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## ADVICE NOTE FOR COUNCILLORS ON DISTINGUISHING BETWEEN THEIR STRATEGIC ROLE AND ANY OPERATIONAL WORK

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### 1. Introduction

- 1.1 This Advice Note, issued by the Standards Commission, aims to provide assistance to councillors to help them in distinguishing between strategic and operational management.
- 1.2 The Advice Note suggests issues councillors should consider to ensure they undertake their scrutiny role effectively, while still complying with the provisions regarding relations with employees and decision-making in the Councillors' Code of Conduct (Code).
- 1.3 Councillors have a personal responsibility to observe and comply with the rules in the Code. This Advice Note is intended to assist them in interpreting the provisions in the Code in order to do so. The Advice Note should, therefore, be read in conjunction with the Code and the Standards Commission's Guidance.
- 1.4 Audit Scotland's *How Councils Work* series and, in particular, its report 'Roles and working relationships in councils - Are you still getting it right?' make suggestions to help councillors drive improvement of governance arrangements and to manage productive relationships with officers. Councillors are encouraged to refer to Audit Scotland's publications in this regard. You can access the series here: <https://audit.scot/how-councils-work>
- 1.5 Councillors are required to provide strategic leadership and oversight. This involves setting strategy and policy, scrutinising overall performance against strategic aims, and making major, complex decisions that concern the Council as a whole. Councillors are not, however, responsible for operational management, which is the planning, organising and execution involved in day-to-day activities and service delivery. This is the role of officers (employees).
- 1.6 This Advice Note aims to help councillors distinguish between strategic and operational management so that they do not become inappropriately involved in operational matters that are solely the responsibility of officers.
- 1.7 It is recognised, however, that councillors are also required to be involved in certain operational matters when:
  - undertaking advocacy work (lobbying or campaigning);
  - assisting local groups in community engagement and capacity building;
  - representing constituents (case work); and

- taking decisions on quasi-judicial or regulatory applications (in their capacity as members of any regulatory, licensing, appeals and appointment committees).

This Advice Note also aims, therefore, to provide advice about how to balance these more operational aspects of councillors' work with their strategic role. It also provides advice about how to avoid conflicts when undertaking the decision-making role on any regulatory, appeals and appointment committees.

## 2. Relevant Provisions in the Code

- 2.1 The Code contains provisions relating to the differences between the responsibilities of councillors and Council officers. Specific applicable paragraphs in the Code include:

- 3.7 I will not become involved in operational management of my Council's services as I acknowledge and understand that is the responsibility of its employees.
- 3.8 I will not undermine any individual employee or group of employees, or raise concerns about their performance, conduct or capability in public.
- 3.9 I will not take, or seek to take, unfair advantage of my position in my dealings with employees or bring any undue influence to bear on employees to take a certain action. I will not ask or direct employees to do something which I know, or should reasonably know, could compromise them or prevent them from undertaking their duties properly and appropriately.
- 3.10 I will follow the Protocol for Relations between Councillors and Employees at [Annex A](#) and note that a breach of the Protocol will be considered a breach of this Code. I will also comply with any internal protocol my Council has on councillor / employee relations.

### Annex A

#### Definitions

The reference to 'employees' below covers all employees and officers of councils and all officers and employees of any other body or organisation to which a councillor is appointed or nominated by the Council.

2. Councillors and employees should work in an atmosphere of mutual trust and respect, with neither party seeking to take unfair advantage of their position or influence.
9. Most Councils operate through a system of groups of councillors, many of them based on political affiliation. All employees must treat all political groups and individual councillors in a fair and even-handed manner and must maintain political neutrality at all times.
19. Councillors should ensure they act in accordance with the provisions of the Code and this protocol when performing such a role. Elected members must recognise that, when performing their local representative role, they are representing the Council. Employees must treat all councillors fairly and openly in their role as local representatives.

## 3. Strategic and Operational Management

- 3.1 The work of a Council is a team effort, in which the role and work of councillors is balanced with, and complemented by, the role and work of officers. As a councillor, your role is to determine policy and to participate in decisions on matters placed before you. It is not to engage in direct operational management of the Council's services. Your role is to:

- provide strategic leadership; to ensure financial stewardship is achieved through the efficient, economic and effective use of resources; and
- hold the Chief Executive and senior management team to account by scrutinising the implementation of policies, procedure and expenditure.

Your scrutiny role should be undertaken with a view to making recommendations for improvement and should not be used to direct or instruct officers to make, or change, specific operational decisions. You may also be involved in determining the steps needed to deal with changes which are likely to impact on the strategic aims and objectives of the Council. Your duty is also to help ensure that effective arrangements are in place to provide assurance on risk management, governance and internal control.

- 3.2 [Section 56 of the Local Government \(Scotland\) Act 1973](#) provides that the main ways in which Councils take decisions are either by the full Council meeting together; by committee or sub-committee; or by officers taking decisions. Legally, neither an individual councillor, nor a political group, can *instruct* an officer to do anything. Some decisions, by law, are required to be taken by a specific officer. A list of statutory officers can be found in the first of Audit Scotland's '*How Councils Work*' series at: <https://audit.scot/how-councils-work>
- 3.3 The powers and remits of the Council and its committees are usually set out in a governance document known as a Scheme of Administration, or List of Committee Powers. Officers' decision-making powers will normally be outlined in a document known as a Scheme of Delegation, or List of Officer Powers. You should ensure you are aware of what decisions are to be taken by officers and the level at which they are made. You should note that there will also be many operational decisions, routinely and appropriately taken by officers, that will not necessarily be listed exhaustively in such a scheme. In general, if a duty is delegated to an employee, then it is likely to be operational in nature.
- 3.4 If a decision involves purely operational or administrative issues, with any expenditure being within existing budgets, it will usually be made by an officer without reference to elected members. It should be noted that some decisions may have both operational and strategic elements and, as such, decisions may be taken by officers following consultation with certain members (such as the Leader or Deputy Leader, Committee Chairs, Vice Chairs or Ward Members) in order to have appropriate engagement with, and to obtain steer from, elected members. Determining and issuing a response on behalf of the Council to a press enquiry will usually also be a matter for officers, although again certain members will be consulted if, for example, a quote is required.
- 3.5 You may be obliged as a councillor, however, to make decisions on some individual planning, licensing and other regulatory matters. You may also make decisions on matters of an operational nature, being individual applications, if you sit on other committees such as appeals and appointment committees (see section 4 below). Before you accept such a role you should make sure you understand fully what it will involve and how to identify, and appropriately manage, any conflicts of interest.
- 3.6 You should note, however, that most enforcement matters in respect of any quasi-judicial or regulatory matter are delegated to employees. If you are advised or become aware that the Council may need to take enforcement action in respect of any quasi-judicial or regulatory matter, you cannot get involved and cannot organise support for, or opposition to, such actions. You can only refer the matter to the appropriate Council team, or advise anyone making an enquiry about how to do so. Similarly, you cannot lobby other councillors (whether they are on the relevant committee or not), or put pressure on planning officers to either take, or not take, investigative or enforcement action.

3.7 You also have a role in representing the electorate at a ward level. In doing so, you may be expected to undertake some case work on behalf of individual constituents and also to campaign on local issues (see section 4 below).

3.8 These concurrent obligations can sometimes make it difficult for elected members to distinguish between operational and strategic matters and to understand the extent to which they should get involved in certain issues and decisions, which can lead to difficulties as outlined below.

#### 4. Matters to consider

4.1 You are expected to undertake some case work on behalf of individual constituents and also to campaign on local issues. This can result, however, in you having a conflict of interest when it comes to decision-making, particularly in regulatory or quasi-judicial situations. If you choose to be an advocate for or against a particular cause you will forfeit your right to be a decision-maker in regulatory or quasi-judicial decisions regarding that cause.

4.2 Becoming inappropriately involved in operational management and / or operational decision-making will be a breach of the Code. It can also damage your relationship with officers and have a detrimental effect on how they perform their duties. Some illustrations of how a councillor might become inappropriately involved in an operational matter can be found at Annex B of this document.

4.3 Some real examples where the Standards Commission has found a councillor to have breached the Code by failing to appropriately distinguish between strategic and operational matters are provided at Annex A of this document. These include cases where a councillor became too involved in a complex social care case; where a councillor failed to declare his involvement with a lobbying group when making a planning decision; and where a councillor failed to distinguish between his role as potential objector to a planning application and his role as a councillor. Other illustrations can be found in the Standards Commission's Guidance on the Councillors' Code of Conduct, which can be found at <https://www.standardscommissionscotland.org.uk/guidance/guidance-notes>.

4.4 You should remember that you have, or may be perceived as having, a position of power over officers, particularly if they are junior members of staff. This means that they may feel pressured into taking a particular action or decision or to focus on the matter you are concerned with over other work, even if they have tasks that should be completed as a higher priority. You may wish to represent the views of your constituents on individual matters, such as a housing issue, but you should be aware that employees may feel pressured by a councillor challenging their actions or appearing critical of some aspect of their work. This is especially the case with junior employees, who may not be used to dealing directly with councillors. Any concerns about performance should be raised in private with the employee's line manager.

4.5 You should consider whether any matter you are seeking to become involved in or have asked to be involved in is strategic or operational in nature. You should bear in mind that you have a duty to act in the public interest and undertake a scrutiny role to ensure your Council uses its resources prudently and in accordance with law. Robust challenge and involvement from elected members in driving improvement of Council performance at a corporate level, linked to the Council's priorities, is a key element of a commitment to delivering Best Value, as set out in the [Local Government in Scotland Act 2003](#). This statutory duty applies to every elected councillor as well as to officers. In undertaking your scrutiny role, you are obliged to make sure service user and community views are taken into account and that the Council responds to these.

4.6 You should bear in mind, however, that you are a member of the Council. You have a duty to act in the interests of the Council as a whole and to remember that you are representing it at all times, regardless of whether you are in the administration. At the same time, you also need to be aware

of any separate responsibilities you may have as a member of an external organisation such as any charity, Arms' Length External Organisation, Health and Social Care Integration Joint Board or Regional Transport Partnership to which you have been nominated or appointed by your Council. Section 5 below provides more guidance on this topic. It is understood that Councils operate in an often highly politicised environment, which can lead to tensions. However, you should be conscious of considering the overall interests of the Council even when advocating a particular political point or agenda.

- 4.7 You have a right to receive good quality information from officers on which to base your decisions and undertake your scrutiny role. This information should be proportionate, balanced, comprehensive and understandable. If you do not consider you are receiving the information you require to assure yourself that you are in a position to make informed decisions, you should raise the issue with an appropriate senior officer (such as the relevant Head of Service). The Standards Commission and the Improvement Service have produced a Briefing Note on Councillors' Right of Access to Information held by the Council, which can be found here: <https://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>
- 4.8 In dealing with officers and members of the public you should always consider both what you are expressing and the way you are expressing it. You should also consider how your conduct could be perceived. You should be able to undertake a scrutiny role, represent the public and any constituents, or make a political point in a constructive, respectful, courteous and appropriate manner without resorting to personal attacks, being offensive, abusive and / or unduly disruptive.
- 4.9 You should bear in mind that any issues relating to behaviour, performance or conduct of an officer should be raised privately with the appropriate senior manager. You should not become involved in any issues relating to individual officers' pay or terms and conditions of employment (except to the extent you are permitted to do so while serving on a committee delegated to deal with such a task) even if the officer is a constituent. Similarly, the recruitment of staff is an operational matter and should be left to officers, unless you are carrying out a role assigned to you on a committee that deals with the appointment of senior officers. You should note, in particular, that your involvement as a decision-maker on any such committee does not mean you are entitled to become involved in any subsequent operational follow-up work arising from committee decisions.
- 4.10 You must consider:
- whether you are acting in accordance with the provisions in the Code;
  - whether you are asking an officer to do something which could compromise them or prevent them from undertaking their duties properly and appropriately, including being unable to complete other tasks;
  - whether you are asking an officer to act against instructions of management;
  - whether you are bringing any undue influence to bear on an officer to take a certain action, particularly if it is contrary to the law or the Council's policies and procedures (bearing in mind that you may well be perceived by officers as being in a position of power);
  - the nature of an officer's role and their seniority;
  - whether your actions could impact on the mutual bond of trust between councillor / members and officers;
  - whether you are asking an officer to do something which compromises them or could compromise them (including exposing them to disciplinary measures);
  - whether your actions result in an officer feeling pressured or threatened or adversely impact on their health; and
  - that while you are entitled to freedom of expression under Article 10 of the European Convention on Human Rights, the right is not absolute. It does not provide any protection if you are simply engaging in gratuitous, offensive or abusive personal attacks on officers, or are harassing, bullying or threatening officers in the course of their employment. The Standards

Commission has produced a separate Advice Note for Councillors on the Application of Article 10 of the ECHR, which can be found at:

<https://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>.

- 4.11 You should note that even if your conduct may not amount to a breach of the Code, it may be that other consequences arise from it, such as exposing the Council to judicial review or to a grievance from an officer.
- 4.12 If you sit on any regulatory, appeal or appointment committee you should make sure you are familiar with the committee's standing orders / procedures and the extent of its powers and remit. You should also familiarise yourself with your Council's call-in processes, if such procedures are in place.
- 4.13 If you are asked to become involved in an operational matter, you need to be clear about whether you are simply being asked to assist a constituent or constituents in how to access the appropriate service or officer or whether you are advocating for or against a cause.

### Assisting constituents

- 4.14 If, at a ward level, you are asked to provide a constituent with assistance, you should ensure you manage their expectations in terms of the extent to which you can help. For example, you should advise a constituent who has sought help with a case that while you can seek information on their behalf, you cannot overturn a decision and that they will need to follow the appropriate procedures for doing so. You should also advise the constituent that you cannot seek legal advice from the Council on their behalf or pass on any legal advice provided to the Council or by a Council officer. The Standards Commission has produced an "Assisting Constituents" Card, which sets out the matters with which councillors can and cannot help. You can access the card here: <https://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>
- 4.15 You should not pursue any casework that is likely to come before you at a quasi-judicial or regulatory committee, as doing so could preclude you from taking part in the discussion and voting. Again, you should explain why you cannot do so to any constituent who has asked for assistance. If you choose to pursue such casework, you should follow the guidance at below on advocating for or against a cause.
- 4.16 In order to avoid becoming inappropriately involved in operational matters and to prevent any conflicts arising, you should consider exactly what you are being asked or are offering to do on behalf of a constituent. There should be no difficulty if you have managed your constituent's expectations appropriately and are simply:
  - advising officers of any representations received;
  - helping constituents make their views known to the relevant and appropriate officer;
  - assisting a group of constituents in a community engagement or capacity building exercise;
  - seeking factual information on progress on behalf of a constituent; and / or
  - advising a constituent about whom they should contact and the correct procedure to follow.
- 4.17 Where appropriate, you should use your Council's case management system (or any equivalent agreed internal procedure), to record details of enquiries you make on behalf of constituents and also to keep track of any response and progress made towards resolving their query or concern. This will ensure that such an enquiry is dealt with by the appropriate officer. You should record or keep a note of any advice you give to a constituent. Some Councils have agreed procedures or protocols for the communication between councillors and officers, as well as release of personal

data relating to individual constituents. You should ensure that if such protocols exist, you are familiar with their contents.

- 4.18 If you are unable or it is not appropriate to use the case management system (or any equivalent agreed internal procedure), you should ensure any enquiry is directed towards an appropriate officer. This will normally be an officer at a senior level who can then delegate the work as appropriate. You should bear in mind that officers are accountable to their own line managers and, even if you think you have identified an officer who you think is best placed to answer your query, you will not have knowledge of their workload and / or whether they have been asked to prioritise any other tasks.
- 4.19 If you have been asked by a constituent to help with concerns they have about a Council service or decision and / or you have identified a mistake or problem, you can ask officers to review what has happened, and what is being done to resolve the issue and / or what is being done to prevent it happening again. You should ensure the constituent is aware, however, that councillor enquiries are not a substitute for any formal complaint process. If appropriate, you should recommend the constituent make use of the Council's formal complaints procedure, as this enables common patterns of complaint to be identified, and enables a complainer to escalate their complaint to the [Scottish Public Services Ombudsman](#), should they wish to do so. You should also make your constituents aware that if decisions have been made in accordance with Council policy, it may not be appropriate for them to be reviewed.
- 4.20 You should decline to get involved if you are approached by any officer, who is also a constituent, in respect of any matters relating to their employment with the Council. You should advise the officer concerned to contact their line manager, trade union or follow the appropriate internal procedures for raising any such issues.
- 4.21 While you may have some experience in a particular field, you should never assume or should be wary of assuming that you have more knowledge than officers who receive specific training and who should have a good, and up to date, awareness of the Council's policies and procedures relating to the tasks they are performing, as well as the current legal framework they are operating in. Officers may also have access to more relevant and material information that has influenced the way they approach the issue.
- 4.22 If you consider an officer is not providing you with information to which you have a right to access or is not recognising that you have a legitimate advocacy role on behalf of constituents, you should raise your concerns with the appropriate senior manager.
- 4.23 If you are concerned that a constituent is making or has made a fraudulent claim, you may be obliged to report the matter. You should, therefore, ensure that your constituents are aware that not all information they provide to you can be kept confidential. More information and guidance on confidential information and data protection can be found on the Improvement Service's website:  
<https://www.improvementservice.org.uk/products-and-services/skills-and-development/elected-members-development/elected-member-induction-materials>.

#### **Advocating for or against a cause / taking decisions on quasi-judicial or regulatory applications**

- 4.24 If you are approached, you can listen to views expressed but you must make it clear that you cannot lend support for or make a decision on a regulatory or quasi-judicial matter until the appropriate meeting, and only when you have then heard all the evidence. If you decide to advocate for or against a particular cause, you will forfeit your right to be a decision-maker in regulatory or quasi-judicial decisions regarding that cause.

- 4.25 Where you wish to make representations on behalf of constituents or other parties, you may do so (in accordance with paragraph 7.9 of the Code, as reproduced below), providing you do so in terms of the Council's procedures; you declare your interest in the matter; and, having made any representations, you retire fully from the meeting room (it is not sufficient to retire to a public gallery situated within the meeting room, except in the very limited circumstances described in paragraphs 7.11 and 7.12 of the Code).

- 7.9 If I intend to be involved in the decision-making for any quasi-judicial or regulatory application I WILL NOT:
- a) organise support for or opposition to the application in any way;
  - b) represent or appear to represent individuals or groups who are seeking to make representations for or against an application; or
  - c) compromise myself or my Council by creating a perception of a conflict of interest.
- 7.10 In circumstances where I am a member of a Committee as a decision-maker but have been involved in organising support for or opposition to an application, I WILL:
- a) declare an interest in the matter, and
  - b) withdraw from the meeting without participating in the consideration of the matter.
- 7.11 In circumstances where I am a member of a Committee as a decision-maker but wish to represent individuals or groups who are seeking to make representations for or against an application, I WILL:
- a) follow procedures agreed by my Council which afford equal opportunity to any parties wishing to make representations to do so;
  - b) declare an interest in the matter; and
  - c) only remain in the meeting, while that item is being discussed, for the purposes of acting as the representative of the individual or group throughout the duration of their participation.
- I WILL NOT:
- d) participate or attempt to participate as a decision-maker in that application;
  - e) attempt to influence employees to adopt any particular position relative to the matter;
  - or
  - f) lobby other councillors who may be involved in the decision-making process.
- 7.12 In circumstances where I am not a member of any Committee which is making a decision on an application, but wish to represent individuals or groups who are seeking to make representations for or against it, I WILL:
- a) follow procedures agreed by my Council which afford equal opportunity to any parties wishing to make representations to do so; and
  - b) only remain in the meeting for that item for the purposes of acting as the representative of the individual or group throughout the duration of their participation.
- I WILL NOT:
- c) participate or attempt to participate as a decision-maker in that application;
  - d) attempt to influence employees to adopt any particular position relative to the matter;
  - or
  - e) lobby other councillors who may be involved in the decision-making process.

- 4.26 If you are making representations and, for example, you wish to support your constituents' views regarding a planning application, you should make this position clear as soon as possible to the chair of the committee and officers. Your declaration of interest should be recorded in the minutes of the meeting.

## 5. Further Sources of Information

- 5.1 The Standards Commission has published guidance and advice notes on how to interpret, and act in accordance with, the provisions in the Code, including those relating to relationships with employees. This guidance can be found on the Standards Commission's website at: [www.standardscommissionscotland.org.uk/guidance/guidance-notes](http://www.standardscommissionscotland.org.uk/guidance/guidance-notes). The Standards Commission has also published guidance for councillors on arms' length external organisations, which seeks to assist councillors in recognising and dealing with potential conflicts of interest to minimise risks to governance and accountability arrangements. This advice can be found at: <http://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>.
- 5.2 The Standards Commission also publishes written decisions of Hearings held on its website. These can be found at: [www.standardscommissionscotland.org.uk/cases/case-list](http://www.standardscommissionscotland.org.uk/cases/case-list).
- 5.3 The Improvement Service's Induction Materials include guidance on many issues relevant to councillors in carrying out their role effectively. These can be found at: <https://www.improvementservice.org.uk/products-and-services/skills-and-development/elected-members-development/elected-member-induction-materials>.
- 5.4 Audit Scotland's 'Report on Roles and working relationships - are you getting it right?' and their report 'Roles and working relationships in councils - Are you still getting it right?' highlight the complex and demanding role that councillors have in representing their constituents, providing strategic direction for the Council, and scrutinising policy decisions and service performance. The reports make recommendations that are aimed at supporting councillors in their role, in order to help the drive for improvement in respect of governance arrangements. These reports can be found at: <https://audit.scot/how-councils-work>
- 5.5 If you have any queries or concerns about how to interpret or act in accordance with the provisions in the Code, you should seek assistance from your Council's Monitoring Officer or their deputies. Further information can also be obtained from the Standards Commission via email: [enquiries@standardscommission.org.uk](mailto:enquiries@standardscommission.org.uk).



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## ANNEX A: HEARING EXAMPLES

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A councillor became involved in a social care case on behalf of a constituent. This involved making suggestions and judgements about matters such as where his constituent should be housed, contact between the constituent and her children, and the rehabilitation of one child.

The Hearing Panel found that the councillor was not simply articulating his constituent's concerns but was instead inappropriately trying to use his role to engage in, and exert influence over, direct operational management.

While the Hearing Panel acknowledged the councillor had a responsibility to represent his constituent, it considered in so doing, he had lost sight of his other responsibilities as a councillor and his obligation under the Code to respect the different roles of councillors and officers. The councillor pursued the interests of his constituent without any objective consideration of the children's interests or the paramount duty the Council had to ensure their safety and welfare, and despite not being qualified to make decisions to judgements in this regard.

The Hearing Panel found that the councillor had an expectation that actions should be taken in response to his engagement. The Hearing Panel considered that while his involvement may not have had any effect on the outcome of decisions, this had clearly been his intention.

The Hearing Panel noted that the councillor failed to accept that he had an inherent influence in his role as an elected member. The Hearing Panel considered it was disingenuous to suggest it was open to officers to simply ignore his enquiries and requirements. The Hearing Panel further considered that the inappropriate level of involvement, enquiries and correspondence from the Respondent could have had an adverse impact on resources, given that officers had felt obliged to respond.

The Hearing Panel concluded that the councillor's involvement in direct operational management and questioning of the professional judgement of officers amounted to a contravention of the Code. The councillor was suspended from all meetings of the Council for six months.

Before being elected, a councillor had been a spokesperson for a lobbying group who were opposed to a refurbishment of a school on its existing site. The councillor stood down from the position after the election, but had continued to receive and send emails to members of the group, which included two of his close relatives. The councillor had, however, failed to declare his involvement as a non-financial interest and had failed to declare the non-financial interests of the close relatives, at meetings where a planning application in respect of the school was considered.

The Hearing Panel noted that the councillor's pre-election position as spokesperson for the group; his post-election public support for a new build site and his opposition to the refurbishment of the existing school; and the fact that he had continued to exchange emails about the matter meant that his involvement with the group had continued after his election as a councillor. The Hearing Panel concluded that, essentially, the councillor could be perceived as advocating for a cause. He should have declared his involvement and that of his relatives as non-financial interests, refrained from taking part in the planning decision and withdrawn from the room. The Hearing Panel found that the councillor had breached the Code. The councillor was suspended from a planning committee of the Council for two months.

A councillor became involved in a dispute with his neighbour over the erection of a garden structure, which the councillor felt overshadowed his own garden. The councillor contacted key senior officers involved with planning and requested information or actions that would not be available to an ordinary member of the public. On one occasion, the councillor attempted to call-in his neighbour's planning application.

The Hearing Panel found that the councillor had used his position as a councillor to seek information not normally available to members of the public from senior officers of the Council, and attempted to exert influence in asking that the matter be dealt with urgently.

The Hearing Panel noted that although there was no evidence that the councillor attempted to put pressure on officers to reach a particular outcome in respect of the planning application, nor that his actions had any bearing on the decision that was ultimately made, officers may have felt under pressure to comply with such a request.

The Hearing Panel determined that the councillor's actions in requesting information not normally available to members of the public, in asking officers to deal with the matter urgently, and in failing to distinguish between himself as a potential objector and his role as a councillor when attempting to call-in the application, amounted to attempts to seek preferential treatment, and constituted a breach the Code. The councillor was censured.

A councillor sent council officers a number of emails, over a year-long period, regarding perceived issues with the usage of a road in connection with the development of a block of flats. The emails included directions to officers to fence-off an area, instruct the developers to cease using of certain parking spaces, and to issue parking tickets.

While the Hearing Panel accepted that the councillor had a right to draw his constituents' concerns to the attention of officers, it was satisfied that he had gone further than this by repeatedly suggesting that officers take specific actions to address the issues raised. The Panel considered that, in doing so, it was evident the councillor had become inappropriately involved in operational matters.

The Panel noted that as an elected member, the councillor was in a position of power and influence over officers. The Panel was satisfied that the councillor was attempting to take advantage of this position by trying to direct or pressure officers into taking the actions outlined above. The Panel concluded, therefore, that the councillor had also breached the Code's Protocol for Relations between Councillors and Employees.

The councillor was suspended for five months (it should be noted the councillor was also found, at the Hearing, to have breached further provisions in the Code in respect of other conduct found to be established).

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## ANNEX B: EXAMPLES OF WHEN A COUNCILLOR BECOMES INAPPROPRIATELY INVOLVED IN AN OPERATIONAL MATTER

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There are many examples of areas where councillors may inappropriately seek to get involved in operational matters, including where a councillor:

- demands that the contents of a report or its recommendations are changed when being consulted on it as Chair;
- insists that Council policy is varied to benefit an individual constituent;
- demands to sign off a press release on behalf of the Council, as opposed to accepting that they are simply being consulted on it;
- tries to direct or alter the evaluation of a tender, grant application, or any other evaluation (for example, the scoring for which school is first on the list for replacement);
- becomes involved in an individual staffing matter (except when serving on a Committee tasked to deal with such matters, such as a Personnel Appeals Committee);
- having made a decision on an individual staffing matter, as required, when serving on a Committee, seeks to be involved in any follow-up work or processes;
- insists on attending an operational meeting with an outside body, or an internal officer working group where elected members are not normally present.
- seeks access to confidential internal audit reports, including doing so in advance of related disciplinary proceedings;
- seeks to negotiate directly with trade unions and, in doing so, undermines agreed collective bargaining and the officers involved;
- seeks to alter and approve an operational plan;
- seeks to become involved in, support or oppose an enforcement action in respect of any quasi-judicial or regulatory matter;
- tries to become involved in setting or monitoring individual key performance indicators under a contract (as opposed to key milestones under a major contract).