

CITY OF PLYMOUTH

Subject: Planning Committee Code of Good Practice for Members and Officers

Committee: Planning

Date: 15th October 2009

Cabinet Member: Councillor Fry

CMT Member: Director of Development and Regeneration

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Part: I

Executive Summary:

A report was presented to Planning Committee on 17th September asking Members to note the amended version of the Code of Good Practice for Members and Officers and to refer the code the Portfolio Holder for Planning and Strategic housing and Economic Development for final ratification and approval.

Planning Committee resolved to defer consideration of the report until the next meeting and request that officers report back with information as to how this report could be ratified by City Council and not the Cabinet Member. This report responds to this resolution.

Corporate Plan 2009-2012:

The effective operation of Planning Committee in making open, informed and transparent decisions on planning applications and related matters is a key priority for the Council in achieving its aspirations to be an excellent organisation by 2012. In particular Planning Committee helps to meet the Corporate improvement target of delivering sustainable growth.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

The changes to the Code of Good Practice identified in this report will not have any implications on the cost of operating the Planning Committee.

Other Implications: e.g. Section 17 Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.

The Code of Good Practice will help to address a key risk that is outlined in the Council's Strategic Risk Register under risk 16 "Decision making process" by reducing the judicial risk of the Council not operating in an open and honest way to decision making.

Recommendations & Reasons for recommended action:

It is recommended that Planning Committee:

- 1 Recommends to the Portfolio Holder for Planning and Strategic Housing and Economic Development that the amended version of the Code of Good Practice for Members and Officers is approved.

Reason: To enable the changes identified by national guidance and by Members of the Planning Committee to be implemented through the operation of Planning Committee

Alternative options considered and reasons for recommended action:

The alternative would be to continue to operate under the current code of practice. However this would not give Planning Committee the opportunity to implement the changes in good practice that has been identified both through LGA good practice and Members' and officers' own experience with working under the current code of practice.

Background papers:

Local Government Association (LGA) *Probity in planning: the role of councillors and officers - revised guidance* in May 2009.

Review of the City Council's Constitution, Full Council, 6th July 2009

Code of Good Practice for Members and Officers Appendix H Report, Planning Committee, 18th March 2004

Planning Committee Code of Good Practice for Members and Officers. Planning Committee, 17th September 2009

Sign off: comment must be sought from those whose area of responsibility may be affected by the decision, as follows (insert initials of Finance and Legal reps, and of Heads of HR, IT and Strat. Proc.):

Head of Fin	EM DevF9100 046	Head of Leg	LT1054	Head of HR	N/A			Head of IT	N/A	Head of Strat Proc	N/A
Originating CMF Member Paul Barnard, Assistant Director of Development (Planning Services)											

1.0 BACKGROUND

1.1 At Planning Committee on 17th September 2009 a report was presented to Members on the Planning Committee Code of Good Practice for Members and Officers. This report and the amended code is attached with this report for information. The recommendation was:

1. Notes the amended version of the Code of Good Practice for Members and Officers, as outlined in appendix 1 and approves it in principle.
2. Refers the Code of Good Practice to the Portfolio Holder for Planning and Strategic Housing and Economic Development for final ratification and approval

1.2 Planning Committee resolved to:

“Defer consideration of the report until the next meeting and request that officers report back with information as to how this report could be ratified by City Council and not the Cabinet Member.”

2.0 RESPONSE TO PLANNING COMMITTEE RESOLUTION OF 17TH SEPTEMBER 2009

2.1 Advice has been sought from the Council’s Head of Legal Services given that an issue of constitutional procedure has been raised. His advice is as follows:

- (a) The proposed Code of Good Practice does not form part of the Constitution or its appendices and nor does it form part of the formal terms of reference of the Planning Committee. Accordingly, there is no requirement for what is a self regulated Code of guidance to be considered and approved by any other body other than the Planning Committee and the Cabinet Member. This is underlined in the Constitution in Part 2, paragraph 4 (page 45) “The Cabinet” which sets out the terms of reference and procedures of the Council and Cabinet which for ease of reference is reproduced below:

All the functions of the Council are executive [i.e. Cabinet or Cabinet Member] functions except for:-

- *those listed in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended); and*
- *those set out in the Constitution as being the responsibility of the Council or a body established by the Council.*

- (b) The adoption of a Code of Guidance and Good Practice is not listed in the Functions and Responsibilities Regulations and is not set out in the Constitution as being a responsibility for Council. Accordingly, this is a matter for Cabinet Portfolio. That said, the Head of Legal Services does consider it further good practice for any Committee which is being recommended to adopt such a self regulatory Code of Practice to formally adopt it (as opposed to simply noting it), hence the amendment to the recommendation.

3.0 NEXT STEPS

- 3.1 Following the consideration of this report by Planning Committee the revised Code of Good Practice will be referred to the Portfolio Holder for Planning, Strategic Housing and Economic Development for approval. Once the Portfolio Holder has agreed the revised Code of Good Practice, it will be implemented for future Planning Committee meetings.