

Protocol for Councillor contact with Applicants, Developers, Contractors, Agents and Investors

1. Introduction

1.1 Arun District Council is under a duty to promote and maintain high standards of conduct by its councillors.

1.2 This Protocol is intended to explain and supplement the Members' Code of Conduct (the Code of Conduct) and to sit alongside the Planning Protocol, and forms part of the Council's constitution. The Council expects that councillors will carry out their duties in line with the principles of public life and abide by the obligations outlined within the Code of Conduct and this Protocol.

1.3 This Protocol provides a clear framework and guidelines for Councillors in relation to contact with applicants, developers, contractors, agents and investors to meet, sponsor and/or represent the Council or the District, including at events (local, national and international), particularly in relation to the risks of perceived endorsement and too close an association in respect of the discharge of functions and responsibilities relating to planning, development, building control, licensing, and environment regulatory matters.

1.4 For simplicity, in this document applicants, developers, contractors, agents and investors (who may be companies or individuals) will be referred to as "Developers", whilst "Application" includes those for planning, licensing or other consent. "Contact" includes face-to-face and video meetings and communication by phone, social media, e-mail, text and WhatsApp.

1.5 The purpose of this Protocol is to assist councillors in understanding the behaviour that is expected of you when dealing with Developers, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you.

1.6 It is also to protect all councillors, the public, Council officers and the reputation of local government together with providing assurance of the impartiality and transparency of decision-making processes which govern the Council.

1.7 The fundamental aim of this Protocol is to create and maintain public confidence in the role of councillors, local government and decision-making processes.

1.8 This Protocol applies to all forms of communication and interaction, including:

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

2. Application of this Protocol

2.1 This Protocol applies to all councillors and provides clear guidelines to govern all aspects of contact and relationships with Developers, including contact and communications in relations to property and land in the district, especially land owned by the Council which must be used in its best interests and those of the district and its residents and stakeholders. The principles outlined within this Protocol and the Nolan Principles should be adhered to in all such interactions.

2.2 This Protocol takes into account national guidance from the Planning Advisory Services, Local Governance Association and Lawyers in Local Government and best practice in other local authorities.

3. Councillors' Obligations

3.1 General Principles

3.2 The Council's Anti-Fraud, Corruption & Bribery Policy must be adhered to in relation to Developers. Councillors must maintain conduct of the highest standard such that confidence and integrity are sustained.

3.3 Councillors (including committee chairs and vice-chairs and political group leaders, who may be the particular focus of lobbying or approaches) must always be aware and clear with others that:

3.3.1. They have no authority to act or to purport to act on behalf of the Council towards any Developer in respect of any application, Council property or project;

3.3.2. The Council does not endorse any Developers, or specific applications, developments, contracts or investments except following compliance with the correct decision-making and/or selection process. This includes the use of Council logos and marketing information. Any proposed statements to the media must be prepared by the Council's Communications team.

3.3.3. Offers of sponsorship, grants, or of anything that might be perceived as an incentive must not be accepted but should be referred to officers and be declared and registered under the Code of Conduct. Councillors have no authority to accept such offers on behalf of the Council.

3.3.4. All offers of gifts or hospitality and any interests are declared and registered in accordance with the requirements of the Code of Conduct.

3.3.5. Where such an interest is identified the Councillor must take all steps to exclude their participation in any continued discussions or decision-making, usually by requesting a substitute.

3.3.6. All approaches or contact by Developers should be referred immediately to the relevant Council team (Planning, Property & Estates, etc) to allow officers to advise and make arrangements for future contact or meetings in accordance with this guidance;

3.3.7. No emails or other correspondence are sent that appear to promote any matters discussed and that any such documents are clearly headed 'subject to contract'.

3.3.8. Developers must be referred to the relevant Council service or officer if they wish to make any expression of interest.

3.3.9. Developers must be made aware of the Council's due diligence processes that will be followed to progress any expressions of interest.

3.3.10. No commercially sensitive or legally privileged information or information that could provide an unfair advantage to anyone or impact on lawful decision making or achieving best value shall be disclosed to any third party. This includes information published by the Council which is classified as "exempt" in accordance with the Local Government Act 1972. The use of Non-Disclosure Agreements may be used where appropriate after advice from the Council's Legal Services team.

3.3.11. Any perceived, potential or actual conflicts of interest or apparent or actual bias between a councillor's obligations as a councillor and their relationship with particular Developers, or specific developments, contracts or investments, must be declared and recorded in accordance with the requirements of the Code of Conduct.

3.3.12. Any concerns about the conduct of any Developer, councillor or officer (including a failure to declare interests) must be reported to the Monitoring Officer or reported under the Council's Whistleblowing Policy.

4. Councillors' meetings with Developers

4.1 In this section, meeting includes face-to-face and remote video meetings or telephone conferences.

4.2 Councillors should only meet with a Developer on an exceptional basis and must ensure that:

4.2.1 an officer with responsibility for the subject matter is present for the entirety of any meeting to make and share a written record of discussions and advise the Developer of due process; and

4.2.2 Developers are referred to the Council's standard contact details for expressions of interest and the due diligence process. Officer names and contact details must not be shared. The officer present in the meeting will advise Councillors and Developers present of the appropriate contact details.

Annexe 1

Protocol for Informal Presentations to Councillors relating to Development

A protocol to clarify the role of third-party informal presentations to the Council and to provide guidance to third parties and councillors on attending such informal presentations that do not form part of any formal planning application, and which do not fall within the formal application process and Pre-Application process. In the event of conflict between this protocol and the Members' Code of Conduct, the Code of Conduct shall take precedence.

PROTOCOL

Scope

1. This protocol covers any request made by a third party to make an informal presentation to councillors. A third party may also include the Council when acting as a developer, and/or landowner.
2. This protocol seeks to establish clear guidance to third parties and the Council in respect of requests for and the presentation of third-party informal presentations to councillors, and to promote an environment of openness and transparency.

Informal Presentation Request

3. A request by a third party to make an informal presentation of information shall be made in writing to the relevant director setting out the reason(s) for the proposed presentation, the subject matter, and any other relevant information.
4. The director may agree or refuse the request or may agree to elements of the proposed presentation. Alternatively, the director may refer the request to the relevant service committee (as appropriate to the proposal) together with any advice from the Monitoring Officer, to agree or to refuse the request or to agree to elements of it.

Refusal of Request

5. When a request is refused, the relevant director taking that decision will set out the reasons for the refusal, and provide the decision and reasons to the third party

Acceptance of Request

6. The relevant director shall provide a copy of this protocol to the third party with the decision that the informal presentation may proceed.

The Presentation

7. When a request is agreed the informal presentation shall proceed in accordance with the following rules:

The third party

7.1 The third party will:

- a. arrange the platform/venue and time of the meeting (if not held at the Council's offices), at no cost to the Council. The date and time to be agreed by the relevant director. Presentations will, generally, be convened in the evening and recorded wherever possible for those councillors that are unable to attend.
- b. provide any presentation materials to the relevant director at least 5 working days in advance
- c. invite all councillors via email: councillors@arun.gov.uk
- d. keep a record of attendance at the presentation.
- e. ensure notes of what is said at the presentation are taken and circulated to the relevant director for comment within 5 days of the presentation and once agreed will share them with all councillors.
- f. ensure that the presentation is for information purposes only and shall not lobby any councillor(s) for support.

The Council

7.2 The Council will:

- a. distribute any presentation materials to Councillors at least 2 working days in advance of the informal presentation.
- b. ensure that at least one planning officer and one senior officer, from the Senior Leadership Team, shall be present during the informal presentation.
- c. ensure that no councillor will be involved in making a presentation as a representative of the third party or otherwise.
- d. require all councillors to disclose any interests in the matter, in accordance with the Members' Code of Conduct, before the presentation starts, and all disclosures made will be recorded as part of the notes referred to in (7.1 (e)) above.

All parties

7.3 All parties will:

- a. ensure that all those present understand that the presentation does not form part of the Council's decision-making process and that the process of debate and determination of any matter arising will be undertaken in accordance with the Council's normal procedures.
- b. ensure that those present understand that Councillors may ask questions for clarification purposes. Should any view(s) be expressed by any councillor(s) at the informal presentation, it will not bind them, nor the Council, to any decision in respect of any subsequent planning application or any other consent or authorisation that may be submitted in respect of the development proposal.