

Standards Committee

14 September 2023



Reading
Borough Council
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Title	Planning Code of Conduct Review
Purpose of the report	To make a decision
Report status	Public report
Report author	Michael Graham, Assistant Director for Legal and Democratic Services
Lead Councillor	Cllr Jason Brock, Leader of the Council
Corporate priority	Our Foundations
Recommendations	To: 1. Consider the draft Planning Code attached as Appendix 1 2. To make recommendations to officers to finalise the updating of the Planning Code

1. Executive Summary

- 1.1. The Council has a Planning Code within the Constitution. Article 9 of the Constitution places this Policy within the remit of the Standards Committee.

2. Policy Context

- 2.1. The Planning Code of Conduct within the Constitution was adopted by Council in 2015 (and updated in May 2019).
- 2.2. In December 2019 the Local Government Association published *Probity in planning: Advice for councillors and officers making planning decisions*. Whilst our 2015 document was based on the 2013 version of the same LGA advice, we have not subsequently updated the Planning Code to take into account the updated advice. A review is therefore overdue.
- 2.3. In October 2022, the remit of the Standards Committee was expanded to include oversight of the Planning Code of Conduct:

9.1.2 The purpose of the Standards Committee is to oversee and develop the Council's ethical framework which includes, but is not limited to, the following policies:

Councillor Code of Conduct
Overall standards of conduct and ethics of Members and co-opted Members of the Council
Arrangements for Dealing with Allegations of Misconduct (the "Arrangements Document")
Staff Code of Conduct
Planning Code of Conduct
Member Officer Protocol
Policies in relation to Gifts and Hospitality

3. The Proposal

- 3.1. The Committee is invited to review the Planning Code of Conduct.
- 3.2. In order to facilitate this review, an external firm of solicitors have been engaged to prepare the first draft, and to draw in their experience from across the country to assist in the revision. The draft document is attached at Appendix 1.

- 3.3. Officers from Planning and Legal will be in attendance to assist the Committee to discuss this draft document and to identify areas where it can be improved to offer the best advice to councillors. The Code applies not just to Planning Application Committee members but also to ward councillors.

4. Contribution to Strategic Aims

- 4.1. Putting a new Planning Code in place will allow the Council to comply with best practice and to protect itself from the risk of legal challenges to planning permission decisions. It is a key policy for good governance in the Council.

5. Environmental and Climate Implications

- 5.1. There are no environmental or climate implications arising from the decision, which only concerns the Council's internal operational procedures.

6. Community Engagement

- 6.1. No Community Engagement has been carried out as this relates to Council operational procedures to comply with a regulatory requirement and best practice.

7. Equality Implications

- 7.1. Under the Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to—
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 7.2. There are no Equality implications stemming from the matters covered by this report.

8. Other Relevant Considerations

- 8.1. There are none.

9. Legal Implications

- 9.1. One of the main issues to be considered in the revised Planning Code is how to deal with situations where members wish to depart from officer recommendations so that they can give cogent reasons for their decision. The Supreme Court held in *Dover District Council v CPRE Kent (2017)* that when reasons for a decision are required, their adequacy is to be determined in the case of committees of elected members of a local authority by the same standard as is applicable to others (such as the Secretary of State). The reasons to be provided should not leave room for genuine doubt as to what has been decided and why, dealing with the main issues. It also held that the common law may impose a duty on such a committee to give reasons for the grant of planning permission for a development which is contrary to policy and against the advice of their own officers.
- 9.2. Our procedures have not been updated since this judgement to take into account the enhanced duty to give reasons, and whilst we have not had any challenges since that time, our policies and procedures should be effective and up to date to guard against that risk.

10. Financial Implications

- 10.1. There are no financial implications, as the change of policy represents a change of internal procedures and so will be covered by existing officer time.

11. Timetable for Implementation

11.1. The Policy is within the remit of the Committee. If the Committee has enough information to proceed, it can determine the Policy at its September meeting. If further consideration is required, then the Committee can devise a work plan to conclude the matter.

12. Background Papers

12.1. There are none.

Appendices

1. Draft Planning Code of Conduct
2. Probity In Planning LGA document