

Broads Authority

Code of Conduct for Members on Planning Committee and Officers

The Status of The Code

The aim of the Code of Conduct is to give clear guidance to Broads Authority Members and officers who become involved in operating the planning system and to ensure the public have confidence that decision-making is open and fair.

The successful operation of the planning system by the Broads Authority relies on mutual trust and an understanding of Members' and Officers' respective roles. It also relies on each ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so.

This code is supplementary to the Authority's "Code of Conduct for Members" and the rules on the Declaration of Pecuniary Interests.

The code covers:

Part A Members and Officers

- 1 The role and conduct of Members and Officers
- 2 Development proposals submitted by Members and Officers
- 3 Broads Authority's own development
- 4 Predetermination
5. Pre and post application discussions
- 6 Decisions contrary to officer recommendations and/or the development plan

Part B Members

- 7 Training
- 8 Declaration and registration of interests
- 9 Delegated decisions
- 10 Lobbying of and by Members
- 11 Public speaking at Planning Committee
- 12 Committee site visits
- 13 Regular review of decisions
14. Consultation
15. Gifts and Hospitality

Part C Officers

- 16 Officer reports to committee
- 17 Complaints and record keeping
18. Gifts and Hospitality

Failure to follow recommendations contained in this code could be taken into account in investigations into allegations of maladministration and might also indicate a breach of the Members Code of Conduct.

Part A Members and Officers

1 The Role and Conduct of Members and Officers

Members and Officers have different, but complementary, roles:

- All officers and advisors acting on behalf of the Authority are expected to follow their appropriate code of professional conduct.
- Members are expected to follow the Authority's Code of Conduct for Members (appended).
- Members will take due note of officers' recommendations but it is Members of the Authority who take decisions. Members must represent the interests of the Broads as a whole taking decisions based firmly on policies of the development plan unless other material considerations indicate otherwise.

2 Development Proposals Submitted by Members and Officers

The Broads Authority recognises that proposals by serving and former Members and officers and their close friends and relations could easily give rise to suspicion of impropriety. In order to ensure that applications are handled in a way which gives no grounds for accusations of favouritism:

- The Authority's Solicitor will be informed of such proposals.
- Such proposals will be reported to the Planning Committee and not be dealt with under delegated powers. As part of the report, the Solicitor will confirm whether the proposal has been processed normally.
- Serving Members of the Authority who act as paid agents for people pursuing a planning matter or who submit planning proposals in their own right must play no part in the decision making process for that proposal.
- A member has a prejudicial interest in their own application (and those made by friends and family) and must withdraw from the meeting. The Members Code also provides that they shall not improperly influence the decision, although this does not prevent them from explaining or justifying the proposal to Officers.
- Members of the Planning Committee who serve on bodies which make or initiate or who are otherwise closely associated with applications to the Planning Committee (or who have family members who do or are so) must declare that fact and withdraw from the meeting.

3 Broads Authority's Own Development

Proposals for the Broads Authority's own development will be treated in the same way as those of a private developer. In the interests of openness and taking into consideration the environmental sensitivity of the Broads, there is no provision for delegated approval.

4 Consideration by another Committee of the Authority

4.1 Members sitting on another Committee of the Authority at which a planning application is under discussion should avoid unqualified expressions of support or opposition which might lead a fair minded and informed member of the public to think that the member has already made up their mind before the application comes to the Planning Committee. If members do wish to participate and vote at full Authority or the Navigation Committee and at Planning Committee, members must declare at full Authority and the Navigation Committee:

- (a) That they understand that they are considering the proposals within the remit of the full Authority or the Navigation Committee and not coming to a decision on all, nor even necessarily any, of the matters which are material to a planning application.
- (b) Notwithstanding participation in debate or voting at full Authority or the Navigation Committee they will when the matter comes before the Planning Committee consider any planning application afresh and take into account any representations for and against the proposal in the light of up to date circumstances.

4.2 Any member who is unable to consider the proposal afresh at the Planning Committee should withdraw from the item at the Planning Committee.

4.3 More general advice on predetermination and bias is contained in paragraph 15.

5 Pre and Post Application Discussions

5.1 Discussions between developers and the Authority can be of considerable benefit and are encouraged by government. Applicants may also organise their own form of consultation to which Members may be invited. The following guidelines should be followed:

5.2 Where an application has not been submitted:

- (i) Exceptionally, and generally only in the case of major applications raising significant issues, it may be appropriate for Members to be involved in an application prior to its submission. Such involvement will, however, be limited to: -

- (a) Public exhibitions or public meetings.

- (b) Committee site visits.
 - (c) (Very exceptionally) private meetings between the applicant and the Authority or third parties.
- (ii) In the case of all such meetings: -
- (a) The remit of Members and the purpose of their involvement to identify issues and understand local concerns should be made clear.
 - (b) Members must maintain an impartial listening role and avoid expressing an opinion or giving advice beyond outlining adopted planning policies.
 - (c) Any discussion should not develop into negotiations and it must be made clear that they are not part of the determination process.
 - (d) Discussions should not touch on commercially sensitive or confidential information, bearing in mind the need for transparency and the requirements of the Freedom of Information Act.
 - (e) Officers of appropriate seniority should attend and written notes of the proceedings should be kept on file; and
 - (f) Members involvement should, wherever possible, be authorised by the Planning Committee and their involvement recorded in any subsequent committee report.

5.3 Where an application has been submitted:

- (i) Following the submission of a planning application, Members' involvement prior to consideration at Committee will be limited to public meetings and committee site visits referred to in paragraph 5.2 i) (a) and (b) above.
- (ii) If approached, Members should advise applicants to contact the planning officer for further guidance.
- (iii) In the case of meetings between the developer and planning officer: -
 - (a) Officers should clarify at the outset that discussions will not bind the Authority to making a particular decision.
 - (b) No views will be expressed on the outcome of the application since not all information will be to hand, neither will consultation have taken place.

- (c) Advice should be consistent and based on the development plan and material considerations.
- (d) Advice should be, and be seen to be, impartial.
- (e) A written note should be made of all meetings and telephone discussions.
- (f) Applicants should be met on Authority premises except in exceptional cases and other than for site familiarisation purposes.

5.4 Members should not seek to influence or put pressure on officers to support a particular form of action.

5.5 These guidelines apply also to meetings to discuss planning applications or development proposals called by third parties, including attendance at parish council or other public meetings.

5.6 Generally, Members should not say anything which gives the appearance that they have made up their mind on an application and they should not accept any hospitality offered by the applicant or other interested party at a public meeting or public exhibition unless it is also offered to the public at large.

6 Decisions Contrary to Officer Recommendations and/or the Development Plan

6.1 The law requires that where the development plan is relevant, decisions should be taken in accordance with it unless material considerations indicate otherwise.

6.2 All applications which are not in accordance with the plan must be advertised in accordance with statutory procedures. If it is intended to approve such an application:

- material considerations must be clearly identified;
- reasons for overriding the development plan clearly demonstrated in the committee report;
- referral to the Secretary of State considered.

6.3 If the planning committee makes a decision contrary to the officers recommendation:

- a detailed minute of the reasons should be made and kept on the application file;
- the officer should have the opportunity to explain the implications of the contrary decision;
- appropriate conditions or reasons for refusal should be agreed at that committee meeting;

- the Solicitor or their representative should ensure that procedures have been properly followed.
- 6.4 In the case of applications where there are adverse policy implications, when new issues are raised on the day of the committee, or if Members are under undue pressure the application will be deferred at the discretion of the Chair of the committee. This will allow additional advice to Members to be compiled.

Part B Members

7 Training

- 7.1 All Members of the Authority's Planning Committee are required to participate in training in the planning system as it applies in the Broads either before serving on the committee or as soon as possible after their appointment.
- 7.2 Regular update briefings will be provided as appropriate.

8 Declaration and Registration of Interests

- 8.1 The provisions of the Members Code of Conduct including those relating to personal and prejudicial interests are reproduced at Appendix 1 to this code.
- 8.2 All personal interests in a matter before the Planning Committee must be disclosed to the meeting. There will be an opportunity to declare interests at the start of each meeting.
- 8.3 Having made this disclosure the member then needs to consider whether the personal interest is a prejudicial one.
- 8.4 A prejudicial interest arises where:
- (a) The matter under consideration affects the financial position of the member, the member's family, the member's employer or business or a person with whom the member has a close family association or relates to the determination of any approval, consent, licence or permission in respect of the member or such other persons; and in either case
 - (b) The interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.
- 8.5 A member who has a prejudicial interest must: -
- (a) Withdraw from the room whenever it becomes apparent that the matter is being considered at that meeting unless the member has obtained a dispensation from the Standards Committee.

(b) Not seek improperly to influence a decision about that matter.

8.6 However, a member can remain in the meeting for the purpose of making representations, answering questions or giving evidence provided: -

(i) Members of the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise.

(ii) The member must withdraw from the meeting immediately after making representations, answering questions or giving evidence.

8.7 The effect of this provision is that members of the Planning Committee who have a prejudicial interest in a matter before the Committee (eg because the applicant is a relative or they are a neighbour who objects to an applicant) must exercise their right to speak in exactly the same way as a member of the public. That is, by making the request to the Administrative Officer in the Committee room in the 30 minutes prior to the start of the meeting. Having then spoken under the Public Speaking Scheme, the member must then immediately withdraw.

9 Delegated Decisions

Members may request within 7 days of the publication of the Authority's weekly list of planning applications that any application with a wider public interest be placed before the committee for decision.

10 Lobbying of and by Members

10.1 Lobbying of Members is a normal and perfectly proper part of the political process. However, lobbying can lead to the impartiality and integrity of a Member being called into question. If a Member is approached, they should:

- listen but not express views or opinions on any application nor negotiate;
- refer the lobbyist to a professional officer or meet the lobbyist in the presence of an officer;
- confirm they will only be able to make a decision after having heard all the relevant evidence and arguments at committee;
- in any reply to a letter either supporting or opposing an application, explain their neutral position and pass any relevant written information to officers for the file;
- before speaking at Planning Committee, declare attendance at an informal site visit or a meeting on an application or other planning issue in the company of an applicant or consultee;
- if a member has gone public in support of a particular outcome or campaigned actively for it they may well have pre-determined the issue and should withdraw from discussion of the item. (See para 15).

10.2 In addition, Members shall not put pressure on officers for a particular recommendation.

11 Public Speaking at Planning Committee

- 11.1 Public speaking will be allowed in accordance with the agreed protocol.
- 11.2 At the beginning of each meeting the Chair should reiterate the procedures and guidelines to be applied for public speaking.

12 Committee Site Visits

- 12.1 Committee site visits will be held where the expected benefit is substantial. Reasons could include: the impact of the proposed development being difficult to visualise, comments of the applicant and objectors cannot be expressed adequately in writing and a site visit would demonstrate to the public or the applicant that Members have listened to their argument, or the proposal is particularly contentious. The reason for holding a site visit will be minuted.
- 12.2 Site visits will be held in accordance with the agreed protocol.

13 Regular Review of Decisions

The planning committee will regularly review decisions to ensure quality and consistency of decision-making across a range of categories of applications. The committee will subsequently decide whether there is a need to review any policies or practices.

14 Consultation

- 14.1 Where a member of the Committee serves on a parish, town, district or county council which has commented on an application before the Committee, provided the member has not come to a final view on all the relevant matters before the Committee (see para 15) then the member should declare an interest but may take part in the determination. If the member has participated in a meeting on the application at parish, town, district or county level the member should not cast a vote at that meeting and have it minuted that they have not come to a final conclusion on the application.
- 14.2 Where, however, such members have already decided in their own minds how the application should be decided then they must declare an interest and not take part in the determination and withdraw from the meeting.

15 Predetermination and Bias

- 15.1 It is not a problem for councillors to be predisposed in respect of a particular planning matter. Predisposition is where a member holds a view in favour of or against an issue, such as an application for planning permission, but they have an open mind to the merits of the argument before they make the final decision at the committee meeting.
- 15.2 This includes having formed a preliminary view about how they will vote before they attend the meeting, and/or expressing that view publicly. They

may even have been elected specifically because of their views on this particular issue.

- 15.3 On the other hand, predetermination or bias can lead to problems. It is where a member is closed to the merits of any arguments relating to a particular issue, such as an application for planning permission, and makes a decision on the issue without taking them into account.
- 15.4 Members must not even appear to have already decided how they will vote at the meeting, so that nothing will change their mind. This impression can be created in a number of different ways such as quotes given in the press, and what they have said at meetings or written in correspondence.
- 15.5 Rarely will membership of an organisation, such as a national charity, amount to predetermination or bias on its own unless it has a particular vested interest in the outcome of a specific decision that a member is involved in making.
- 15.6 There is an important difference between those members who are involved in making a decision and those members who are seeking to influence it. This is because members who are not involved with making a decision are generally free to speak about how they want that decision to go.
- 15.7 When considering whether there is an appearance of predetermination or bias, members who are responsible for making the decision should apply the following test: Would a fair-minded and informed observer, having considered the facts, decide there is a real possibility that the member had predetermined the issue or was biased?
- 15.8 However, when applying this test, they should remember that it is legitimate for a member to be predisposed towards a particular outcome on the basis of their support of a general policy. This is as long as they are prepared to be open-minded and consider the arguments and points made about the specific issue under consideration.
- 15.9 Appendix 4 sets out the different circumstances in which predetermination and bias can arise.
- 15.10 In conclusion, members are entitled to have and express their own views, as long as they are prepared to reconsider their position in the light of all the evidence and arguments. They must not give the impression that their mind is closed.

16 Gifts and Hospitality

- 16.1 The Members Code of Conduct requires any member receiving any gift or hospitality in their capacity as members over the value of £25 to register the details within 28 days of its receipt.
- 16.2 The Members Code provides that a member should treat with extreme caution any offer or gift, favour or hospitality which is made to a member personally.

In this respect the person or organisation making the offer may be doing, or seeking to do, business with the Authority, or may be applying to the Authority for planning permission or some other kind of decision. Gifts 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.

Part C Officers

17 Officer Reports to Committee

17.1 To ensure adequate consideration of the issues, consistency of decision-making, clarity of reasoning behind the recommendation and public confidence, the following information should be contained in reports:

- accurate information with representations by consultees adequately summarised;
- a clear explanation of the development plan, site or related history and other material considerations;
- a technical appraisal which clearly justifies the recommendation;
- a full justification of material considerations if the recommendation is contrary to the development plan;
- a written recommendation of action.

17.2 Oral reporting (except to update a report) should be extremely rare and carefully minuted when it does occur.

18 Complaints and Record Keeping

18.1 Every planning application file must contain an accurate account of events throughout its life. Particular care needs to be taken with applications determined under officers' delegated powers. The principles of complete and accurate record keeping apply equally to enforcement and development plan matters.

18.2 Complaints will be fully investigated in accordance with the Authority's adopted protocol.

19 Gifts and Hospitality

19.1 Officers must refuse offers of hospitality from people with an interest in a planning proposal. The only exception is in respect of offers of token hospitality (ie non-alcoholic beverages with or without biscuits) which are part of usual social courtesy. Any offers shall be recorded within 28 days in accordance with arrangements made by the monitoring officer.

Broads Authority Code of Conduct adopted by the full Authority on 28 September 2007 and updated by the Planning Committee on 9 November 2007.

BROADS AUTHORITY

Code of Conduct for Members

Introduction

This Code has been prepared and adopted by the Broads Authority in accordance with Section 51 of the Local Government Act 2000. The part of the text printed in ordinary type comprises the formal code. The text printed in italics comprises additional advisory text approved by the Authority; this text does not form part of the formal Code.

Every member of the Broads Authority and the Navigation and Standards Committees, as well as any co-opted member, must sign an undertaking to observe the Code. Any person may then make a written complaint to the Standards Board (or to the Authority's Standards Committee) from a date in 2008 still to be determined that a member has acted in breach of the Code, which will secure the investigation of the complaint, and may lead to sanctions being applied to the member by a Case Tribunal or, by the Authority's own Standards Committee.

Members are also reminded of the general duty of the Broads Authority to manage the Broads for the purposes of conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads, promoting opportunities for the understanding and enjoyment of the Broads' special qualities by the public and protecting the interests of navigation. In this respect, members must always seek to act in the interests of the Broads Authority.

Members' attention is also drawn to the separate Planning Code of Conduct for Members and Officers originally adopted by the Authority on 18 July 2003 and updated in November 2007. This is a separate Code for planning matters which does not replace this general Code but adds to it.

The General Principles of Member Conduct

The Secretary of State has prescribed the following 10 general principles governing the conduct of members of local authorities, including the Authority. These principles define the standards which members should uphold, and serve as a reminder of the purpose of the Code of Conduct. However, they do not in themselves create statutory obligations for members.

1. **Selflessness**

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

2. **Honesty and Integrity**

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

3. **Objectivity**

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

4. **Accountability**

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

5. **Openness**

Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

6. **Personal Judgement**

Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

7. **Respect of Others**

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the Authority's statutory officers, and its other employees.

8. **Duty to Uphold the Law**

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

9. **Stewardship**

Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

10. **Leadership**

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

THE CODE OF CONDUCT

Part 1

General Provisions

Introduction and Interpretation

- 1 (1) This Code applies to you as a member of the Broads Authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code—
- “the Authority” means the Broads Authority
"meeting" means any meeting of—
- (a) the Authority;
 - (b) any of the Authority's committees, sub-committees, joint committees or joint sub-committees,

"member" includes a co-opted member and an appointed member.

Footnote

For the purpose of paragraph 1(4)(b), the Authority's committees currently are the Navigation, Planning and Standards Committees and any sub committees established by them.

Scope

- 2** (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—
- (a) conduct the business of the Authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of the Authority, and references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of the Authority—
- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with the Authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General Obligations

- 3** (1) You must treat others with respect.
- (2) You must not—
- (a) do anything which may cause the Authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
 - (b) bully any person;

- (c) intimidate or attempt to intimidate any person who is or is likely to be—
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with the Authority's code of conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

4 You must not—

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is—
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the Authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

Footnote

For the purpose of paragraph 4(a)(iv)(bb) the Authority has adopted the protocol set out in the Annex to this code

- 5** You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute.

- 6** You—
- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of the Authority—
 - (i) act in accordance with the Authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

Footnote

Members are advised that they should always make sure that any facilities provided by the Authority for their use in connection with their duties as Members are used strictly for those duties and for no other purpose, except where the Authority has specifically permitted limited private use in circumstances which do not cause significant additional cost to the Authority.

- 7**
- (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—
 - (a) the Authority's chief finance officer; or
 - (b) the Authority's monitoring officer, where that officer is acting pursuant to their statutory duties.
 - (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Authority.

Part 2

Interests

Personal Interests

- 8**
- (1) You have a personal interest in any business of the Authority where either—
 - (a) it relates to or is likely to affect—

- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;
- (ii) any body—
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (iii) any employment or business carried on by you;
- (iv) any person or body who employs or has appointed you;
- (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
- (vi) any person or body who has a place of business or land in the Authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- (vii) any contract for goods, services or works made between the Authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
- (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
- (ix) any land in the Authority's area in which you have a beneficial interest;
- (x) any land where the landlord is the Authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

- (xi) any land in the Authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
 - (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the Authority's area.
- (2) In sub-paragraph (1)(b), a relevant person is—
- (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Footnote

- (a) *In paragraph 8(1)(a)(ii) a body exercising functions of a public nature includes a local authority.*
- (b) *Paragraph 8(1)(a) does not automatically extend to the membership of clubs and societies unless they happen to fall within one of the categories listed in it. Nevertheless, Members are encouraged to register their membership of any clubs, societies or similar organisations to which they belong.*
- (c) *Members are advised to 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 Authority, or may be applying to the Authority for planning permission or some other kind of decision.*
- (d) *For the purpose of this Code, the Authority's area means the area as defined in the Norfolk and Suffolk Broads Act 1988.*

Disclosure of Personal Interests

- 9** (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of the Authority and you attend a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the

commencement of that consideration, or when the interest becomes apparent.

- (2) Where you have a personal interest in any business of the Authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the Authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in the Authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

Footnote

Paragraph 9 does not automatically extend to the membership of clubs and societies unless they happen to fall within one of the categories referred to in paragraph 8(1)(a). Nevertheless, members are encouraged to declare their membership of any club or society or similar organisation to which they belong as though it were a personal interest within the meaning of paragraph 8.

Prejudicial Interest Generally

- 10**
- (1) Subject to sub-paragraph (2), where you have a personal interest in any business of the Authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
 - (2) You do not have a prejudicial interest in any business of the Authority where that business—
 - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or

- (c) relates to the functions of the Authority in respect of—
 - (i) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (ii) an allowance, payment or indemnity given to members;
 - (iii) any ceremonial honour given to members; and
 - (iv) setting council tax or a precept under the Local Government Finance Act 1992.

Footnote

Members are advised always to apply the principles about the disclosure of interests to their dealings with Officers, and to their unofficial relations with other Members no less scrupulously than at formal meetings of the Authority, committees and sub-committees.

Effect of Prejudicial Interests on Participation

- 11** (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of the Authority—
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting; unless you have obtained a dispensation from the Authority's standards committee; and
 - (b) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of the Authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 3

Registration of Members' Interests

Registration of Members' Interests

- 12** (1) Subject to paragraph 13, you must, within 28 days of—
- (a) this Code being adopted by or applied to the Authority; or
 - (b) your or appointment to office (where that is later), register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to the Authority's monitoring officer.
- (2) Subject to paragraph 13, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to the Authority's monitoring officer.

Sensitive Information

- 13** (1) Where you consider that the information relating to any of your personal interests is sensitive information, and the Authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 12.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify the Authority's monitoring officer asking that the information be included in the Authority's register of members' interests.
- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

KRH/LJT
Broads Authority
December 2007

Members Code of Conduct: Confidential Information Protocol
(Adopted at the Broads Authority Meeting – 25 January 2008)

- (a) A member wishing to disclose (to the press or otherwise) information which he or she has reason to believe may be confidential or ought to know is confidential, must first notify either the Chief Executive, the Director of Corporate Services or the Authority's Solicitor, giving full written details of the information which it is proposed to disclose. This will then create the opportunity for the Authority, together with the member, to consider whether it is, in fact, confidential and, if it is, the extent to which any of it can appropriately be disclosed.
- (b) In some cases, it will necessarily be that these issues cannot be resolved immediately. Therefore, unless the Authority (through one of the three officers named above) agrees in writing that the information can be released earlier, the member will not release it for 72 hours following the written contact referred to in paragraph (a).
- (c) A member who is unsure whether particular information is confidential shall take advice from the Chief Executive, Director of Corporate Services or Solicitor.
- (d) For the purposes of this protocol information may be confidential for a number of reasons e.g.:
 - (i) It is commercially sensitive.
 - (ii) It concerns an Individual.
 - (iii) It relates to enforcement action to be taken by the Authority.

The Broads Authority
Public Speaking at Planning Committee
(as amended on 16 March 2012)

The Public Speaking Scheme

1 Introduction

The scheme relates to matters where the Broads Authority is the decision maker and not where it is asked to respond as a consultee to a proposal.

The public speaking scheme does not apply to enforcement matters (because these do not involve any public consultation as such) nor to applications where the proposal is dealt with under delegated powers or if the proposal is refused under delegated powers. The scheme also does not apply to policy matters or consultations eg: Local Development Framework (LDF).

2 Making an Objection

Objectors to applications are encouraged to follow the procedure of making written submissions which can be referred to in reports submitted to the Planning Committee. In addition, the opportunity also to speak in front of the Committee is available if a formal objection has previously been made.

It is important to stress that there will be no disadvantage to objectors who prefer not to, or are unable to, present their objection in person. Planning officers will ensure that objections received are fairly reported and Members will take the matters raised fully into consideration when making a decision.

3 Other Authorities

The views of County and District Councils, Parish Councils and the Highway Authority will be reported to the Planning Committee when received in time for the agenda.

Objectors include individuals and interest groups and organisations. Parish Councils and Ward or Division members of District Councils and the County Council are also able to address the Planning Committee as part of the public speaking procedure.

4 Supporting an Application

The applicant or agent and supporters, will have the opportunity at the meeting to speak. Applicants are however encouraged to work with the Planning Officer to ensure sufficient information has been submitted in advance to enable Planning Committee to make a fully informed decision.

5 Making a Presentation

It is the responsibility of objectors and the applicant to contact the Planning Case Officer to follow the progress of the application and arrange to attend the relevant meeting. Progress on applications, together with the agendas and reports to the Authority's Committees can be viewed on the Authority's website at www.broads-authority.gov.uk

It is helpful if a request to speak is made to the Committee Secretary as soon as possible prior to the commencement of the meeting.

A table will be set aside within the room to enable speakers to address the meeting. At the beginning of the consideration of the planning applications, the Chairman will ask members of the public who wish to speak to come up to the public speaking desk at the beginning of the presentation of the relevant application. Consideration can be given to changing the order of the agenda items if this is helpful in cases of exceptional public interest.

Any person exercising the right to speak under the scheme will have the opportunity to speak immediately **after** full presentation of the relevant planning application by the Planning Officer. Representations will be heard in the following order:

Planning Officer provides description of application, responses received, full assessment with recommendation

Parish Councillor(s) (5 mins)

Objectors (5 mins)

Applicant/agent/Supporter (5 mins)

Ward or Division Councillor (s) (3mins)

Discussion and Consideration of Decision

Objectors and applicants addressing the Committee will be expected to make their presentations within a maximum of five minutes. Extensions of time will be agreed with the Chairman beforehand.

If there are several objectors they should agree beforehand on sharing or delegating their time. The Chairman will try to ensure that points are not repeated. If there are exceptional circumstances of public interest, the Chairman will have the discretion to increase the time allocated.

With the Chairman's permission, Members of the Committee or officers will be allowed to ask questions of the objector and/or applicant to seek clarification about the points raised. This will be additional time to that allocated for public speaking and should only be used to seek clarification on the point being made, not for the purpose of facilitating speaking.

Speakers will not be allowed to question other speakers, officers or members.

6 Deferral

If new evidence is brought to the Committee it may be necessary to defer consideration of the application to a subsequent meeting.

Broads Authority – Planning Committee Site Visits

1 Selection of Site Visits

- 1.1 Committee site visits are used as one means of ensuring that members have sufficient information about the site and the surrounding area to reach a decision on a particular application. They are used selectively as fact finding exercises to supplement officer reports and other information. As information gathering exercises, they are not formal Committee meetings, no decisions or recommendations are made.
- 1.2 The decision to hold a site visit is at the Committee's discretion. It can result from officer recommendation or from a member or members requesting a visit. They will often be appropriate for major or strategic sites but can also be used where there is particularly strong local concern, for example from a Parish Council. Site visits for small scale development in sensitive locations, or where issues are finely balanced, may also be appropriate. They may also be helpful where particular interests or functions of the Authority are involved, eg navigation or conservation. Determination of the great majority of applications does not involve the holding of a Committee site visit.

2 Member Attendance

All Planning Committee members are invited to attend site visits and are urged to do so wherever possible. Members will be sent details of the visit in advance, including a site location map.

3 Site Visit Dates

These are published in advance and are normally 2 weeks before a Planning Committee meeting. The first site visit is normally scheduled for 10.00 am.

4 Invitations to Site Visits

In addition to Committee members, the following are invited to the site meeting in a consultative capacity:

- a representative from the Parish Council;
- the local District Council member;
- a representative from the Broads Society (as an observer).

The applicant's agent is notified of the proposed site visit date and permission is requested for access to the land, informing them of the fact-finding nature of the visit.

5 Conduct of Site Visit

The site visit proceeds as follows:

- (i) Chairman welcomes those attending, stressing that the site visit is for fact finding, no decision will be made on site and the application will be considered for determination at a future Committee meeting;
- (ii) Apologies;
- (iii) Planning Officer describes the application giving details of the site, the development proposed and any updated information. He/she should show and explain any relevant drawings and should pay particular attention to the context of the site in the Broads area. He/she should refer to relevant planning policy and to results of consultations and, where appropriate, officers assessment and recommendation;
- (iv) Comments from other officers, where appropriate, including:
 - County Council (Highways) Officer;
 - Other Broads Authority officers if present, e.g. Conservation Officer or Waterways Officers ;
- (v) Comments from all invitees, at the discretion of the Chairman, ie the Parish Council and/or the District Council member, may be invited to speak at this point.

Note Although the applicants and/or his/her representative, or the occupier of the site, may be in attendance at the site meeting they are not invited to 'put their case'. At the Chairman's discretion, the applicants may be asked to provide factual information concerning the application. Similarly, uninvited third parties who attend will not normally be asked to speak, subject to the Chairman's discretion.

Representation in support of or objection to the application should be made in writing to the Authority;

- (vi) Comments and questions from Broads Authority members;
- (vii) Opportunity for members and others to walk around the site as a group, if considered necessary;
- (viii) Chairman concludes and closes the meeting:
 - The Chairman may wish to ask whether anyone (other than the applicant) wishes to raise any further points and refer to any points which require clarification before the Committee meeting;

- In view of the fact-finding nature of the visit, members should be as impartial as possible. It is important to avoid saying that the meeting has produced a particular decision or recommendation and to avoid discussing the application with any interested party immediately before or after the site visit. Members should be circumspect in their comments. The intention is to ensure that applicants, and consultees, appreciate that the planning application will be considered with an open mind when the full report is considered by the Planning Committee;
 - Disperse;
- (ix) A summary note of the site meeting is taken on the day and is included with the agenda papers for the relevant Committee meeting. The note of the site meeting is available on the public record of the application.

Predetermination and Bias

Predetermination and bias can arise in a number of ways:

(i) **Connection with someone affected by a decision**

This sort of bias particularly concerns administrative decision-making, where the authority must take a decision which involves balancing the interests of people with opposing views. It is based on the belief that the decision-making body cannot make an unbiased decision, or a decision which objectively looks impartial, if a member serving on it is closely connected with one of the parties involved.

(ii) **Improper involvement of someone with an interest in the outcome**

This sort of bias involves someone who has, or appears to have, inappropriate influence in the decision being made by someone else. It is inappropriate because they have a vested interest in the decision.

(iii) **Prior involvement**

This sort of bias arises because someone is being asked to make a decision about an issue which they have previously been involved with. This may be a problem if the second decision is a formal appeal from the first decision, so that someone is hearing an appeal from their own decision. However, if it is just a case of the person in question being required to reconsider a matter in the light of new evidence or representations, it is unlikely to be unlawful for them to participate.

(iv) **Commenting before a decision is made**

Once a lobby group or advisory body has commented on a matter or application, it is likely that a member involved with that body will still be able to take part in making a decision about it. However, if the member has made comments which suggest that they have already made up their mind, they may not take part in the decision. If the member is merely seeking to lobby the meeting at which the decision is taking place, they are not prevented by the principles of predetermination or bias from doing so. There is no particular reason why the fact that members can do this, in the same way as the public, should lead to successful legal challenges.