

WEST OF ENGLAND COMBINED AUTHORITY

# CONSTITUTION

## PART C



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## **MEMBERS CODE OF CONDUCT**

## West of England Combined Authority Code of Conduct for Members

### 1. Application

This Code of Conduct applies to you whenever you are acting in your capacity as a member of the West of England Combined Authority (“The Combined Authority”), including –

- a) at formal meetings of the Combined Authority, its Committees and other bodies,
- b) when acting as a representative of the Combined Authority
- c) in taking any decision as a member of the Combined Authority
- d) in discharging your functions as a member of the Combined Authority
- e) at briefing meetings with officers and
- f) at site visits
- g) when corresponding with the Combined Authority other than in a private capacity

### 2. General Conduct

As a member or co-opted member of the Combined Authority, you have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity you must be committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

- a) As a member of the West of England Combined Authority, my conduct will in particular address the statutory principles of the code of conduct by:
- b) Championing the needs of residents – the whole area of the Combined Authority and in a special way my constituents, including those who did not vote for me.
- c) Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- d) Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Authority's area or the good governance of the authority in a proper manner.
- e) Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member of this authority.
- f) Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- g) Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- h) Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it

- i) Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority’s policies, protocols and procedures, including on the use of the Combined Authority resources.
- j) Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- k) Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- l) Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

### **3. Disclosable Pecuniary Interests (DPIs)**

You must -

- 3.1 comply with the statutory requirements to register, disclose and withdraw from participating in respect of any matter in which you have a disclosable pecuniary interest
- 3.2 ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your disclosable pecuniary interests
- 3.3 make verbal declaration of the existence and nature of any disclosable pecuniary interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent and leave the room for the duration of the debate and the vote on the item of business which affects or relates to the interest.
- 3.4 “Meeting” means any meeting organised by or on behalf of the Combined Authority, including:–
  - 3.4.1 any meeting of the Combined Authority, or a Committee or other bodies of the Combined Authority
  - 3.4.2 in taking a decision as a member of the Combined Authority
  - 3.4.3 at any briefing by officers; and



3.4.4 at any site visit to do with business of the authority

#### **4. Other Interests**

4.1 In addition to the requirements of Paragraph 3, if you attend any meeting of the Combined Authority which includes the West of England Combined Authority Committee or Sub-Committee or the Joint Committee (which for the avoidance of doubt does not include informal meetings with officer or member briefings) at which any item of business is to be considered and you are aware that you have a “non-disclosable pecuniary interest or non-pecuniary interest” in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent and leave the room for the duration of the debate and the vote on the item of business which affects or relates to the interest.

4.2 You have a “non-disclosable pecuniary interest or non-pecuniary interest” in an item of business of your authority where –

4.2.2 a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person or body with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority’s administrative area, or

4.2.3 it relates to or is likely to affect any of the interests listed in the Table in the Appendix to this Code, but in respect of a member of your family (other than a “relevant person”) or a person with whom you have a close association

and that interest is not a disclosable pecuniary interest.

For the avoidance of doubt a report by a member to the Combined Authority, a Committee or Sub-Committee on the activities of an outside body to which they are appointed by the Combined Authority, will not constitute a breach of the Code of Conduct, provided the report does not require a decision that affects the wellbeing or financial position of the organisation.

#### **5. Gifts and Hospitality**

- 5.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a member from any person or body other than the authority.
- 5.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 5.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose.

### Disclosable Pecuniary Interests (DPIs)

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<i>Interest</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.

<p>Securities</p>	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to M’s knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>
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For this purpose –

- a) “the Act” means the Localism Act 2011;
- b) “body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
- c) “director” includes a member of the committee of management of an industrial and provident society;
- d) “land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
- e) “M” means a member of the West of England Combined Authority;
- f) “member” includes a co-opted member;
- g) “relevant authority” means the authority of which M is a member;

- h) “relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or 31(7), as the case may be, of the Act;
- i) “relevant person” means M or any other person referred to in section 30(3)(b) of the Act;
- j) “securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.



## **MEMBERS PLANNING CODE OF GOOD PRACTICE**

## **1. Purpose of the Code**

This code has been being prepared for the guidance of officers and members of the Combined Authority, in their dealings with planning matters. This includes decision-making meetings of West of England Combined Authority when exercising the planning function of the West of England Combined Authority or less formal occasions such as meetings with officers or the public or consultative meetings. It applies equally to sites specific policy issues as it does to planning applications.

The Code has the following objectives:-

- i. To guide and protect members in dealing with planning related matters from criticism and challenge.
- ii. To inform potential developers and members of the general public of the standards adopted by West of England Combined Authority and the performance of its planning function.
- iii. To ensure that, in the planning process, there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.



## **2. Key Principles**

Planning decisions made by the Combined Authority can have a considerable effect on the value of land, the nature of its development and on the lives and amenities of people living in the vicinity. The process of arriving at decisions on a planning matter must be open and transparent and the involvement of both officers and members must be clearly understood. The main principles which members should have clear regards for are:-

- a) The key purpose of planning is to deliver sustainable development which effectively balance economic, social and environmental interests and take relevant local circumstances into account.
- b) Your overriding duty as a member of West of England Combined Authority is to the whole local community, and in relation to planning issues to help ensure that the West of England Combined Authority's planning policies are achieved.
- c) Your role as a member of West of England Combined Authority is to make planning decisions openly, impartially, with sound judgement, and for justifiable reasons
- d) Whilst you may be strongly influenced by the views of others and of your party in particular it is your responsibility alone to decide what view to take on any question which members of West of England Combined Authority have to decide
- e) Section 38(1) and 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act requires you to take planning decisions in accordance with the provisions of the development plan unless material considerations indicate otherwise. You should ensure that all decisions that you make have regard to proper planning considerations and are made impartially and in a way which does not give rise to public suspicion or mistrust.
- f) The Code applies to all decisions of the West of England Combined Authority on planning related matters when West of England Combined Authority is acting as the local planning authority ("LPA").
- g) When acting in your capacity as a member of West of England Combined Authority you must have regard to the West of England Combined Authority's adopted Code of Conduct

## **3. Relationship to the Code of Conduct**

The Code of Conduct sets out the standards of behaviour expected of members of West of England Combined Authority and the requirements in relation to the declaration of interests in the members Register of Interests and at meetings. Not only should impropriety be avoided but also any appearance or ground for suspicion of improper conduct. When considering any planning matter, you should have primary regard for the Code, and particularly the requirement to properly declare all interests:-

- a) **Do** comply with the requirements of the adopted Code of Conduct first
- b) **Do** then apply the rules in this Planning Code of Practice

#### **4. Development Proposals and the Declaration of members' Interests**

When considering planning matters members may find that they need to

- a) Declare interests in accordance with the requirements of the adopted Code of Conduct or
- b) Indicate that they have come to a view prior to (i.e. are pre-determined)

The existence and nature of any interest should be disclosed in accordance with adopted Code and at all relevant meetings.

#### **Where you have an interest that must be disclosed**

- a) **Do Not** participate or give the appearance of trying to participate in the making of any decision on the matter by West of England Combined Authority.
- b) **Do Not** get involved in the processing of the application and direct any queries or technical matters to the relevant officer.
- c) **Do Not** seek or accept any preferential treatment or place yourself in a position that could lead the public to see that you are receiving preferential treatment because of your position as a member of West of England Combined Authority. This would include using your position to discuss any proposal with officers or members when other members of the public would not have the same opportunity to do so. You may need to identify another local member who is prepared to represent local interests.

#### **Pre-determination**

The allowance made for members of West of England Combined Authority to be predisposed to a particular view is a practical recognition of

- a) the role played by party politics in Local Government
- b) the need for members of the West of England Combined Authority to inform constituents of at least an initial view on a matter as part of their public role
- c) the structure of local government which ultimately requires the same members of West of England Combined Authority to make decisions

It is therefore particularly important for elected members of West of England Combined Authority to have a clear understanding about the implications of expressing a strong opinions or views on planning matters

**If you make up your mind on how you will vote on any planning matter prior to formal consideration of that matter at the meeting of the planning authority, prior to the hearing of the officer’s presentation and evidence and arguments on both sides, you may be seen to have predetermined the issue.**

Section 25 of the Localism Act 2011 introduces provisions for dealing with allegations of bias or pre-determination. i.e. where the decision maker(s) had or appeared to have a closed mind (to any extent) when making the decision.

The decision maker is not to be taken to have had a closed mind “just because” the decision maker had previously done anything relevant to the decision that directly or indirectly indicated what view the decision maker took or would or might take in relation to a matter.

The provisions in the Localism Act do not involve a change in law. In a situation where a member said something like “over my dead body” in respect of voting a particular way on an issue, the provisions in relation to pre-determination in the Localism Act might be useful in giving members of West of England Combined Authority confidence about making their views on a particular issue known, it does not change the legal position that is if a member can be shown to have approached a decision with a closed mind, that could affect the validity of the decision.

Equally, if a member has expressed views on a particular issue but could show that when taking the decision, they had approached this with an open mind and taken account of all the relevant information, they could reasonably participate in a valid decision.

However, members of West of England Combined Authority are able to represent their community and engage with developers and the public to discuss proposed developments

without fear of 'fettering' their discretion. A member can campaign either in support or against a proposal and this will not automatically be taken as proof that he is not open-minded

Members will need to be mindful that if they have expressed particularly extreme views, it will be more difficult in practice to be able to get away from the impression that the member would have approached the decision with a closed mind.

The current case law recognises that politicians will have views on and may well have expressed them about issues of public interest locally. *R(Island Farm Development Ltd) V Bridgend CBC* clarified that it would be impossible to make decisions by elected members ..if their observation could disqualify them because it might appear that they had formed a view in advance" The case goes on to say that members must approach their decision making with an open mind in the sense that they must have regard to all material considerations and must be prepared to change their views if persuaded that they should.

In addition, the case has clarified that the "evidence of a political affiliation or of the adoption of policies towards a planning purpose will not for these purposes by itself (emphasis added) amount to an appearance of the real possibility of predetermination ... something more is required, something that goes to the appearance of a predetermined, closed mind in the decision making itself".

In conclusion, expressing a view, even a strong view does not automatically lead to the conclusion that a member is pre-determined, however the stronger and more forceful the view the greater risk of there being an appearance of real bias. Each case/decision will need to be considered on its own facts. Care still needs to be taken when expressing clear and forceful views on a particular matter in respect of which the member expressing those views will form part of or be the decision maker.

In conclusion, the Localism Act provisions in relation to predetermination still require a planning committee member to have an open mind when determining a planning application. However, proof of previous campaigning against a proposed planning application would not in itself be proof that the member had a closed mind.

## **5. Contact with Applicants, Developers and Objectors**

One particular aspect of application discussions relates to lobbying. Lobbying is a normal part of the political process. However, it can lead to impartiality being brought into question and accordingly there is a need to declare publicly that an approach of this nature has taken place. Lobbying can take place by professional agents as well as un-represented applicants/landowners and community action groups.

- a) **Do** take advice from the Monitoring Officer if you are invited to attend meetings with applicants, developers or groups of objectors if you are a member of West of England Combined Authority and therefore likely to be part of the decision-making process. You will then be in a position to make a decision about your attendance having taken proper count of the issues relating to pre-determination.
- b) **Do** refer those who approach you for planning procedural or technical advice to officers.
- c) **Do** report to the relevant Chief Officer any significant contact with the applicant and other party, explaining the nature and purpose of the contacts and your involvement in them and ensure that this is recorded.
- d) **Do** attend presentations that have been organised by officers. These may be differentiated from major public presentations when members may seek information.
- e) **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application.
- f) **Do** be aware that a presentation is a form of lobbying and if you express a view, you will need to carefully consider if you have pre-determined the matter prior to the vote.
- g) **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- h) **Do** explain to those lobbying or attempting to lobby you that whilst you can listen to what is said it prejudices your impartiality and may affect your ability to participate in the decision-making to express an intention to vote one way or another, or such a firm point of view which amounts to the same thing.
- i) **Do** remember that your overriding duty is to the whole community not just the people in your local area.
- j) **Do not** accept gifts or hospitality from any person involved in or effected by a planning proposal. If a degree of hospitality is entirely unavoidable ensure that it is of the minimum and its acceptance is declared as soon as possible (remembering to register any gift as required by the adopted Code of Conduct).

- k) **Do** copy or pass on any lobbying correspondence you receive to the relevant Chief Officer at the earliest opportunity as this will enable proper officer advice to be given in the report and avoid the situation where officers are asked to respond to new information at the meeting itself, leading to deferral or decisions made on partial advice.
- l) **Do** promptly refer to the relevant Chief Officer any offers made to you of planning gain or constraint of development.
- m) **Do** inform the Monitoring Officer where you feel that you have been exposed to undue or excessive lobbying or approaches.
- n) **Do** note that you will not have pre-determined a matter or breached this Planning Code of Good Practice through:-
  - (i) listening or receiving view points from residents or other interested parties
  - (ii) making comments to residents, interested parties, other members or appropriate officers providing they do not consist of or amount to prejudging the issue and you make clear that you are keeping an open mind
  - (iii) seeking information through appropriate channels or
  - (iv) being a vehicle for the expression of opinion or speaking at the meeting as a ward member provided you explain your actions at the start of the meeting or item and make it clear that having expressed the opinion or ward view you have not committed yourself to vote in accordance with those views and you will make up your own mind having heard all of the facts and listened to the debate.

## 6. Constituent Council Interests

There is a balance to be struck between the duty to be an active community representative and the overriding duty as a member of West of England Combined Authority to the whole local community. In these circumstances:-

- a) **Do not** lobby fellow members of West of England Combined Authority regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- b) **Do not** decide or discuss how to vote on any at any sort of political group meeting or lobby any other member to do so. Political group meetings should never dictate how members should vote on a planning issue.

## **7. Sanctions**

The purpose of this Code is to provide guidance to members in relation to the performance of the West of England Combined Authority's planning function. The application of and adherence to the Code is intended to build public confidence in the West of England Combined Authority's planning system and to produce a strong platform for planning decision-making. The Code does not remove the responsibility of members to exercise their statutory discretion to determine the merits of individual applications or proposals.

A failure to adhere to the Code gives rise to potential consequences to the West of England Combined Authority and individual members. Members of West of England Combined Authority may make a reputation in their community not only for their beliefs but also for their general conduct. Consistency and fairness are important qualities in the public eye and they are vital to the conduct of the Combined Authority. Beyond the normal democratic process a number of specific consequences can be identified.





## **MEMBER/OFFICER PROTOCOL**

## **Member/Officer Protocol**

### **1. INTRODUCTION**

1.1 Members of West of England Combined Authority are democratically accountable and may have political affiliations. Officers must serve the whole Authority objectively. Together they must balance a complex range of obligations and competing interests. For this to be effective members and officers must have mutual trust and respect for each other's requirements and duties. There must also be transparent consistency in every day working relationships.

1.2 The West of England Combined Authority has formally adopted a Code of Conduct which sets out the minimum standards members of West of England Combined Authority must observe. This Protocol operates within that framework and provides the Authority's local ground rules.

1.3 Members of West of England Combined Authority, members and officers agree to observe the Code and this Protocol and to be guided by them in the interests of fair treatment and good government.

1.4 The Protocol is the Authority's way of applying the following basic principles:

- a) **Members have a right to sufficient information and support to enable them to make informed decisions.** At common law, this is referred to as "need to know".

The need is so that they can perform their role as a member of West of England Combined Authority. It can be limited by conflict of interest, confidentiality and practicality.

- b) **Officers must serve the whole Authority objectively.**

They must therefore provide "unified advice" at all times. This is advice which is objective, consistent and points out all relevant factors. Different points of view between officers should be resolved or presented in a balanced way which helps members to choose between them.

- c) **Political processes and different roles of members are a legitimate part of local democracy**

Officers advice and support can be tailored accordingly. A party group is entitled to the confidentiality of officer advice on developing policies. The overall arrangements for officer advice must be transparent.

## **2. THE RELATIONSHIP: GENERAL POINTS**

- 2.1 Both members and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the West of England Combined Authority. Their job is to give advice to members and the West of England Combined Authority, and to carry out the West of England Combined Authority's work under the direction and control of the West of England Combined Authority, members, its committees and sub committees.
- 2.2 At the heart of the Code, and this Protocol, is the importance of mutual respect. member/officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between members and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.
- 2.3 Inappropriate relationships can be inferred from language/style. Therefore members and officers should always seek to address each other with courtesy.
- 2.4 A member should not raise matters relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol. This is a long-standing tradition in public service. An officer has no means of responding to such criticism in public. If a member feels she/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an officer, and fails to resolve it through direct discussion with the officer, she/he should raise the matter with the Head of Paid Service. The Head of Paid Service will then look into the facts and report back to the member. If the member continues to feel concern, then she/he should report the facts to the Director who heads the Directorate concerned, or if, after doing so, is still dissatisfied, should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an officer in respect of a complaint will be in accordance with the provisions of the West of England Combined Authority's Disciplinary and Capability Procedures.
- 2.5 An officer should not raise, in public with a member, matters relating to the conduct or capability of another officer or the internal management of West of England

Combined Authority in a manner that is incompatible with the overall objectives of this Protocol. If such issues are raised by members, then the matter will be dealt with in accordance with the Employees' Code of Conduct and the West of England Combined Authority's Disciplinary Rules and Procedures. Unwarranted criticism of officers by members should be avoided, particularly when they cannot respond on equal terms such as at public West of England Combined Authority meetings.

- 2.6 Where an officer feels that she/he has not been properly treated with respect and courtesy by a member, she/he should raise the matter with his/her Head of Paid Service, especially if they do not feel able to discuss it directly with the member concerned. In these circumstances the Head of Paid Service will take appropriate action either by approaching the individual member. If the matter cannot be resolved to the satisfaction of the employee concerned, the matter will be treated as a grievance and dealt with under the West of England Combined Authority's formal grievance and harassment procedures.

### **3. THE RELATIONSHIP: OFFICER SUPPORT TO MEMBERS: GENERAL POINTS**

- 3.1 Members are democratically accountable and may have political affiliations. They have a clear role in providing leadership within the community and as members of the West of England Combined Authority to represent their constituents. Officers are responsible for day-to-day managerial and operational decisions within the authority and provide services to the local community.
- 3.2 Certain statutory officers – the Chief Executive, the Monitoring Officer and the Chief Financial Officer – have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all members.
- 3.3 The following key principles reflect the way in which the officer core generally relates to members:-
- a) all officers are employed by or are accountable to the authority as a whole;
  - b) support from officers is needed for all the authority's functions
  - c) Members are responsible for providing leadership and direction on policy matters. Day to day managerial and operational decisions on the delivery of services should remain the responsibility of the Head of Paid Service and other officers.

3.4 On occasion, a decision may be reached which authorises named officers to take action between meetings following consultation with a member or members. It must be recognised that it is the officer, rather than the member or members, who takes the action and it is the member who is accountable for it.

3.5 Finally, it must be remembered that officers are accountable to their Head of Paid Service and that whilst officers should always seek to assist a member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Head of Paid Service.

#### **4. THE RELATIONSHIP: OFFICER SUPPORT: MEMBERS AND PARTY GROUPS**

4.1 It must be recognised by all officers and members that in discharging their duties and responsibilities, officers serve the West of England Combined Authority as a whole and not any political group, combination of groups or any individual member of the West of England Combined Authority. However, if a political assistant is appointed by the Mayor under the Local Government and Housing Act 1989, he or she is not required to maintain political neutrality, since their role is to support the Mayor on whose behalf they have been engaged. Consequently, such officers may be exempted from the constraints on officer neutrality set out below.

4.2 It is recognised that members of West of England Combined Authority may belong to party groups and it is common practice for such groups to give preliminary consideration to matters of West of England Combined Authority business in advance of such matters being considered by the relevant West of England Combined Authority decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual members, treat them in a fair and even-handed manner.

4.3 Certain points must, however, be clearly understood by all those participating in this type of process, members and officers alike. In particular:

- a) the observance of neutrality will be assisted if officers only attend party group meetings for specified business and officers withdraw from the meeting after briefing and any questions and before political discussion.
- b) party group meetings, whilst they form part of the preliminaries to West of England Combined Authority decision making, are not empowered to make decisions on behalf of the West of England Combined Authority. Conclusions

reached at such meetings do not therefore rank as West of England Combined Authority decisions and it is essential that they are not interpreted or acted upon as such; and

- c) similarly, where officers provide information and advice to a party group meeting in relation to a matter of West of England Combined Authority business, this cannot act as a substitute for providing all necessary information and advice to the West of England Combined Authority relevant Committee or Sub-Committee when the matter in question is considered.

- 4.4 Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not members of the constituent council. Such persons are not bound by the Code of Conduct for members (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers must be cautious about attending and/or giving advice to such meetings.
- 4.5 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.
- 4.6 Whilst any member may ask the Head of Paid Service for written factual information about the functions of West of England Combined Authority, such requests must be reasonable and not seek information relating, for instance, to case work of a confidential nature. Requests will be met subject to any overriding legal considerations (which will be determined by the Monitoring Officer), or if the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If a member requesting such information is dissatisfied by such a response, she/he should raise the matter with the Head of Paid Service who will discuss the issue with the relevant member.
- 4.7 It must not be assumed by any party group or member that any officer is supportive of any policy or strategy developed because of that officer's assistance in the formulation of that policy or strategy.
- 4.8 If any member or officer experiences any particular case of difficulty or uncertainty in this area of officer advice to party groups they should raise the matter with the Chief Executive who will discuss them with the relevant Group Leaders.

## **5. SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS**

WEST OF ENGLAND COMBINED AUTHORITY CONSTITUTION – PART C – MEMBER / OFFICER  
PROTOCOL

5.1 The only basis on which the West of England Combined Authority can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport etc.) to members is to assist them in discharging their role as members of the West of England Combined Authority. Such support services must therefore only be used on West of England Combined Authority business. They should never be used in connection with party political or campaigning activity or for private purposes.

## **6. MEMBERS' ACCESS TO INFORMATION AND TO WEST OF ENGLAND COMBINED AUTHORITY DOCUMENTS**

6.1 Members have the ability to ask for information in accordance with their legal rights. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a member of the West of England Combined Authority. This can range from a request for general information about some aspect of the West of England Combined Authority's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Head of Paid Service. In cases of doubt, members should approach the Monitoring Officer for assistance.

6.2 As regards the legal rights of members to inspect West of England Combined Authority documents, these are covered partly by statute and partly by the common law.

6.3 Members have a statutory right to inspect any West of England Combined Authority document which contains material relating to any business which is to be transacted by the West of England Combined Authority. This right applies irrespective of whether the member is a member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items which may appear as a confidential item on the agenda for a meeting.

6.4 The common law rights of members remain intact, are much broader and are based on the principle that any member has a right to inspect West of England Combined Authority documents so far as his/her access to the document is reasonably necessary to enable the members properly to perform his/her duties as a member of the West of England Combined Authority. This principle is commonly referred to as the 'need to know' principle.

- 6.5 The exercise of this common law right depends therefore, upon an individual member being able to demonstrate that she/he has the necessary ‘need to know’. In this respect a member has no right to ‘a roving commission’ to go and examine documents of the West of England Combined Authority. Mere curiosity is not sufficient. The crucial question is the determination of the ‘need to know’. This question must initially be determined by the Head of Paid Service (with advice from the Monitoring Officer). In the event of dispute, the question falls to be determined by the Monitoring Officer in association with the Head of Paid Service.
- 6.6 Member’s ‘need to know’ will normally be presumed where the information clearly relates to the discharge of a function of West of England Combined Authority.
- 6.7 Whilst the term ‘West of England Combined Authority document’ is very broad and includes for example, any document produced with West of England Combined Authority resources, it is accepted by convention that a member of one party group will not have a ‘need to know’ and therefore, a right to inspect, a document which forms part of the internal workings of another party group.
- 6.8 Further and more detailed advice regarding members’ rights to inspect West of England Combined Authority documents may be obtained from the Monitoring Officer.
- 6.9 Finally, any West of England Combined Authority information provided to a member must only be used by the member for the purpose for which it was provided, i.e. in connection with the proper performance of the member’s duties as a member of the West of England Combined Authority. Therefore, for example, early drafts of Committee reports/briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied.

## **7. CORRESPONDENCE**

- 7.1 Correspondence between an individual member and an officer should not normally be copied (by the officer) to any other member without the consent of that member. Correspondence includes both hard copy memoranda or letters and e-mail.
- 7.2 Most official letters on behalf of the West of England Combined Authority will normally be sent in the name of the appropriate officer rather in the name of a member, particularly when dealing with operational or service delivery matters. However, it will be appropriate in certain circumstances (e.g. representations to Government) for correspondence to be sent in the name of member(s) or the Mayor



of West of England Combined Authority. Letters which create legal obligations or give instructions on behalf of the West of England Combined Authority and which are sent out in the name of a member should always be agreed in consultation with the Head of Paid Service, and on legal matters on advice from the Monitoring Officer.

## **8. PUBLICITY AND PRESS RELEASES**

8.1 West of England Combined Authority is accountable to the residents of the West of England area. Accountability requires local understanding. This will be promoted by the Authority, explaining its objectives and policies to the electors and rate-payers.

8.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out such principles.

The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code requires that all local authorities shall have regard to its provisions in coming to any decision on publicity.

8.3 Officers and members of the West of England Combined Authority will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, officers and/or members should initially seek advice from the Corporate Communications Manager who will refer the matter to the Head of Paid Service. Particular care should be paid to any publicity used by the West of England Combined Authority around the time of an election. Particular advice will be given on this by the Monitoring Officer as appropriate.

8.4 For the sake of clarity the Code does not apply to press releases and publicity that members may arrange and distribute in their individual political capacity rather than through the West of England Combined Authority. Members should not use West of England Combined Authority resources for party political purposes.

## **9. OFFICER/MEMBER PROTOCOL**

9.1 Copies of the Protocol will be issued to all members as part of the constitution upon appointment.

- 9.2 Questions of interpretation of this Protocol will be determined by the Monitoring Officer.

## **MEDIA PROTOCOL**

## **Introduction**

This protocol sets out the Combined Authority's policy for both members and officers on working with the media.

The West of England Combined Authority's head of communications will be the central point for professional advice and support relating to all aspects of communications, including proactive and reactive media relations, crisis and issues management and reputation management.

### **1. Media principles**

- 1.1 The Combined Authority is committed to communicating openly and honestly.
- 1.2 Media enquiries will be responded to within reporter deadlines as far as reasonable, without compromising trust or accuracy.
- 1.3 All comments, responses and letters to the media will reflect the corporate view of the Combined Authority.
- 1.4 All press releases will be published on the West of England Combined Authority's website.
- 1.5 If any restrictions prevent us from publicly commenting on or responding to a media enquiry, we will explain this position as far as reasonable, without compromising trust, confidentiality or legal restrictions.

### **2. Member protocol**

- 2.1 Members are always able to speak freely to the media or public, unless there is a specific legal or constitutional restriction.
- 2.2 Members should always make it clear whether they are providing comment in a personal capacity, on behalf of a political group or on behalf of the Combined Authority.
- 2.3 Publicity on issues that are sensitive or controversial, or where there are arguments for and against the views or policies of the Combined Authority, is unavoidable, particularly when there is a need for the Combined Authority to consult widely. Such publicity should be carefully handled, with issues presented clearly and accurately and in as straightforward a way as possible, without over-simplification.

- 2.4 Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe an individual councillor’s policies, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals.

### 3. Member involvement in the media

- 3.1 Quotes, responses and letters to the media will be issued in the name of the West of England Combined Authority Mayor, unless it is about an area for which they do not hold responsibility. The Mayor may also decide, for reasons of policy, role or legal restrictions, to apply the following involvement in addition to or instead of the Mayor:

<b>Role</b>	<b>Proactive / Reactive</b>	<b>Circumstance</b>
Deputy Mayor	Both	Mayor unavailable Mayor delegating or sharing, based on portfolio relevance
Committee Member	Both	Mayor unavailable Mayor delegating or sharing, based on portfolio relevance
Chief Executive or other senior officer	Both	During pre-election period A specific operational matter, when Mayor delegates A time-sensitive matter where Mayor, Deputy Mayor and Committee Members unavailable
Returning Officer	Both	On all electoral matters
Section 73 Officer	Reactive	Financial matters where responsibility sits solely with this role
Monitoring Officer	Reactive	Code of Conduct matters where responsibility sits solely with this role
A specialist officer	Both	During pre-election period A specific and lower-risk operational matter, when delegated by the Mayor, Deputy Mayor, Committee Members, chief executive or other senior officer
LEP Chair	Both	Matter is specific to a formal partnership board. May be shared with Mayor/Deputy Mayor/Board Members

#### **4. Officer protocol**

- 4.1 All communications with the media relating to the activities of the Combined Authority should in general be handled by the Combined Authority's head of communications. Individual officers are not permitted to communicate with the media on Combined Authority matters without seeking authorisation from the head of communications. Any enquiries from the media should also in the first instance be referred to the Combined Authority's head of communications.
- 4.2 Ideas for potential positive stories about the Combined Authority should in the first instance be raised and discussed with the head of communications.
- 4.3 Any officer wishing to write material for publication that does not refer to the Combined Authority but does relate to their profession, such as an article in a professional journal or an online blog, should check with the head of communications and their manager before publication. The article should also contain a disclaimer, which states that the views are those of the individual named and not of the Combined Authority.

#### **5. Partnerships**

- 5.1 When working in a formal partnership with an external organisation, we will conform to the media protocols of the lead organisation. Where we are required to provide media comment or participate in publicity, we will follow our usual process for determining the most appropriate participant as set out at 3.1.
- 5.2 The Combined Authority shall consult with the relevant Constituent Council(s) on any press releases, statements and media responses which refer to the Constituent Councils (or any one of them, whether directly or indirectly) before release.

#### **6. Elections and pre-election period**

- 6.1 From notice of election, the Combined Authority abides by the Central Government Code of Publicity governing media relations. This operates in addition to the normal rules of political neutrality relating to Authority publicity and full guidance is issued to staff at the appropriate time.

#### **7. The Code of Conduct on Local Authority Publicity**

- 7.1 In March 2011, the government issued a new Code of Recommended Practice on Local Authority Publicity. This is based on seven principles that require our publicity to be lawful, cost effective, objective, even-handed and appropriate, to show regard

for equality and diversity, and to be issued with care during times of heightened sensitivity.





## **CODE OF CORPORATE GOVERNANCE**

## **1. What is Corporate Governance?**

- 1.1 The West of England Combined Authority has a key role in governing and leading our community. Effective local government relies on public confidence in elected members of West of England Combined Authority and officials. Effective systems of corporate governance underpin the credibility and confidence in public services.
- 1.2 Corporate Governance is a phrase used to describe how organisations direct and control what they do. For local authorities, this includes how a West of England Combined Authority relates to the communities that it serves. Good Corporate Governance requires local authorities to carry out their functions in a way that demonstrates accountability, transparency, effectiveness, integrity and exclusivity. It also supports that the business of the West of England Combined Authority is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively.
- 1.3 West of England Combined Authority is committed to being at the forefront of those local authorities that are able to demonstrate that they have the necessary Corporate Governance to excel in the public sector.
- 1.4 This Code is a public statement that sets out the way in which the West of England Combined Authority will meet that commitment.

## **2. Why do we need a Local Code?**

- 2.1 Corporate Governance is important because it is crucial to:
  - a) Providing high-quality public services. Nationally governance weaknesses have led to service failures and, on occasion, to tragedies. High performing organisations, on the other hand, have effective governance arrangements
  - b) Raising public trust. The public's trust is increased when the quality of services that they and their families experience is high, and when organisations are perceived to be open and honest in communicating their performance, and in learning from their mistakes.
- 2.2 The West of England Combined Authority has approved and adopted a code of corporate governance, which is consistent with the principles of the CIPFA/SOLACE Framework 'Delivering Good Governance in Local Government'. The Code is based upon the following six Principles:

- a) Focusing on the West of England Combined Authority's purpose and on outcomes for the community and creating and implementing a vision for the local area
  - b) Members and officers working together to achieve a common purpose with clearly defined functions and roles
  - c) Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour
  - d) Taking informed and transparent decisions which are subject to effective scrutiny and managing risk
  - e) Developing the capacity and capability of members and officers to be effective
  - f) Engaging with local people and other stakeholders to ensure robust public accountability.
- 2.3 Our Local Code of Corporate Governance sets out the means by which the West of England Combined Authority will meet and demonstrate our commitment to good corporate governance in relation to these six principles.

### **3. The Principles of Corporate Governance**

#### **Focusing on the West of England Combined Authority's purpose and on outcomes for the community and creating and implementing a vision for the local area**

- 3.1 We are committed to an ambitious strategy of achieving the best for our residents and their communities. We demonstrate this by publishing:
- a) Our Community Strategy
  - b) Our West of England Combined Authority Strategy
  - c) An Annual Performance Report
  - d) Our Improvement Programme
- 3.2 We will regularly review the West of England Combined Authority's vision for the local community and its implications for the West of England Combined Authority's governance arrangements.
- 3.3 Through our Partnership Framework, we will ensure that partnerships are underpinned by a common vision.
- 3.4 The West of England Combined Authority will aim to deliver high quality services that make the best use of resources and are value for money. The West of England Combined Authority will do this by:

- a) Delivering services to meet the needs of the local community, and put in place processes to ensure that they operate effectively in practice.
- b) Determining local needs and targeting resources accordingly as per the West of England Combined Authority Strategy.
- c) Developing effective relationships and partnerships with other public sector agencies and the private and voluntary sectors
- d) Responding positively to the findings and recommendations of external auditors and statutory inspectors and putting in place arrangements for the implementation of agreed actions.
- e) Developing a value for money strategy and an internal self-assessment to benchmark our services and test value for money.

**Members and officers working together to achieve a common purpose with clearly defined functions and roles**

3.5 The West of England Combined Authority will ensure that the necessary roles and responsibilities for the Governance of the West of England Combined Authority are identified and allocated so that it is clear who is accountable for decisions that are made. The West of England Combined Authority will do this by:

- a) Operating a committee system of governance, where West of England Combined Authority will:
  - (i) Annually appoint Committees which would have powers delegated to them to discharge specific West of England Combined Authority functions, including Regulatory responsibilities
  - (ii) Make safeguarding provision through a pre-set process to refer a decision up to West of England Combined Authority in certain circumstances
  - (iii) Agree a scheme of delegated decision making responsibilities to Directors
- b) Undertaking an annual review of the operation of the West of England Combined Authority's constitution
- c) Ensuring Partnership arrangements have clear governance accountabilities
- d) Having in place effective arrangements for the statutory scrutiny of partners/services

**Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour**

- 3.6 The West of England Combined Authority will foster a culture of behaviour based on shared values, ethical principles and good conduct. The West of England Combined Authority will do this by establishing and keeping under review:
- a) The West of England Combined Authority's Guiding Principles
  - b) A Members' Code of Conduct
  - c) An Employees' Code of Conduct
  - d) A Protocol governing member/officer relations
  - e) A Members' Planning Code of Good Practice
  - f) A Strategy for combating Fraud and Corruption
  - g) A Whistle Blowing Policy

**Taking informed and transparent decisions which are subject to effective scrutiny and managing risk**

- 3.7 The West of England Combined Authority will ensure that the decision-making process includes a rigorous risk assessment including:
- a) Financial, legal and HR implications
  - b) Sustainability and Environmental implications
  - c) Equalities and Privacy impact assessment
  - d) Risks, mitigations and opportunities
- 3.8 The West of England Combined Authority will be rigorous and transparent about how decisions are taken and recorded. The West of England Combined Authority will:
- a) Ensure Committees make decisions in an open and transparent way
  - b) unless statutory rules say otherwise
  - c) Record all decisions that are made by committees and officers.
  - d) Have rules and procedures which govern how decisions are made.
  - e) Maintain an effective audit and accounts committee
- 3.9 The West of England Combined Authority will operate a Risk and Opportunity Management Strategy that enables the West of England Combined Authority to manage and control risks in order to maximise the quality of its service provision and uphold its reputation, making a powerful contribution to continuous service improvement and the achievement of best value.
- 3.10 The West of England Combined Authority will ensure that the risk management system:

- a) Formally identifies and manages risks;
- b) Involves elected members in the risk management process;
- c) Includes a risk assessment of every decision
- d) Maps risks to financial and other key internal controls;
- e) Incorporates business continuity planning; and
- f) Reviews and, if necessary, updates its risk management processes at least annually.

### **Developing the capacity and capability of members and officers to be effective**

3.11 The West of England Combined Authority will ensure that those charged with the governance of the West of England Combined Authority have the skills, knowledge and experience they need to perform well. The West of England Combined Authority will do this by:

- a) Implementing a Member Development Strategy
- b) Developing leadership skills and capacity across the West of England Combined Authority
- c) Developing our approach to workforce planning
- d) Encouraging quality mark accreditation
- e) Maintaining and developing our Personal Development and Performance
- f) review systems
- g) Cascading regular information to members and staff

### **Engaging with local people and other stakeholders to ensure robust public accountability.**

3.12 The West of England Combined Authority is committed to increasing public involvement in decision making and devolving power to individuals and local organisations. We will seek and respond to the views of stakeholders and the community. The West of England Combined Authority will do this by:

- a) Forming and maintaining relationships with the leaders of other organisations
- b) Publishing a Forward Schedule of Key Decisions
- c) Having a policy on consultation and providing access to a range of consultation methods
- d) Using a range of methods to ensure residents have the opportunity to give their views on West of England Combined Authority services and Performance
- e) Encouraging and supporting the public to get involved in local review and decision making, in line with its Localism Framework
- f) Maintain and review an effective complaints procedure

## **4. Monitoring and Review**

- 4.1 Good Corporate Governance requires the active participation of members and employees across the authority. In order to ensure that our Code is effectively put into practice we will implement the following monitoring and review procedures.
- 4.2 In maintaining Corporate Governance the Combined Authority will ensure:
- a) Development, implementation and continuous improvement of the West of England Combined Authority's corporate governance culture and supporting process framework
  - b) Preparation, adoption and maintenance of an up-to-date local code of corporate governance, including arrangements for ensuring its implementation and ongoing application
  - c) Development, implementation and continuous improvement of the West of England Combined Authority's risk management arrangements
  - d) Co-ordination and review of the West of England Combined Authority's Annual Governance Statement
  - e) Promotion and celebration of best practice in corporate governance throughout the West of England Combined Authority
- 4.3 The West of England Combined Authority Audit Committee is responsible for monitoring and reviewing the West of England Combined Authority's Corporate Governance arrangements.
- 4.4 The Audit Committee is responsible for the West of England Combined Authority's arrangements relating to:
- i. reviewing and scrutinising the authority's financial affairs;
  - ii. reviewing and assessing the authority's risk management, internal control and corporate governance arrangements;
  - iii. reviewing and assessing the economy, efficiency and effectiveness with which resources have been used in discharging the authority's functions; and
  - iv. making reports and recommendations to the combined authority in relation to the reviews they have conducted.
- 4.5 The West of England Combined Authority has responsibility for providing an overview of the implementation of member and officer codes and protocols relating to probity and conduct.

- 4.6 Through this Committee the West of England Combined Authority will ensure that these arrangements are kept under continual review by:
- a) The work of Internal Audit
  - b) Reports prepared by managers with responsibility for aspects of this Code
  - c) External Audit opinion
  - d) Other review agencies and Inspectorates
  - e) Opinion from the West of England Combined Authority's Statutory Officers

#### **The Annual Governance Statement**

- 4.7 Each year the West of England Combined Authority will publish an Annual Governance Statement. This will provide an overall assessment of the West of England Combined Authority's Corporate Governance arrangements and an appraisal of the key controls in place to manage the West of England Combined Authority's principal governance risks. The Statement will also provide details of where improvements need to be made.
- 4.8 The Annual Governance Statement will be reviewed by the Audit and Accounts Committee and approved by the Policy and Resources Committee, for signing by its Chair and the Chief Executive.
- 4.9 The Statement will be published with the West of England Combined Authority's Annual Statement of Accounts and will be audited by our External Auditors.