should not be recorded.

6.3 Risk

6.3.1 The Council needs to ensure that the efficiency and effectiveness of its governance systems are monitored, and clear approved procedures and protocols are put in place with regard to the conduct of meetings.

6.4 Consultation

6.4.1 Constitutional Working Group

6.5 Consideration by Scrutiny

6.5.1 N/A.

6.6 Climate Impact

6.6.1 None specific to this report.

6.7 Community Impact

6.7.1 Recording of Council meetings can assist in ensuring that those unable to attend have an opportunity to follow discussions and debate. Whilst recording of meetings by the press and public is not a substitute for a full broadcast by the Council, it is important that there is a clear Protocol in place to facilitate such recordings.

7. Background Papers

7.1 Council Constitution.



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Recording of Council Meetings by the Press and Public - Protocol

The protocol is intended to enhance the rights of access by the press and public to Council meetings. It only applies to those meetings where the press and public would normally have rights of access as defined in the Council's Constitution. Any recordings undertaken by the Council itself would be subject to a separate protocol.

- Recording either audio, visual or both will be permitted from the area designated as the "public gallery".
- No audio-visual equipment will be permitted to be placed in the immediate vicinity of the Elected Members or Officers participating in the meeting.
- No flash photography will be permitted during the meeting.
- The Chair of the relevant meeting retains the right to require that any equipment in use is relocated, switched-off or removed should it prove to be disruptive to the smooth and efficient conduct of the meeting.
- All equipment used to record the proceedings of the meeting will have its own power supply; no Council power supply will be used at any time.
- All equipment used to record proceedings of the meeting shall be silent when in use and cause no distraction to participants of the meeting or other members of the "public gallery".
- Users of audio-visual recording equipment will comply with all reasonable requests relating to health & safety e.g., in relation to trip hazards etc.
- Where members of the public are participating in a meeting under the Council's Public Participation Procedure, they shall be requested to give explicit permission for their contribution to be recorded.
- There shall be no filming or recording of the area designated as the "public gallery" at any time.
- Any recordings of meetings do not under law replace or negate the officially recorded minute of that meeting.

- Recording equipment will be turned off during any adjournment periods during a meeting.
- Any issues or queries relating to the implementation of this policy shall be referred to the Proper Officer (Director of Legal and Democratic Services) or their designated representative (Committee Clerk).

Adele Wylie

Director of Legal and Democratic Services

Democracy and Standards Committee 16th November 2021

Report Title	Politically Restricted Posts – Appeal Procedure
Report Author	Adele Wylie – Director of Legal & Democratic Services (Monitoring Officer) adele.wylie@northnorthants.gov.uk

List of Appendices

Appendix A – Draft Politically Restricted Posts – Appeals Procedure

1. Purpose of Report

- 1.1. For the Committee to approve a procedure for determining appeals made by officers in relation to the designation of a post as “Politically Restricted”.

2. Executive Summary

- 2.1 Under law the Authority, through the Head of Paid Service, can designate certain posts on the staffing establishment as “politically restricted”. The effect of designating a post as “politically restricted” would prevent the postholder from having any active political role in or outside the workplace.
- 2.2 Postholders would automatically be disqualified from standing for or holding elected office and these restrictions would be incorporated as terms of the employee’s contract of employment.
- 2.3 Postholders would also be prohibited from canvassing on behalf of a political party or a person who is or seeks to be a candidate, speaking on behalf of or undertaking work or activity that may give the impression that they are advocating support for a political party.

3. Recommendations

- 3.1 It is recommended that the Committee:
- a) Approve the Politically Restricted Posts – Appeals Procedure (as detailed in Appendix A).
- 3.2 Reason for Recommendations –
- To ensure that there is a clear appeal procedure in place for postholders who wish to contest the designation of their post as “politically restricted”.

4. Report Background

- 4.1 Under legislation the Authority, through the Head of Paid Service, have the right to designate certain posts as “politically restricted”. The legislation defines certain posts as “political restricted” without right of appeal. These are known as “specified posts” and include the Head of Paid Service, statutory chief officers etc.
- 4.2 The legislation also allows for certain posts to be designated, if they meet certain other criteria; these are known as “sensitive posts”. They include those posts which provide regular advice and guidance to decision makers (this is usually interpreted as senior posts only), and those employed within the Authority’s communications/press team.
- 4.3 Legislation allows for those employed in “sensitive posts” to appeal against the designation, if they feel the Authority has misinterpreted said legislation.

5. Issues and Choices

- 5.1 The Council is required to have an appropriate appeal mechanism in place with regard to this matter. Legislation requires that the Council’s “standards committee” has responsibility for determining appeals received from postholders.
- 5.2 Ensuring one of the Independent Persons is involved in hearing and determining any appeals received assists in providing assurance to appellants.
- 5.3 Appellants would have the right to present their case to the Appeal Panel and to be accompanied by a trade union representative or work colleague.
- 5.4 The proposed procedure (Appendix A) was tabled at a meeting of the Enabling Services Directorate Consultative Forum held on 3rd November 2021, where trade union representative’s views were sought. Following discussion, the Forum endorsed the proposed procedure for approval by the Committee.

6. Implications (including financial implications)

6.1 Resources and Financial

- 6.1.1 None specific to this report.

6.2 Legal

- 6.2.1 The Authority is required to comply with the relevant legislation pertaining to the designation of posts as “Politically Restricted”, and to ensure that an appropriate appeal procedure is put in place.
- 6.2.2 Whilst it is recognised that “politically restricted” status does prohibit the activities of some postholders, this is a statutory requirement and proportionate to their role and responsibilities within the Authority. The designation is clearly included within job descriptions and terms and conditions during recruitment.

6.2.3 It should be noted that staff employed in election duties (e.g., polling stations, poll card delivery, count assistants etc) by the local Returning Officer are subject to separate legislation, relating to ensuring the impartiality of staff working on elections. These staff are employed by the local Returning Officer not the Council.

6.3 Risk

6.3.1 The Council needs to ensure an appropriate appeal procedure is in place with regard to this matter. Whilst the number of posts designated as “politically restricted” should be low, the Council needs to ensure the law is applied appropriately and the rights of both the Council and postholders protected.

6.3.2 Any designation of a post as “politically restricted” under the “sensitive posts” category will need to be scrutinised by appropriate officers prior to recruitment, to ensure such application of the designation is proportionate and within legislative guidelines.

6.4 Consultation

6.4.1 Constitutional Working Group
Enabling Services Directorate Consultative Forum

6.5 Consideration by Scrutiny

6.5.1 N/A.

6.6 Climate Impact

6.6.1 None specific to this report.

6.7 Community Impact

6.7.1 Recording of Council meetings can assist in ensuring that those unable to attend have an opportunity to follow discussions and debate. Whilst recording of meetings by the press and public is not a substitute for a full broadcast by the Council, it is important that there is a clear Protocol in place to facilitate such recordings.

7. Background Papers

7.1 Local Government and Housing Act 1989
Local Government (Political Restrictions) Regulations 1990
Local Democracy, Economic Development and Construction Act 2009



Politically Restricted Posts – Appeal Procedure

The main provisions regarding Politically Restricted Posts are set out in Part 1 of the Local Government & Housing Act 1989. Further details were set out in the Local Government (Political Restrictions) Regulations 1990.

The effect of including a local authority employee on the list of “politically restricted posts” is to prevent that individual from having any active political role either in or outside the workplace. Politically restricted employees will automatically be disqualified from standing for or holding elected office and these restrictions are incorporated as terms in the employee’s contract of employment.

Employees employed in Politically Restricted Posts are also restricted from: -

- ❖ Canvassing on behalf of a political party or a person who is or seeks to be a candidate; and
- ❖ Speaking to the public at large or publishing any written or artistic work that could give the impression that they are advocating support for a political party.

The cumulative effect of these restrictions is to limit the holders of Politically Restricted Posts to bare membership of political parties, with no active participation within the party permitted.

Each local authority is under a duty to draw-up and regularly update a list of those posts which are politically restricted.

The Local Democracy, Economic Development and Construction Act 2009 modified the previous scheme.

With effect from 12 January 2010 politically restricted posts fall into two broad categories: specified posts and “sensitive” posts.

Specified posts

Specified posts include: -

- ❖ The Head of Paid Service
- ❖ The statutory chief officers
- ❖ Non-statutory chief officers (officers reporting to the Head of Paid Service excluding secretarial/clerical support staff)
- ❖ The Monitoring Officer
- ❖ Officers exercising delegated powers i.e., persons whose posts are for the time being specified by the authority in a list maintained in accordance with s.100G(2) of the Local Government Act 1972
- ❖ Assistants to political groups



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All of the above-mentioned posts are politically restricted without rights of appeal for exemption to the local authority's Democracy and Standards Committee.

"Sensitive" posts

A sensitive post is one which meets one or both of the following duties-related criteria: -

- ❖ Giving advice on a regular basis to the authority itself, to any committee or sub-committee of the authority or to any joint committee on which the authority is represented; and
- ❖ Speaking on behalf of the authority on a regular basis to journalists or broadcasters.

These postholders can appeal to the Democracy and Standards Committee to be exempted from the list, on the grounds that the authority has wrongly applied the criteria.

The right of appeal to the Democracy and Standards Committee was introduced under the Local Government and Public Involvement in Health Act 2007.

List of Politically Restricted Posts – North Northamptonshire Council

Specified Posts

- ❖ Chief Executive (Head of Paid Service)
- ❖ Director of Legal & Democratic Services
- ❖ Director of Finance
- ❖ Chief Officers
- ❖ The officer designated as "Chief Financial Officer" (Local Government Act 1972 s.151) and their designated Deputy
- ❖ The officer designated as "local Monitoring Officer" (Local Government & Housing Act 1989 s.5) and their designated Deputy

Sensitive Posts

- ❖ Assistant Directors (Tier 3)
- ❖ Democratic Services Manager
- ❖ Communications Officer
- ❖ Staff employed within the Communications Office

Appeal Process

Employees included on the list compiled by the local authority on duties-related grounds ("sensitive" posts) can appeal against their inclusion, if they feel that



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they cannot influence policy, or that the local authority has incorrectly applied the duties-related criteria.

All such appeals require a letter from the applicant formally seeking exemption and a full job description of the post.

The letter should be submitted to the authority's Monitoring Officer (or his/her Deputy) with a copy lodged with the authority's Human Resources service.

The Monitoring Officer (or their Deputy) will ensure that the appeal is tabled at a special meeting of a Panel of 3 members; membership of the Panel shall be drawn from the full or substitute membership of the Democracy and Standards Committee.

At least one member of the Panel shall be one of the Independent Persons appointed to serve under the Council's "standards regime", who shall be designated Chair of the Panel.

The applicant shall have the right to address the Panel when they are determining the appeal and submit any written testimony or evidence ahead of the meeting. They shall have the right to be accompanied to the Panel meeting by a representative of a recognised trade union or a work colleague. Any written documentation must be provided to the Monitoring Officer at least 5 working days prior to the Panel meeting for distribution to Panel members.

The Panel shall determine the appeal. The outcome of the appeal shall be communicated in writing to the applicant within 5 working days of the determination.

If the appeal is unsuccessful the applicant may not lodge a further appeal within a period of 12 calendar months unless their substantive job description has been amended significantly in the interim.

If the appeal is successful the authority shall immediately remove the post from the designated "sensitive" post list. The authority may not re-instate the post on the list unless there is a significant amendment to the substantive job description of the post.

Adele Wylie
Monitoring Officer



**North
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Democracy and Standards Committee 16th November 2021

Report Title	Review of Members' Allowances 2022 - Dispensation
Report Author	Adele Wylie – Director of Legal and Democratic & Monitoring Officer

List of Appendices

None

1. Purpose of Report

- 1.1. To seek a dispensation for North Northamptonshire Councillors and any co-opted members to allow them to remain in a meeting room, take part in any discussion and vote on any matter relating to any office they hold within the Council for which they receive an allowance. The dispensation will also apply to any outside body to which they have been appointed by North Northamptonshire Council for which they receive a taxable income or allowance. It is proposed that the dispensation be granted until May 2024.

2. Executive Summary

In order for the Council to discuss and vote upon any recommendations arising from the Review of Members' Allowances due to take place in 2022, the Committee is asked to consider granting a dispensation under the provisions of the Localism Act 2011 to allow members to discuss and vote upon a matter in which they have a disclosable pecuniary interest.

3. Recommendations

- 3.1 That the Democracy and Standards Committee:
- (i) grants a dispensation until 31st May 2024 to all members in relation to discussing and voting on any Council matter as a result of an interest that may arise due receiving an allowance from North Northamptonshire Council;
 - (ii) grants a dispensation until 31st May 2024 in relation to discussing and voting on any Council matter as a result of an interest that may arise due receiving a taxable income or allowance from any outside body to which they have been appointed by North Northamptonshire Council; and

- (iii) strongly advises all members to review, and update, if necessary, their Declaration of Interests Form and ensure that receipt of an allowance from North Northamptonshire Council is included on their form.

3.1 Reason for Recommendations:

Section 31 (4) of the Localism Act provides that where a Member or Co-opted Member of the Council has a disclosable pecuniary interest in a matter under consideration at a meeting such member may not:

- a) participate, or participate further, in any discussion of the matter at the meeting, or
- b) participate in any vote, or further vote, taken on the matter at the meeting.

Part 4.4 of the Constitution of North Northamptonshire Council empowers the Democracy and Standards Committee to grant dispensations to Members and co-opted Members from requirements relating to interests.

4. Report Background

- 4.1 At its meeting held on 25th February 2021, the North Northamptonshire Shadow Authority approved a Scheme of Members' Allowances for the North Northamptonshire Council to take effect from 1st April 2021 until the scheme is amended or revoked by the Council.
- 4.2 The Scheme of Members' Allowances was approved following receipt of recommendations from the Council's Independent Remuneration Panel, one of which was that the allowances scheme should be reviewed in a year's time, when experience of operating the new decision-making structure would have accumulated.
- 4.3 It is anticipated that the Independent Remuneration Panel will shortly begin its work on the forthcoming review of the Members' Allowance Scheme. In anticipation of receipt of the Panel's report in 2022, the Committee is requested to consider granting a dispensation to all members of North Northamptonshire Council to allow them to discuss, and vote on, such recommendations when they are received.
- 4.4 A relevant local authority may grant a dispensation under Section 33 of the Localism Act 2011 if, after having had regard to all relevant circumstances, the authority:
 - (a) considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
 - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,

- (c) considers that granting the dispensation is in the interests of persons living in the authority's area,
 - (d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or
 - (e) considers that it is otherwise appropriate to grant a dispensation.
- 4.5 A dispensation under Section 33 of the Localism Act 2011 must specify the period for which it has effect, and the period specified may not exceed four years.

5. Implications (including financial implications)

5.1 Resources and Financial

- 5.1.1 There are no resources or financial implications arising from the proposals.

5.2 Legal

- 5.3 All elected members are bound by the code of conduct for councillors (the code). The code places a number of obligations on each member for which they are personally accountable and responsible.

- 5.4 There is legal uncertainty as to whether receipt of an allowance paid by the council may amount to disclosable pecuniary interest when considering council business.

- 5.5 A number of local authorities have obtained legal opinion from differing Queens Counsel and the advice varies as whether it is or is not a disclosable pecuniary interest. Therefore, to err on the side of caution and safeguard all members, council is requested to grant a dispensation that may arise from the receipt of such an allowance to all members and co optees.

5.6 Risk

- 5.6.1 If a dispensation was not granted, any decisions arising from the forthcoming review of Members' Allowances may not be able to be taken.

5.7 Consultation

- 5.8 Members of the public will be invited to make representations to the Independent Remuneration Panel as part of the review.

5.9 Consideration by Scrutiny

- 5.9.1 None

5.10 Climate Impact

5.10.1 There are no climate/environmental impacts arising from the proposed recommendations in this report.

5.11 Community Impact

5.11.1 There are no community impacts arising from the proposed recommendations in this report.

6. Background Papers

6.1 North Northamptonshire Shadow Authority (25th February 2021) – Report and minutes.

DEMOCRACY AND STANDARDS COMMITTEE 16th November 2021

Report Title	LGBCE Review of Electoral Arrangements for North Northamptonshire
Report Author	Heather Jackson, Interim Electoral Services Manager, heather.jackson@northnorthants.gov.uk

List of Appendices

None

1. Purpose of Report

- 1.1. To draw members' attention to the forthcoming review of electoral arrangements in North Northamptonshire by the Local Government Boundary Commission for England.

2. Executive Summary

- 2.1 The purpose of the report is to advise members of the forthcoming review of local government electoral arrangements in North Northamptonshire.
- 2.2 To seek approval to establish a cross party member/officer working group to formulate and consider new electoral arrangements within the scope of the review.
- 2.3 To outline the draft timeline for the process.
- 2.4 To outline the key considerations of the review

3. Recommendations

- 3.1 It is recommended that the Democracy and Standards Committee:
- (i) Approves the establishment of a cross party member/officer working group (as detailed in the report) to formulate and consider recommendations for electoral arrangements for North Northamptonshire; and
 - (ii) Approves the draft timeline for completion of the initial stage of the review (preparation and delivery of the high-level submission).

Reasons for Recommendations

- Approval will enable an effective and coherent approach to engaging with this largescale review.

- Provide the opportunity for members and parties to input into the new electoral proposals and respond to LGBCE recommendations.
- Establish a timeline for the preparation of proposals and enable the group to make best use of technical expertise from within the council.

4. Report Background

- 4.1 The Northamptonshire Structural Changes Order 2020 established the electoral arrangements for North Northamptonshire Council.
- 4.2 The arrangements that were put in place reflected the Northamptonshire County Council electoral divisions, as those divisions existed on 31st March 2020. The number of Councillors for each ward was prescribed as 3. These were intended to be interim arrangements until such time as a boundary review was undertaken.
- 4.3 Following the creation of North Northamptonshire Council, the Local Government Boundary Commission for England (LGBCE) indicated its intention to conduct a review of the electoral arrangements for North Northamptonshire.
- 4.4 The LGBCE is independent of government and reports directly to the Speakers Committee. It has a membership of 6 Commissioners and is responsible for carrying out reviews of local authority electoral arrangements.
- 4.5 An electoral review is an examination of a council's electoral arrangements. The review will look at:
- a) the total number of councillors elected to the local authority.
 - b) the number and boundaries of wards for the purposes of the election of councillors.
 - c) the number of councillors for any ward; and
 - d) the name of any ward.
- 4.6 The primary reason for undertaking a review is to improve electoral equality across the council area.
- 4.7 The outcome of the review will be implemented in time for the 2025 full council elections.

5. Issues and Choices

- 5.1 The review will follow a statutory process involving the submission of proposals and consultations on recommendations.
- 5.2 A working group comprised of members from across the whole council will enable broader political engagement.
- (i) The working group to include 5 elected members (3 Conservative, 1 Labour and 1 Green Alliance);
 - (ii) The Leaders of the respective Groups to confirm Group representation; and
 - (iii) The working group to elect its chair and vice chair at its first meeting.

- 5.3 It should also be noted that Councillors, members of the public and other interested parties may also submit their own proposals, recommendations, and evidence to the LGBCE for consideration.
- 5.4 When considering ward areas, the review will look at effective, reflective, and convenient boundaries taking into consideration community identity, behavioural impacts, and physical barriers such as roads, rivers etc.
- 5.5 The draft timeline for the initial phase of the review (preparation of the high-level submission) is as follows:

Timeline	Activity
November 2021	Seek approval for the establishment of a cross party member/officer working group
December 2021 – February 2022	Collection of data forecasts and review of governance options
March 2022 – July 2022	Preparation and consultation on high level submission
July 2022	High level submission delivered to LGBCE for consideration
30 th August 2022	The formal review process begins (as per table below)

- 5.6 Following preparation and delivery of the high-level submission the LGBCE review will begin and will follow the timetable below:

Timeline	Activity
30 August – 7 November 2022	Invitation to submit warding patterns
7 February – 17 April 2023	Publication of draft recommendations & consultation
4 July 2023	Publication of final recommendations
Summer 2023	Draft order seeking to implement the recommendations
2025	Implementation of final recommendations

- 5.7 The electoral arrangements for West Northamptonshire Council will also be reviewed, however, the LGBCE will treat the two reviews separately.

6. Implications (including financial implications)

6.1 Resources and Financial

6.1.1 The resources required to undertake the review are available within the existing North Northamptonshire Member and staffing structure.

6.1.2 Technical expertise in the collation of statistical information, mapping and forecasts will also be required from colleagues in planning services.

- 6.1.3 The member/officer working group will have representation from across the Council (as detailed above) and a timetable of meetings will be agreed.
- 6.1.4 Specialist mapping software is available to assist with detailing proposed boundary changes. The electoral services team are currently investigating the estimated cost, and should a decision be taken to acquire the software it is anticipated the cost would be met from the existing Electoral Services budget.
- 6.1.5 Additional staff overtime costs may become payable in relation to attendance at evening meetings/briefings and to cover any additional hours required in the preparation of the initial submission and future proposals/ responses to recommendations

6.2 **Legal**

- 6.2.1 There are no legal implications arising from the proposals.

6.3 **Risk**

- 6.3.1 The absence of a cross party member/officer working group could lead to a disjointed approach to the review resulting in limited options and evidence for the LGBCE to consider.
- 6.3.2 The existing Electoral Services Management Software contract is due to expire in August 2022. A procurement exercise is currently underway to source a new Electoral Management Software System. If an alternative supplier is selected this could have a negative impact on data processing and any mapping facilities that may have been procured to assist with the technical aspects of the review

6.4 **Consultation**

- 6.4.1 The following meetings have been arranged with the LGBCE
 - 5th November 2021 – LGBCE officer level briefing meeting
 - 15th November 2021 – LGBCE Group Leader briefing
 - 29th November 2021 – LGBCE briefing to NNC Members

Formal consultation on the draft recommendations will be conducted by the LGBCE as part of the statutory review process.

6.5 **Consideration by Scrutiny**

- 6.5.1 This has not been reviewed by the Scrutiny Commission; therefore, no comments or recommendations have been received. This is a non-Executive matter, and the Democracy and Standards Committee are charged to co-ordinate a council response.

6.6 **Climate Impact**

- 6.6.1 No immediate environmental impact has been identified. When undertaking the review, the project team will consider the environmental and climate impact of the project, in line with the council's priorities in this area.

6.7 Community Impact

- 6.7.1 The primary objective of the review is to improve electoral equality across North Northamptonshire ensuring that each voter has roughly the same representation on the council.
- 6.7.2 Members of the community will have the opportunity to engage with the review process and submit their own proposals and comment on recommendations as part of the review process.

7. Background Papers

- 7.1 None.
- 7.2 Further information in respect of the LGBCE and the conduct of electoral reviews is available at <https://www.lgbce.org.uk>

