

# Rushcliffe Borough Council Constitution

## Part 5 Codes and Protocols

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## **Rules of Procedure – Officer Employment**

These procedure rules incorporate the provisions which authorities are required to include in their Standing Orders relating to officers under the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) and shall be interpreted in accordance with those regulations.

### **Recruitment and Appointment**

Declarations:

- the Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are related to an existing Councillor or senior officer of the Council, or of the partner of such persons
- no candidate so related to a Councillor or a senior officer will be appointed without the authority of the Chief Executive or an officer nominated by him/her.

Seeking support for appointment:

- the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information
- no Councillor will seek support for any person for any appointment with the Council.
- these do not preclude a Councillor from providing an official reference for an applicant, provided the Councillor did not participate or seek to influence in any other way in the appointment.

### **Recruitment of Head of Paid Service and Directors**

Where the Council proposes to appoint a Chief Executive, Deputy Chief Executive or other Director it should determine the scope of intended applicants, and whether the stated post(s) should be advertised internally, externally or both. In all cases, the Council will:

- draw up a statement specifying:
  - the duties of the officer concerned; and
  - any qualifications or qualities to be sought in the person to be appointed
- make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- make arrangements for a copy of the statement mentioned above to be sent to any person on request.

### **Appointment of Head of Paid Service, Monitoring Officer and Section 151 Officer**

The full Council will approve the appointment of the Head of Paid Service, and designation of the roles of Monitoring Officer and the Section 151 Officer.

## **Appointment of Directors**

A committee of the Council will appoint Directors.

## **Appointment of Head of Paid Service and Dismissal of Head of Paid Service, Monitoring Officer and Section 151 Officer**

Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the appointment of an officer designated as Head of the Council's Paid Service, the Council's Section 151 Officer, or the Council's Monitoring Officer, the Council must approve that appointment before an offer of appointment is made to that person.

Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the dismissal of an officer designated as the Council's Head of Paid Service, as the Council's Section 151 officer, or as the Council's Monitoring Officer, the Council must approve that dismissal before confirmation is given to that person.

In the case of an emergency, the leader of the Council in consultation with the lead Human Resources Specialist suspend the Chief Executive immediately. Where suspension decision is taken pursuant to this part, the period must be reasonable to allow a full investigation into the alleged conduct of the officer giving rise to it. A decision under this part must be reported to Full Council by the calling of an extraordinary meeting.

## **Cabinet Member on Committees**

Where a committee or sub-committee is discharging, on behalf of the Council, the function of the appointment or dismissal of any officer referred to in Appendix 1, at least one member of the Cabinet must be a member of the committee or sub-committee.

## **Member Involvement**

Save as provided for below, the function of the appointment and dismissal of, and taking disciplinary action against, an officer must be discharged, on behalf of the Council, by the Head of Paid Service or by an officer nominated by him / her.

The above requirement shall not apply to the appointment or dismissal of, or disciplinary action against an officer referred to in the Appendix 1.

A Councillor shall not be prevented from serving as a member of the employment appeals committee.

## **Dismissal of Head of Paid Service, Monitoring Officer and Section 151 Officer**

In the following paragraphs:

- “the 2011 Act” means the Localism Act 2011
- “Chief Finance Officer”, “disciplinary action”, “Head of the Authority’s Paid Service” and “Monitoring Officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001
- “independent person” means a person appointed under section 28(7) of the 2011 Act
- “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts
- “the panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority
- “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
- “relevant officer” means the Chief Finance Officer, Head of Paid Service or Monitoring Officer, as the case may be.

A relevant officer may not be dismissed by an authority unless the procedure set out in this protocol is complied with.

The Council must invite relevant independent persons to be considered for appointment to the panel, with a view to appointing at least two such persons to the panel.

A “relevant independent person” means any independent person who has been appointed by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.

The Council must appoint to the panel such relevant independent persons who have accepted an invitation in accordance with the following priority order:

- a relevant independent person who has been appointed by the Council and who is a local government elector
- any other relevant independent person who has been appointed by the authority
- a relevant independent person who has been appointed by another authority or authorities.

The Council is not required to appoint more than two relevant independent persons but may do so.

The Council must appoint any panel at least 20 working days before the relevant meeting.

Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular:

- any advice, views or recommendations of the panel
- the conclusions of any investigation into the proposed dismissal
- any representations from the relevant officer
- comply with the regulations and the revised Standing Orders; and
- give effect to any relevant provision in the officer's contract.

Any remuneration, allowances or fees paid by the Council to an independent person appointed to the panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

## **Appendix 1**

The posts listed in paragraph 3 of Part II of Schedule 1 the Local Authorities (Standing Orders) (England) regulations 2001, namely:

- The Head of Paid Service (Chief Executive)
- Statutory Chief Financial Officer (Section 151 Officer)
- Non-statutory Chief Officer (Directors)
- Assistant for a political group.

Note: The above posts are defined more specifically in the regulations and the Strategic Human Resources Manager will advise which posts on the establishment fall within the definitions.

## Councillor Code of Conduct

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that councillors can be held accountable, and all adopt the behaviours and responsibilities associated with the role. The conduct of an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

Councillors represent local residents, work to develop better services and deliver local change. The public have high expectations of them and entrust them to represent the local area, taking decisions fairly, openly, and transparently. Councillors have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, Councillors should be able to undertake their role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect the democratic role, encourage good conduct and safeguard the public's trust in local government.

### Introduction

All councils are required to have a local Councillor Code of Conduct. The Standards Committee will undertake an annual review of this Code in line with the review undertaken by the Local Government Association to ensure it continues to be fit- for purpose, incorporating advances in technology, social media and changes in legislation.

### The Seven Principles of Public Life

**Selflessness:** Holders of public office should act solely in terms of the public interest.

**Integrity:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

**Objectivity:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**Accountability:** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**Openness:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**Honesty:** Holders of public office should be truthful.

**Leadership:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles. Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.



## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from the Council's Monitoring Officer on any matters that may relate to the Code of Conduct. You must have regard to any relevant advice provided to you by the Council's Monitoring Officer, Section 151 Officer and/or Chief executive where they are acting in pursuant to their statutory duties.

Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer and/or National Association of Local Councils (NALC.)

## **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken. Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

1. Respect As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play. Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack. In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors. In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor officer protocol.

## 2. Bullying, harassment and discrimination.

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

Rushcliffe Borough Council supports the definition of the Advisory, Conciliation and Arbitration Service (ACAS) which characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's

performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### 3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority. Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### 4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

a. given to me in confidence by anyone

b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless

i. I have received the consent of a person authorised to give it;

ii. I am required by law to do so;

iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or

iv. the disclosure is:

1. reasonable and in the public interest; and
2. made in good faith and in compliance with the reasonable requirements of the local authority; and
3. I have consulted the Monitoring Officer prior to its release.

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations. For guidance and support you should contact Rushcliffe Borough Council's Chief Information Officer.

## 5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute. As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute. You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about

decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

\* see definition below

## 6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else. Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## 7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

- a. act in accordance with the local authority's requirements; and

b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor. Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## 8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination. Failure by me to cooperate with the process will be noted but will not frustrate the process.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

## 9. Interests As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority. You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be

held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early

on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix A sets out the detailed provisions on registering and disclosing interests.

If in doubt, you should always seek advice from your Monitoring Officer.

## 10. Gifts and hospitality

As a councillor:

10.1 **I do not accept** gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer within 28 days of the said offer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, contact your Monitoring Officer for guidance.

## Appendix A

### Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the

categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

“**Disclosable Pecuniary Interest**” means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.

3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non-participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in **Table 1**) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which **affects**:

- a. your own financial interest or well-being;
- b. a financial interest or well-being of a relative or close associate; or
- c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have an Other Registrable Interest or Non-Registrable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

### **Table 1**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.



Subject	Description
Employment, office, trade, profession, or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12 month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relation (Consolidation) Act 1992.</p>
Contracts	<p>Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person has a beneficial interest in the securities of *) and the council</p> <p>----</p> <p>(a) Under which goods or services are to be provided or works to be executed; and</p> <p>(b) Which has not been fully discharged</p>
Land and property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.
Corporate tenancies	<p>Any tenancy where (to the councillor's knowledge)</p> <p>(a) The landlord is the council; and</p> <p>(b) The tenant is a body that the councillor, or his/her spouse or civil partner or the person whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>

Subject	Description
Securities	<p>Any beneficial interest in securities* of a body where:</p> <p>(a) That body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) (b) either—</p> <p>(i) ) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) If the share capital of that body is of more than one class, the total nominal value of the shares or any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p> <ul style="list-style-type: none"> <li>• director' includes a member of the committee of management of an industrial and provided society</li> <li>• 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.</li> </ul>

## Table 2: Other Registerable interests

You must register as an Other Registerable Interest:

a) Any unpaid directorships

b) Any body of which you are a member or are in a position of general control. Or management and to which you are nominated or appointed by your authority

c) Any body

(i) Exercising functions of a public nature

(ii) Directed to charitable purposes or page 42

(iii) One of whose principal includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management.

## Definitions

For the purposes of this Code of Conduct,

a “**councillor**” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

a) is a member of any committee or sub-committee of the authority, or;

b) is a member of, and represents the authority on, any joint committee or joint sub committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

“**local authority**” includes county councils, district councils, parish councils, town councils and economic prosperity boards.

“**disrepute**” means a member or co-opted member’s conduct could potentially damage the local authority’s reputation so as to bring the local authority into disrepute and could result in the public losing trust and respect for the authority.

## **Protocol for the Registration of Gifts and Hospitality**

Councillors should treat with extreme caution any offer or gift, favour or hospitality that is made to them personally. The person or organisation making the offer may be doing, or seeking to do, business with the Council, or may be applying to the Council for planning permission or some other kind of decision.

There are no hard or fast rules about the acceptance or refusal of hospitality or tokens of goodwill. For example, working lunches may be a proper way of doing business, if they are approved by the Council and that no extravagance is involved. Likewise, it may be reasonable for a member to represent the Council at a social function or event organised by outside persons or bodies, for example corporate hospitality at approved conferences.

Each Councillor is personally responsible for all decisions connected with the acceptance or offer of gifts or hospitality and for avoiding the risk of damage to the public confidence in the Council and in local government generally.

A Councillor must, within 28 days of receiving any gifts or hospitality over the value of £25, provide written notification to the Council's Monitoring Officer of the existence and nature of that gift or hospitality.

A Councillor must also notify the Council's Monitoring Officer of any offer of any gift or hospitality, whether or not the Councillor accepts that offer, which a member of the public with knowledge of the relevant facts might reasonably regard as intended to influence the discharge of their responsibilities as a Councillor.

Such notification shall be made as soon as reasonably practicable after the Councillor is aware of the offer and in any case within 28 days of such offer.

Gift or hospitality includes any opportunity to acquire goods or services at a price or on terms at which they are not readily available to the general public.

# Guidance on Planning Application Procedures

## Introduction

One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily effects property interests, particularly the financial value of land holdings and the quality of their settings. It is important, therefore, that planning decisions are made openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for any reasonable person to suggest with any justification that a decision has been partial, biased or not well founded in any way.

It is important that Councillors receive open and impartial professional advice from their planning officers. Councillors should make planning decisions on the basis of relevant material planning considerations and should have good reasons, based on land use planning grounds, for resisting such advice.

The public is entitled to expect the highest standards from both Councillors and officers in their duties and they are expected, at all times, to act fairly, in good faith and impartially in all aspects of their work. Accordingly, the Local Government Association has recommended that planning authorities should agree a local Code of Practice to guide Councillors in the way they go about their business. The Code also gives guidance to officers involved in dealing with planning applications.

This Code of Practice applies to Councillors at all times when involving themselves in the planning process, whether as a member of the Planning Committee, as a ward Councillor consultee, as an applicant, or in some other capacity. If you have any doubts about the application of this Code to your own circumstances, you should seek advice at the earliest opportunity, preferably well before any meeting takes place.

## Relationship to the Councillors' Code of Conduct

Councillors should always start by applying the rules in the Councillors' Code of Conduct. The rules in this Planning Code seek to explain and supplement the Code of Conduct in the context of planning control. This Planning Code goes beyond the probity concerns of the Councillors' Code of Conduct to give more detailed advice on the operation of the system, to ensure the preservation of the integrity of the planning process as open and fair to all parties.

If you do not abide by this Code, you may put:

- the Council at risk of proceedings on the legality or maladministration of the related decision; and/or
- yourself at risk of either being named in a report made to the Standards Committee or Council if the failure is likely to also be a breach of the Councillors' Code of Conduct.

## **Planning application procedures**

The following principles shall be followed by the Council in dealing with planning applications:

- Councillors and officers will, wherever possible, avoid indicating the likely decision on an application or otherwise committing the Council during contact with applicants or objectors
- details of all applications will be sent to local ward Councillors and parish councils with the opportunity to comment
- the Director – Development and Economic Growth will be responsible for determining all applications except those which, in accordance with the Council's scheme of delegation, must be referred to the Planning Committee for determination.

## **Application discussions with applicants**

Discussions between a potential applicant and the Council prior to the submission of an application, or discussion on submitted applications, is normal and beneficial to applicants. However, it would be easy for such discussions to become, or to be seen, particularly by objectors, to become, part of a lobbying process on the part of the applicant. To avoid any meetings being misunderstood, they will normally be at officer level.

In any event:

- it should 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 provisional
- advice should be consistent and based upon the Development Plan and other material considerations.

Officers should make it clear that the decision on the application would be made either by the Director – Development and Economic Growth under delegated powers, or by Councillors through the Planning Committee. In addition:

- written notes should be made of all potentially contentious meetings and telephone conversations
- care should be taken to ensure that advice is not partial (or seen to be).

## **Reports to Committees**

All applications to the Planning Committee will be the subject of a full, written report incorporating all relevant considerations and responses to consultations and clear recommendations from the Director – Development and Economic Growth. In particular, the following points should be taken into account in the preparation of reports:

- reports should be accurate and cover, among other things, the substance of objections and the views of people who have been consulted

- there should be a clear explanation of relevant development plan policies, where appropriate, the site or related history and any other material considerations
- reports should have written recommendations of action, oral reporting (except to update a report) should be avoided wherever possible and minuted when it does occur
- reports should contain a technical appraisal which clearly justifies the recommendation
- if the report's recommendation is contrary to the development plan, the material considerations which justify this must be clearly stated.

## **Decisions contrary to officer recommendations and/or the development plan**

If the Planning Committee makes a decision which is contrary to the advice of the Director – Development and Economic Growth, the Committee should clearly indicate the reasons for the decision, and these should be minuted.

Similarly, if the Committee makes a decision which is contrary to the development plan, the material considerations taken into account in reaching that decision should be minuted.

## **Declaration of interests**

The requirements and procedures relating to the declaration of interests by Councillors are fully set out in the Councillors' Code of Conduct. Councillors must disclose the existence and nature of all interests, as defined in the Code, but it does not then necessarily follow that the holding of a nonpecuniary interest debars the Councillor from participation in the discussion and voting. If, however, a non-pecuniary interest is capable of affecting the Councillors judgement, then the Councillor must withdraw from the room and not participate in the discussion of the matter.

If, when consulted on an application in their capacity as ward Councillor, a Councillor recognises that they have a prejudicial interest in the matter, the consultation form should be marked accordingly, and the Councillor should not express their view as a Councillor.

Although Councillors are not normally obliged to return these consultation forms, they should upon receipt use their best possible endeavours to do so whenever they have a prejudicial interest

## **Applications by Councillors and Officers and Council development**

The impartiality of the planning process requires particular care when dealing with an application by anyone who might ordinarily be involved in the planning process. Accordingly, when any Councillor, or any officer who might be involved in the

planning process (or who holds a post of a type or level of seniority referred to in the officer code of conduct for this purpose), submits an application to the Council for themselves or on behalf of any person, they should inform the Director – Development and Economic Growth and take no part in processing or determining the application. The Director – Development and Economic Growth will ensure that all such applications are determined by the Planning Committee and not under delegated powers.

The requirements placed on Councillors above shall also apply when a Councillor has any other significant interest in a planning application such as would amount to a prejudicial interest and the reference to “agent” in the Council’s scheme of delegation (Development Control (i)(e)) shall be construed accordingly.

Following receipt of notification from a Councillor, the Director – Development and Economic Growth shall notify the Monitoring Officer.

Proposals for the Council’s own development will be treated in the same way as those of private developers, in accordance with Government advice (currently to be found in DoE Circular 19/92), particularly in relation to officers’ advice.

## **Lobbying of and by Councillors, and fettering discretion**

It is essential for the proper operation of the planning system that local concerns are adequately raised and taken into consideration. The most effective and suitable way that this can be done is via the local representatives, the Councillors themselves. (Nolan Committee report 1997).

Lobbying of local Councillors is a normal and perfectly proper part of the political process.

When being lobbied (whether by the applicant or an objector), ward Councillors, and members of the Planning Committee in particular, should take care in expressing an opinion which may be taken to mean that they have come to a final view on the issue before they have considered all the evidence and arguments. Advice on procedural matters in relation to the application can be properly given, but if an opinion on the merits of the application is given it should be emphasised that a final decision can only be made after all the evidence and arguments have been considered.

Ward Councillors sitting on the Planning Committee when dealing with a local application which is controversial, and the subject of extensive local lobbying may find themselves in a difficult position. The overriding duty of a Councillor sitting on the Planning Committee is to the whole local community and, whilst a Councillor may properly raise and represent the views of local constituents, Councillors should not put the interests of local constituents above the general interest.



If a Councillor does find that they no longer retain an open mind on the matter, or that their impartiality has been compromised, then the proper course of action would be to make an open declaration to that effect at the meeting and not vote on the matter. The Councillor may not necessarily have a prejudicial interest in the application under the Councillor Code of Conduct, but if a Councillor has (in legal parlance) “fettered their discretion” or “pre-determined” the issue, their continued involvement in the decision-making process could jeopardise the validity of the final decision and/or lead to a formal complaint being made.

Membership of a parish council which has expressed a view on an application does not by itself give rise to a conflict, provided that the Councillor retains an impartial viewpoint.

The following issues should also be taken into account:

- on the basis that decisions can only be made when the relevant Committee has considered all the evidence and argument, political groups should not use the Group Whip to determine how the group Councillor should vote
- Councillors should in general avoid organising support for, or opposition to, a planning application, and avoid lobbying officers or other Councillors
- Councillors should not put pressure on officers for a particular recommendation
- Councillors should seek the Monitoring Officer’s advice if they are unsure about the application of these principles in any situation.

## **Councillor training**

Councillors should not generally serve on the Planning Committee unless they have received training on the planning system. Periodic training sessions will be organised by officers to ensure that Councillors are kept informed of developments in planning legislation, procedures and probity issues. In view of the use of substitutes at Committee meetings, all Councillors should endeavour to attend such training sessions. Councillors are expected to attend a general planning training session at least once in every four year term (‘or more frequently if considered necessary due to changes to the system) to ensure their understanding of planning legislation is kept current.

## **Protocol on Councillor: Officer Relations**

“Every local authority should have its own written statement or protocol governing relations between members and officers” (third report of the Committee on Standards in Public Life – known as the Nolan Committee).

### **Introduction**

Rushcliffe Borough Council recognises that the relationship between its Councillors and its officers is of vital importance in its work on behalf of the people of the Borough. The Council believes that a public statement of rules and guidance on this relationship demonstrates its commitment to act with integrity and helps both Councillors and officers in carrying out their different but interrelated duties. This Protocol forms part of the Borough Council’s Constitution and has been approved by its Standards Committee. It builds on the Council’s Codes of Conduct for Councillors and officers and should be read in conjunction with them.

The principles on which the protocol is based are that:

- both Councillors and officers are servants of local people but with distinct roles
- the best service will be provided to local people by Councillors and officers working as one team
- the service given to local people must be efficient, open and accountable
- both Councillors and officers have a duty to act in accordance with the Council’s ethical standards
- officers serve the Council, but this service is expressed through the management structure
- the political impartiality of staff must be maintained
- effective working relationships between Councillors and officers must be based on trust and mutual respect.

### **The Roles of Councillors and Officers**

Councillors are elected by local people and are democratically accountable to local people. Councillors set the policy framework and budget for the Council through meetings of the full Council. Councillors on the Executive take key decisions in implementing, and initiatives within, the policy framework and budget. Councillors are responsible for holding decision takers to public account through the work of overview and scrutiny committees. Councillors are responsible for ensuring that the Council considers issues of concern to local people. It is Councillors who are responsible for taking the lead in representing and leading their communities. It is Councillors who must ensure that the Council works effectively with its partners in the public, private and voluntary sectors in promoting and maintaining the economic, social and environmental wellbeing of the Borough and local people. In addition to these official roles, most Councillors belong to a political group. Political groups meet together and may consider issues before the Council takes a decision. Political groups do not meet to consider planning applications. These group meetings are not

part of the Council's constitutional arrangements. To ensure openness they are covered in this protocol.

With limited exceptions Councillors do not have any decision taking powers as individuals. They do not have any responsibility for the day-to-day management of officers or the delivery of services. They do not give orders to officers. They do not use their influence to secure for themselves or any other person an improper advantage or disadvantage from the Council or any of its partners. Councillors do not do anything that would compromise the impartiality of officers. Councillors do not lobby on behalf of any individual seeking employment with the Council or in other personnel matters.

All officers serve the Council as a whole and support Councillors in their roles. Officers use their professional expertise and best judgement in advising Councillors how they can achieve their objectives. They are free to make their impartial recommendations without pressure from Councillors, individually or collectively. Officers implement the lawful decisions of Councillors taken in accordance with the Constitution. Officers ensure that Councillors are aware of changes to legislation or other external influences on the Council's operation and advise on how best the Council should respond. Officers manage the resources of the Council for which they are responsible in providing services to local people. Officers propose new policies or changes to existing policies where they consider that these would improve the Council's performance or service to local people. Officers take the day-to-day managerial and operational decisions within the Council. Officers liaise with colleagues working for other local authorities and the Council's partners to share best practice and to co-operate where necessary in achieving the Council's objectives. Some officers have particular statutory responsibilities as detailed in part 3 of the Constitution and perform these roles in accordance with their own judgement and without fear or favour.

Officers do not allow their personal or political opinions to interfere with the exercise of their responsibilities to the Council. Officers do not treat any individual Councillor less favourably than any other but provide the same level of service to all Councillors consistent with the demands of the Councillor's roles within the Council and their workloads.

## **The Agreement between Councillors and Officers**

The protocol takes the form of an agreement between Councillors and officers and sets out what each can expect from the other in a range of situations. It is not possible to cover every circumstance in which Councillors and officers interact. The protocol sets out the most common areas where Councillors and officers come into contact. In other situations, the protocol, sets the framework and acts as a guide to the relationship that is to be followed.

## Supporting Front-line Councillors

In terms of casework, Councillors will:

- raise case working issues with an appropriate Director, or such other officer as may be arranged with a Director, or a designated officer within Customer Services
- ask for, or provide, information on a particular case, seek clarification on the application of the Council's policies or procedures but:
  - will balance the interests of their constituents with the interests of other local people in a fair and objective way
  - not raise issues in which they have a personal interest except by correspondence only (making sure that they clearly state both the existence and nature of their personal interest)
  - not do anything which could be interpreted as a direction to, or pressure on, an officer in relation to an issue but to raise any concerns with the relevant Director.

In terms of casework, officers will:

- respond promptly to enquiries by providing a reply within five working days of the receipt of the request, or, if a full response is not possible, provide an interim reply explaining why a full response is not possible with an estimate of when the full reply will be made
- treat enquiries from Councillors in which they have a personal interest no more, or less, favourably than they would an enquiry from any other local person, and provide them with the same information that a member of the public would receive
- report to a senior manager any contact from a Councillor that does not comply with this protocol.

In terms of public consultations, Councillors will:

- inform the appropriate officer of any formal consultation exercise they intend to conduct in their ward on particular issues, except where that consultation is used for party political purposes.

In terms of public consultations, officers will:

- provide support at a level agreed with a Director in arranging and conducting consultations undertaken by Councillors, subject to the availability of designated resources and to such support not compromising either the political impartiality or professional obligations of officers. Directors shall seek to ensure that Councillors are informed of issues which affect their wards as soon as possible.

## Supporting overview and scrutiny

In terms of scrutiny, Councillors will:

- conduct their scrutiny role through the appropriate committee on decisions taken or proposed and their merits

- not raise the conduct or capability of an officer at meetings or in any public forum
- conduct overview and scrutiny meetings in accordance with the overview and scrutiny Standing Orders in part 4 of the Constitution
- exercise their individual rights to place items on the agenda with due regard to the overall work programme of the committees and the capacity of officers to provide the support needed
- treat admissions of failure or mistakes made by officers as an opportunity to improve the service provided for local people
- welcome the opportunity to congratulate officers on a job well done, bearing in mind the potential positive impact on staff morale and Councillor/officer relations
- not ask staff to explain the actions of Councillors
- be open about failures or mistakes for which they have responsibility and be supportive of others, be they Councillors or officers who may have made an error.

In terms of scrutiny, officers will:

- ensure that overview and scrutiny committees have access to appropriate internal resources within the overall resources of the Council
- be no less accountable to overview and scrutiny committees as to the Executive and provide the overview and scrutiny committees with uninhibited objective professional support to assist them in their work for the benefit of local people
- be open in responding to the enquiries of overview and scrutiny committees and never seek to obstruct their work
- explain and justify the advice they have given to decision takers, but not criticise decision takers in committees or public forums where lawful decisions have been taken which do not follow that advice
- be open about failures or mistakes for which they have responsibility and be supportive of others, be they Councillors or officers who may have made an error
- not ask Councillors to explain the advice given by officers.

In terms of policy development, Councillors will:

- conduct their policy development role through the appropriate body with due regard to the overall work programme of the body and the capacity of officers and partner organisations to provide the support needed.

In terms of policy development, officers will:

- provide advice, expertise and their professional judgement to support policy development proposals whether these have been initiated by the Executive or by overview and scrutiny committees or by partnership structures, and according to any protocols within the Council's current policy framework.

## **Supporting the Cabinet and other decision-making bodies**

In terms of taking decisions, Councillors will:

- always consider the advice and recommendations submitted to them by officers
- where possible, seek clarification on the content or recommendations contained in a report from officers prior to discussions in formal meetings
- recognise that officers are not always able to defend themselves in meetings and other public forums and therefore make any negative observations privately to the Chief Executive or Directors wherever possible. If in exceptional circumstances that proves impossible, they will ensure that any criticism of reports or actions is never personal
- never seek to pressurise an officer to make a recommendation that is against their professional judgement
- give reasons for their decisions, particularly on those occasions when they do not accept the recommendation of officers.

In terms of taking decisions, officers will:

- regardless of their personal or political views, officers will provide decision takers with professional advice within their areas of expertise on how best the Council can achieve its objectives. Officers will diligently seek to implement decisions taken officers at all times will strive to act fairly, in good faith and in an impartial way to achieve the objectives set by the Council
- be entitled to request that the minutes of a meeting record their advice on any matter where Councillors have decided not to follow that advice.

## **General**

In terms of access to information, Councillors will:

- only seek information that they have a need to know to perform their duties
- not knowingly seek information which is not publicly available and which they do not have a need to know to perform their duties, in which they are professionally interested, in which they have a prejudicial interest or which they intend to put to wider political purpose rather than constituency purpose.

In terms of access to information, officers will:

- respond promptly to requests for information
- refer a request for information which is not publicly available and in which it would seem to the relevant Director that a Councillor may have an interest. This will enable appropriate action to be taken in consultation with the Monitoring Officer
- refer a decision to refuse a Councillor access to requested information to the Monitoring Officer at the Councillor's request (or to the Chief Executive if the refusal was by the Monitoring Officer) for decision.

In terms of access to staff, Councillors will:

- be provided with the direct line work telephone numbers of all senior officers
- only approach officers via the Director or in accordance with any guidance issued by the Chief Executive

- exercise their right to contact officers during the working hours of the Council between Monday and Friday.

In terms of access to staff, officers will:

- ensure that Councillors are able to leave messages for them out of normal working hours
- other than in exceptional circumstances, agree to any requests for a meeting received from the group leaders on behalf of individual Councillors (having consulted the Chief Executive or Deputy Chief Executive if considered appropriate).

In terms of access to premises, Councillors will:

- whenever practicable, notify and make advance arrangements with the appropriate manager or officer in charge
- comply with health and safety, security and other workplace rules
- not disrupt the services or activities being provided at the time of the visit
- take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

In terms of access to premises, officers will:

- endeavour to accommodate visits by Councillors subject to the exigencies of the service
- advise Councillors making such visits of any relevant safety or security requirements as appropriate.

In terms of the Leader, members of the Cabinet, chairs and deputy chairs of committees Councillors will:

- have a high regard for:
  - the rights of officers to have a personal and family life
  - the need to comply with the working time regulations
  - honouring and respecting the published timetable of meetings, briefings and consultative events agreed at the commencement of the municipal year
- have regard to the need for officers to research and prepare reports in exercising their right to direct that any item of business (within the terms of reference of that meeting) as they may specify is included on the agenda for that meeting.

In terms of the Leader, members of the Cabinet, chairs and deputy chairs of committees, officers will:

- have a high regard for:
  - the rights of Councillors to have a personal and family life
  - the demands placed on Councillors who are in full time employment
  - the need to comply with the working time regulations

- honouring and respecting the published timetable of meetings, briefings and consultative events agreed at the commencement of the municipal year
- Be entitled to make whatever recommendation in a report that they may decide in the exercise of their professional judgement.

In terms of use of Council facilities, Councillors will:

- ensure that their use of any facilities or equipment provided for them such as stationery, reprographics, secretarial services, computers and telecommunications equipment is strictly for their duties as a Councillor and for no other purpose, and in accordance with any agreements made as to their use
- never use facilities or equipment so provided for party political or personal use.

In terms of use of Council facilities, officers will:

- provide assistance on request to Councillors to enable them to make use of any facilities provided within agreed timescales and current policy.

In terms of media relations, Councillors will:

- comply with the Code of Recommended Practice on Local Authority Publicity
- not disclose confidential or exempt information to the media
- not request assistance from officers in facilitating any media contact which is intended or likely to criticise the Council, its partners or its policies.

In terms of media relations, officers will:

- assist Councillors in explaining proposals and policies to journalists but not in promoting individual Councillors, their political views or criticising the Council, its partners or its policies
- promptly pass media requests for interviews and contributions on to Councillors and make arrangements to bring these about
- not divulge to other Councillors any media contact made or planned by a Councillor without their consent unless such disclosure is essential to the interview or event
- make available for inspection by Councillors all media releases which are issued on behalf of the Council.

In terms of political group meetings, Councillors will:

- direct requests for staff attendance at group or other political meetings to the Chief Executive or in his/her absence the Deputy Chief Executive at whose absolute discretion attendance rests
- not discuss party political business in the presence of officers
- not ask officers to divulge confidential or exempt information at political group meetings, where there are persons present at the meeting who are neither Councillors nor officers.

In terms of political group meetings, officers will:



- inform the leaders of the other political groups of any such attendance and the subject matter involved
- not divulge confidential or exempt information at political group meetings where there are persons present at the meeting who are neither Councillors nor officers
- provide all groups with copies of information provided to any one group which is likely to be cited in support of a particular option or decision at a meeting of the Council, the Executive or a committee.

In terms of Councillors appointed to outside bodies, Councillors will:

- report back to the appropriate Council body on the activities of the outside body where such information would assist the Council's service to local people and not breach any requirement of confidentiality or duty owed by the Councillor to the outside body.

In terms of Councillors appointed to outside bodies, officers will:

- provide reasonable assistance to support Councillors in their membership of outside bodies to which they have been appointed by the Council, subject to the availability of designated resources
- on request, provide information about the body prior to appointment and a named contact for briefing purposes.

In terms of confidentiality, Councillors will:

- comply with requests by officers that information they provide should remain confidential subject only to it being information which should be made available under a statutory obligation on the Council, under the Council's Constitution or by the lawful decision of the Executive, a committee or sub-committee
- ensure that as much information as possible shall be available to the public through the proper channels.

In terms of confidentiality, officers will:

- comply with requests by Councillors that information they provide must remain confidential subject only to it being information which should be made available under a statutory obligation on the Council, under the Council's Constitution or by the lawful decision of the Executive, a committee or sub-committee
- not communicate Councillor correspondence relating to political or sensitive matters to other Councillors without the original Councillor's consent
- ensure that as much information as possible shall be available to the public through the proper channels.

In terms of management of staff, Councillors will:

- not become involved in staffing matters except at the request of the executive management team or as provided in the Constitution
- not enter into discussion with any other Councillors or officers about any employment decisions or an applicant for employment or day-to-day staffing

issues (except when an agreed agenda item being considered by a committee or other formal member group)

- always make employment decisions on merit
- not seek to become involved in operational issues except at the request of the executive management team.

In terms of management of staff, officers will:

- not lobby any Councillor about any employment decisions or an applicant for employment or day-to-day staffing issues
- not seek Councillors' involvement in staffing matters except at the request of the executive management team or as provided in the Constitution, for example staffing policy formation
- always make employment decisions on merit
- not seek to involve Councillors in operational issues except at the request of the executive management team.

In terms of complaints, Councillors will:

- bring any knowledge or reasonable suspicion that there has been a failure to comply with the provisions of this protocol to the attention of the Monitoring Officer or their deputy or, in the absence of both, the Head of Paid Service, or follow the Council's whistleblowing policy and procedure.

In terms of complaints, officers will:

- bring any knowledge or reasonable suspicion that there has been a failure to comply with the provisions of this protocol to the attention of their line manager or follow the Council's whistleblowing policy and procedure.

## **Review**

This Protocol will be reviewed by the Standards Committee after the first year and subsequently every four years, or as required.

## **Information Sharing / UK GDPR & DPA 2018**

### **1. Introduction**

- 1.1 The nature of the relationship between the Council and Councillors means that personal data will be shared between both parties. These codes and protocols set out rules and responsibilities to ensure the Council and Councillors meet their obligations to the UK General Data Protection Regulation (UK GDPR) and Data Protection Act 2018 (DPA).
- 1.2 All Councillors are designated 'Data Controllers' and have a responsibility to ensure all safeguarding is in place to secure and protect all personal data as governed by the UK GDPR and DPA 2018.
- 1.2.1 Data Controller – Article 24 of UK GDPR means a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are or are to be processed.
- 1.2.2 Taking into account the nature, scope, context and purposes of processing as well as the risks of varying likelihood and severity for the rights and freedoms of natural persons, the controller shall implement appropriate technical and organisational measures to ensure and to be able to demonstrate that processing is performed in accordance with this Regulation. Those measures shall be reviewed and updated where necessary.
- 1.2.3 Where proportionate in relation to processing activities, the measures referred to in section 1.2.2 shall include the implementation of appropriate data protection policies by the controller.
- 1.3 All Councillors must complete their Information Management and Governance eLearning course. This is to ensure you kept up to date with your responsibilities outlined in this section.

### **2. Principles relating to processing of personal data**

- 2.1 The UK GDPR sets out seven key principles that all Councillors must following when handling personal data:
- (a) Lawfulness, fairness and transparency
  - (b) Purpose limitation
  - (c) Data minimisation
  - (d) Accuracy
  - (e) Storage limitation
  - (f) Integrity and confidentiality (security)

(g) Accountability

2.2 Here are definitions for each of these principles.

2.2.1 Personal data shall be:

- (a) processed **lawfully, fairly** and in a **transparent** manner in relation to the Individuals ('lawfulness, fairness and transparency');
- (b) collected for **specified, explicit** and **legitimate purposes** and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall, in accordance with Article 89(1), not be considered to be incompatible with the initial purposes ('purpose limitation');
- (c) **adequate, relevant** and **limited** to what is necessary in relation to the purposes for which they are processed ('data minimisation');
- (d) **accurate** and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy');
- (e) kept in a form which permits identification of Individuals for **no longer than is necessary** for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) subject to implementation of the appropriate technical and organisational measures required by this Regulation in order to safeguard the rights and freedoms of the Individuals ('storage limitation');
- (f) processed in a manner that ensures appropriate **security** of the personal data, including **protection** against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality').

2.2.2 The controller shall be responsible for, and be able to demonstrate compliance with, with the above ('**accountability**').

### 3. **Information to be shared**

The information that may be shared between the Council and Councillors are shown under '**What information is being shared**' in Annex 1.

### 4. **Legal Basis for sharing**

4.1 All Councillors must take care when processing personal data that a legal basis exists for doing so. In most scenarios, all Councillors will be processing personal data with Consent under Article 6(1)(a) or processing personal data for the purposes of carrying out a public task under Section 8 DPA 2018 and Article 6(1)(e) UK GDPR.

**4.1.1 Article 6(1)(a)** the Individuals has given consent to the processing of his or her personal data for one or more specific purposes. Consent must be recorded;

**4.1.2 Article 6(1)(e)** gives you a lawful basis for processing where processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

**4.1.3 Act Section 8** a task carried out in the public interest, or the exercise of official authority includes processing that is necessary for the:

(a) administration of justice;

(b) exercise of a function of either House of Parliament;

(c) exercise of a function conferred on a person by an enactment or rule of law;

(d) exercise of a function of the Crown, a Minister of the Crown or a government department; or

(e) an activity that supports or promotes democratic engagement

4.2 To the extent that information being shared with the Council includes any Personal Data, Councillors shall ensure that the Shared Information is processed in accordance with the Data Protection Legislation.

## 5. Access to data and individuals' rights

5.1 All Councillors must have process and procedures in place to allow Individuals to exercise their individual rights.

5.1.1 The Right to be **Informed** - Individuals have the right to be informed about the collection and use of their personal data. This is a key transparency requirement under the UK GDPR. All Councillors must provide their own Privacy Notice, explaining purposes for processing their personal data, your retention periods for that personal data, and who it will be shared with.

5.1.2 The Right of **Access** - Individuals have the right to access and receive a copy of their personal data, and other supplementary information. This is commonly referred to as a subject access request or 'SAR'. Individuals can make SARs verbally or in writing, including via social media. You should respond without delay and within one month of receipt of the request. All responses must be disclosed securely, and you should provide the information in an accessible, concise and intelligible format.

5.1.3 The Right to **Rectification** - Individuals have the right for inaccurate personal data rectified or completed if it is incomplete. An individual can make a request for rectification verbally or in writing and you have one calendar month to respond.

5.1.4 The Right to **Erasure** (right to be forgotten) – Individuals have the right to have their personal data erased however, this right is not absolute and only applies in certain circumstances.

(a) The personal data is no longer required for the purposes for which they were collected or otherwise processed.

(b) Consent is withdrawn on which the processing is based and there are no legal grounds for the processing.

(c) The individual objects to the processing and there are no overriding legitimate grounds for the processing or for direct marketing purposes.

(d) The personal data has been unlawfully processed.

(e) The personal data must be erased for compliance with a legal obligation.

(f) The personal data have been collected in relation to the offer of information society services.

An individual can make a request for erasure verbally or in writing and you have one calendar month to respond.

5.1.5 The Right to **Restrict Processing** - Individuals have the right to request the restriction or suppression of their personal data. This is not an absolute right and only applies in certain circumstances. When processing is restricted, you are permitted to store the personal data, but not use it. An individual can make a request for restriction verbally or in writing and you have one calendar month to respond to a request.

5.1.6 The Right to **Data Portability** – Individuals shall have the right to receive the personal data concerning him or her, which he or she has provided you, in a structured, commonly used and machine-readable format.

5.1.7 The Right to **Object** - Individuals shall have the right to object, on grounds relating to his or her particular situation, at any time to processing of personal data concerning him or her, including profiling based on those provisions. Councillors shall no longer process the personal data unless you can demonstrate compelling legitimate grounds for the processing which override the interests, rights and freedoms of the Individuals or for the establishment, exercise or defence of legal claims. How the Individuals makes such objections shall be detailed in your Privacy Notice.

5.1.8 Rights in relation to **automated decision making** and **profiling** - Individuals have the right to object to automated decision making or profiling. Unless there are grounds for the processing which override the interests, rights and freedoms of the data subject or for the establishment, exercise or defence of legal claims, you must stop processing straightaway.

5.2 All Councillors must notify the Council without due delay of any request by an individual for rectification or erasure of Shared Information or restriction of processing carried out in respect of the Shared Information.

5.3 All Councillors will respond to any notice from the Information Commissioner that imposes requirements to cease or change the way in which data is processed.

## **6. Privacy Notice**

6.1 When processing personal data, you must tell individuals what you are doing with it. They have the right to know why you need it, what you'll do with it and who you're going to share it with. You should provide this information in a clear, open and honest way. This is achieved by creating a document called a Privacy Notice.

6.2 All Councillors must have their own Privacy Notice to comply with UK GDPR Article 5 Principle (a) Lawfulness, fairness and transparency. The Council will provide a template for you to populate and make appropriate for your use. Your Privacy Notice will be published on the main Rushcliffe website with your profile information.

## **7. Data Breaches**

7.1 Councillors must report misuse, loss, destruction, damage or unauthorised access, suspected or otherwise, of information to the Council without due delay.

7.2 The Council must be notified without due delay of any breach of confidentiality or incident involving a risk or breach of the security of personal information.

7.3 Councillors are liable for any losses or liabilities incurred due to their own actions as a result of a breach under the UK GDPR and DPA 2018.

7.4 In the event of any personal information security breach in respect of Shared Information or otherwise, Councillors responsible for the security of that particular information will immediately take steps to contain the breach once it has been identified. If the Council decides that the Information Commissioner's Office should be notified of the breach under Article 33(1) UK GDPR, the Leader of the Council and Cabinet members will also be notified as part of that process. Councillors shall provide reasonable cooperation and assistance in respect of any personal information security breach.

7.5 Once the breach referred to in 7.4 above has been contained, The Council will launch an investigation to establish the reasons behind the breach and will share the outcome of the investigation with the Leader of the Council and Cabinet members.

## **8. Information Governance**

- 8.1 Before starting any information sharing activity with the Council, the Councillor or Council will consider whether or not to carry out a Data Privacy Impact Assessment (DPIA) as required under Data Protection Legislation to minimise any data protection risks of the information sharing being contemplated and to establish that the proposed information sharing complies with the data protection obligations.
- 8.2 The Shared Information may not be used by Councillors for any other purposes than those set out in the sharing schedule of Annex 1.
- 8.3 Where possible and to the extent that it does not conflict with any of the other provisions set out in this document, Councillors shall ensure that any Personal Data, Sensitive Personal Data and Special Categories of Personal Data and Criminal Conviction Data contained within the Shared Information is anonymised.
- 8.4 In accordance with the Councils data protection policy, Councillors shall implement appropriate technical and organisational measures to maintain the quality and integrity of the Shared Information held by it, having regard to any specific requirements set out under the heading “security requirements” of the sharing schedule of Annex 1.
- 8.5 Councillors must ensure that the Shared Information is processed securely and, as a minimum, shall adhere to the Council’s information security policy and the “security requirements” set out in the sharing scheduled of Annex 1.
- 8.6 Where possible, Councillors shall ensure that the information is shared using compatible datasets and that any Shared Information is recorded in the same way by Councillors.
- 8.7 Where Councillors rely on consent as the condition for processing personal data then withdrawal of consent means that the condition for processing will no longer apply. Where information is shared with the Council and withdrawal of consent applies, you must communicate to the Council without due delay. When withdrawal of consent is received, processing must cease as soon as possible.
- 8.8 No Councillor should process or otherwise transfer any of the Shared Information outside of the United Kingdom without the written approval of the Council.

### **Annex 1 - What information is being shared**

Schedule of Processing, Personal Data and data Subjects



Schedule of Processing, Personal Data and data Subjects	
Description	Details
Subject matter of the processing	Personal information can be shared between the Council and Councillors for example, to raise concerns from residents of Rushcliffe Borough.
Duration of the processing	Until Consent is withdrawn or there is no longer a purpose for processing the data.
Nature and purposes of the processing	<ul style="list-style-type: none"> <li>• To provide advice, if you request it</li> <li>• To investigate any issues or concerns you may raise with me</li> <li>• To find out about your involvement with any other public authorities, if you ask me to</li> <li>• To prevent or detect fraud or other crime</li> </ul>
Type of personal data	<ul style="list-style-type: none"> <li>• Name</li> <li>• Address</li> <li>• Telephone number</li> <li>• Email address</li> <li>• Photographs</li> <li>• Any other details regarding your personal circumstances that you choose to provide to me to help</li> <li>• Deal with your query (including details about another person who has asked you to act on their behalf)</li> </ul>
Categories of data subject	<ul style="list-style-type: none"> <li>• Residents living in the Rushcliffe Borough Area.</li> <li>• Projects or planning applications</li> </ul>
Plan for return and destruction of the data once processing is complete	All personal shared data must be disposed of securely once processing is no longer required.
Security Requirements	Electronic exchange - All information transmitted across public networks within the UK or across any networks overseas must be sent by secure email

Schedule of Processing, Personal Data and data Subjects	
Description	Details

which meets UK central government's connection standards or be encrypted using appropriate software (eg Microsoft 365, Egress Switch, Cryptshare, etc.)

- Passwords must be sent separately to the information exchanged and must provide the correct level of security taking all factors into account, including the nature of the data being shared. Passwords must be changed regularly, and Councillors respective password arrangements will include provisions to avoid the use of weak or predictable passwords.
- Personal exchange of materials for meetings - Information may be hand delivered or taken in hard copy providing it securely contained within a blue locked bag or similar locked bag or container.