

Planning Committee - Code of Conduct For Members

Preamble to Code of Conduct for Members

On behalf of the Department of Infrastructure, the Planning Committee exists to consider and decide upon applications for planning and related matters within the Isle of Man, unless otherwise delegated. This is done on the basis of approved planning and other directly related policies approved by the Department, Council of Ministers or Tynwald. Its operation is governed by a set of Standing Orders.

Code of Conduct for Planning Committee Members was agreed by the Department on 28th November 2012 . The Code sets out the conduct expected by Members of the Planning Committee. Underpinning the Code of Conduct are the Seven Principles of Public Life and these appear in full below.

These principles define the standards that Members should uphold, govern the conduct of members and serve as a reminder of the purpose of the Code of Conduct.

SEVEN PRINCIPLES OF PUBLIC LIFE

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.

The Need for the Code

Planning affects property interests, particularly the financial value of land and the quality of its setting. It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for suggesting with any justification that a decision has been partial, biased or not well-founded in any way.

Planning is not an exact science. Rather, it relies on informed judgement within a firm policy context. It is also potentially contentious because decisions on applications affect the daily lives of everyone and the private interests of individuals, landowners and developers. This is heightened by the openness of the system (public opinion is actively invited before taking decisions) and the legal nature of development plans and decision notices. It is this quasi-judicial role which particularly distinguishes planning from most other government business. It is important, therefore, that the process is characterised by open and transparent decision making.

It is important that members of the Planning Committee should act impartially and should not be influenced by family, social or business relationships. As such Planning Committee Members should not use their public position to further their private interests, own personal preferences, private values, religious beliefs or political views as part of the decision making process. It is a member's own responsibility to ensure that by their own and collective actions, that any potential for a perception of bias does not exist. Therefore this Code has been developed and should ensure that all their activities seek to avoid this occurring. In doing so all members need to consider their own relationship with potential applicant, land owner, neighbouring property, objectors and other 'interested parties'

Part 1 - General Provisions

1. Introduction and interpretation

- (1) This Code applies to **you** as a member of the Planning Committee.
- (2) It is your responsibility to comply with the provisions of this Code.
- (3) Failure to observe the code and comply with the provisions may result in removal from the Planning Committee
- (4) In this Code—
"meeting" means any meeting of—
 - (a) the Planning Committee; and
 - (b) site visits.

2. Scope

- (1) Subject to sub-paragraphs (2) to (4), you must comply with this Code whenever you
 - (a) conduct the business of the Planning Committee; or

Appendix 1

(b) act, claim to act or give the impression you are acting as a representative of the Planning Committee,

and references to your official capacity are construed accordingly.

- (2) Subject to sub-paragraphs (3) and (4) and Part 2, this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(4), 3(5)(c), 3(6) and 3(8) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies [whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)] includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date). Conviction for a criminal offence may result in the termination of a member's appointment.

3. General Code of Conduct and Behaviour (Including Conduct at Meetings)

- (1) As a member of the Planning Committee, a Member is expected at all times to exercise the highest standards of behaviour in line with the seven principles of public life. Members should not enter into any activity or discussion with any third party that may have the potential of bringing the Planning Committee into disrepute or compromising the reputation of the Planning Committee or the Isle of Man Government.
- (2) Any breach of the provisions of this Code of Conduct may result in removal from office of the Member at the direction of the Council of Ministers.
- (3) The principles and requirements set out in the "**Planning Committee - Code of Conduct For Members**" represent minimum standards which must be adhered to by Planning Committee members.
- (4) You must treat others with respect. Personal abuse, criticism or animosity to any other person is not acceptable under any circumstances and you must express and conduct yourself in a responsible manner.
- (5) You must not—
 - (a) do anything which may cause the Planning Committee to breach any of the equality legislation;
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be—
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's (organisation's) code of conduct; or
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the planning authority.
- (6) You must not—

Appendix 1

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
- (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is reasonable and in the public interest; and made in good faith and in compliance with the reasonable requirements of the authority.
- (b) prevent another person from gaining access to information to which that person is entitled by law.
- (7) You must not conduct yourself in a manner which could reasonably be regarded as bringing your office, the Planning Committee, Planning Authority, Department or Isle of Man Government into disrepute.
- (8) You must respect the chair, your colleagues, Government employees, applicants, agents and any members of the public present during meetings and site visits of the Planning Committee. You must comply with rulings from the chair in the conduct of the business of these meetings and site visits.
- (9) Members are accountable for their own individual conduct in the Committee at all times in terms of the Planning Committee's Code of Conduct irrespective of the conduct of others. Abusive or offensive language should not be tolerated and it is a matter for the Chair to rule on the acceptability of language used during the course of a meeting and to take appropriate action as necessary, including requiring withdrawal of a remark, requiring an apology, or any other action required to allow the meeting to properly proceed.
- (10) You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage. At all times your actions must comply with the Isle of Man Government's Anti-Fraud & Corruption Strategy and Financial Regulations.
- (11) When reaching decisions on any matter you must have regard to any relevant advice provided to you by the Planning Authority's Officers, where those officers are acting pursuant to his or her statutory duties.
- (12) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Isle of Man Government

The Role of the Chairman

- (13) The role of the Chair in any Committee meeting, which includes a site visit, is to ensure that the agenda of business is properly dealt with and clear decisions are reached. To do this, the Chair has a responsibility to ensure that the views and opinions of other participants (including the advice of officers) are allowed to be expressed and, at the same time, he/she has a responsibility for proper and

Appendix 1

timely conduct of the meeting and for ensuring that the meeting is conducted in compliance with the Planning Committee's Standing Orders. This includes determining the point at which conclusions should be reached. It requires a balanced approach to ensure fairness to participants while at the same time dealing firmly with any attempt to disrupt or unnecessarily delay the meeting.

- (14) Communications between the Planning Committee and the Minister for Infrastructure will normally be through the Chairman. Nevertheless, an individual member has the right of access to the Minister on any matter which he or she believes raises important issues relating to his or her duties as a member of the Planning Committee. In such cases the agreement of the rest of the Planning Committee should normally be sought. The main point of contact between the Planning Committee and the Department on day-to-day matters will normally be the Director of Planning & Building Control or another member of staff who is authorised to act on behalf of the Planning Authority.
- (15) The Director of Planning and Building Control should ensure that all members of the Planning Committee, when taking up office, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities. The Chairman and other members of the Planning Committee should each have a copy of relevant background material. The Director of Planning and Building Control should encourage new Planning Committee members to attend an induction course on the duties of Planning Committee members or some other suitable form of induction.

The Role of Individual Members

- (16) Planning Committee Members share the collective responsibility of the Planning Committee for the control and management of its business and are expected to exercise their best judgment in the interests of the organisation.
- (17) Members should regard themselves as guardians of the public interest in the Planning Committee's activities and in the discharge of its statutory duties. They should adopt a questioning approach to proposals put before the Planning Committee and should contribute independent advice and judgment, both to the Planning Committee as a whole and as appropriate to the Chairman.
- (18) The members should aim to make a full contribution to the work of the Planning Committee.
- (19) Members present share the responsibility for the proper and expeditious discharge of business and the role of the Chair in reaching such judgments requires this to be supported and respected.

Confidentiality

- (20) It is Government Policy to be as open as possible in providing information publicly about its activities. There are, nevertheless, circumstances in which, for good reasons, confidentiality requires to be observed (including compliance with data protection requirements). These circumstances are set out in Government's Code of Practice on Access to Information (Government Circular 20/96) under a number of headings, the principal of which are:
- Privacy of the Individual

Appendix 1

- Third Party's Commercial Confidences
- Effective Management and Operation of the Public Service
- Law Enforcement and Legal Proceedings, and
- Prematurity

(21) Whilst Members are encouraged to explain and discuss openly the declared policies of the Planning Committee, as appropriate, it is important for the effective working of Planning Committee that information in relation to activities is not divulged prematurely so as to pre-empt a determination by the Planning Committee. Members should, therefore, be sensitive to the interests of the Planning Committee in discussing the work of the Planning Committee with others and, in the event of doubt, to discuss with the Chairman whether outside discussion would be premature.

Interaction with the Media

(22) If a Member is approached by the media for comment on any matter or issue, the Planning Committee member should politely decline to make comment at that time and seek the advice of the Chairman.

(23) Upon advice, the Member may make specific comment to the media as deemed appropriate based on the advice tendered by the Chairman.

(24) The Member may however make appropriate and informed comment, if prior delegated authority has been received from the Chairman.

Part 2 – Conflicts of Interests

1. Register of Interests

(1) Members of Planning Committee should act impartially and should not be influenced by family, social or business relationships. Planning Committee Members should not use their public position to further their private interests. At all times your actions must comply with the Isle of Man Government's Anti-Fraud & Corruption Strategy and Financial Regulations.

(2) The Chairman and other Planning Committee Members should declare any personal or business interests which may conflict with their responsibilities as Planning Committee Members, and those interests should be declared and recorded in a register held by the Department as Planning Authority.

(3) The register should list direct or indirect pecuniary interests which members of the public might reasonably think could influence Planning Committee members' judgement. Planning Committee members are strongly encouraged to register non-pecuniary interests which relate closely to the Planning Committee's activities, and interests of close family members and in particular persons living in the same household as the Planning Committee Member.

(4) Planning Committee Members should notify Department's Chief Executive, if there is any relevant change in their personal situation or connections during the period of appointment, which may result in a conflict of interest. Planning Committee Members should in any case update the register of interests as changes occur but review their declared interests with the Authority at least

Appendix 1

annually. If a member of the Planning Committee becomes a member of a local authority, they should notify the Department's Chief Executive.

- (5) Registers of interest should be open for inspection by Members of Tynwald, the Council of Ministers, the Chief Secretary, the Chief Executive Officer of the Department of Infrastructure and other Planning Committee members and be available for inspection by the public auditors. Opening the register for public inspection would be a matter for the Planning Committee to determine, with due consideration to the Government's Code of Practice on Access to Information.
- (6) Where you consider that the information relating to any of your personal interests is sensitive or commercial information, and Department's Chief Executive agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under sub paragraph (4).
- (7) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub paragraph (6) is no longer sensitive information, notify Department's Chief Executive asking that the information be included in the Planning Committee's register of members' interests.
- (8) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation

2. Personal Interests

- (1) You have a personal interest where either—
 - (a) it relates to or is likely to affect—
 - (i) any body of which you are a member or in a position of general control or management
 - (ii) any body: exercising functions of a public nature; directed to charitable purposes; or one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
 - (iii) any employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;
 - (v) any person or body, who has made a payment to you in respect of any expenses incurred by you in carrying out your duties;
 - (vi) any person or body who has a place of business or land, and in whom you have a beneficial interest in a class of securities of that person or body;
 - (vii) any contract for goods, services or works made between the Government and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality;

- (ix) any land in which you have a beneficial interest;
 - (x) any land where the landlord is the Government and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other tax payers, ratepayers or inhabitants of the Isle of Man.
- (2) In sub-paragraph (1)(b), a relevant person is—
- (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (c) any person or body in whom such persons have a beneficial interest in a class of securities; or
 - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

3. Disclosing Interests

- (1) Members of the Planning Committee should not participate in the discussion or determination of matters in which they have a direct pecuniary interest. When an interest is not of a direct pecuniary kind, Members should consider whether participation in the discussion or determination of a matter would suggest a real danger of perception of bias. This should be interpreted in the sense that Members might either unwittingly or otherwise unfairly regard with favour or disfavour, the case of a party to the matter under consideration. In considering whether a real danger of perception of bias exists in relation to a particular decision, Members should assess whether they, a close family member, a person living in the same household as the Planning Committee Member, or a firm, business or organisation with which the Planning Committee Member is connected are likely to be affected more than the generality of those affected by the decision in question. This would cover, for example, a decision to invite tenders for a contract where a firm with which a member was connected was significantly better placed than others to win it. If members need further guidance, they should contact the Department's Chief Executive.
- (2) Where, in accordance with the above, Members do not participate in the discussion or determination of a matter, the interest should be declared and recorded in the minutes and the Member should withdraw from the meeting. This is because the continued presence of someone who had declared an interest might be thought likely to influence the judgement of the other members present.

4. Prejudicial interest generally

- (1) Subject to sub-paragraph (2), where you have a personal interest in any business of the Planning Committee you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the Planning Committee where that business—
 - (a) does not affect your financial position or the financial position of a person or body described in paragraph 2 (1);
 - (b) does not relate to the determining of any approval, in relation to you or any person or body described in paragraph 2 (1).

5. Effect of prejudicial interests on participation

- (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of the Planning Committee
 - (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;unless you have obtained a dispensation from the Department's Chief Executive;
 - (b) you must not exercise executive functions in relation to that business; and
 - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of the Planning Committee, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

6. Acceptance of Gifts, Hospitality and Travel in accord with the Government Code¹

Gifts

- (1) No Planning Committee Member should accept gifts, hospitality or services in connection with their work on the Planning Committee from anyone which would, or might appear to, place him or her under an obligation, without the permission of the Chairman. The same principle applies if gifts, etc., are offered to a member of their family.

1

"The Government Code" Chief Secretary's Office , Isle of Man Government , June 2011 (see <http://www.gov.im/cso/corporate/conduct/conduct.xml>)

Appendix 1

- (2) This is primarily a matter which must be left to the good sense of Members. But any Member in doubt or difficulty over this should seek the guidance of the Department's Chief Executive (as Accounting Officer). The following rules apply:
- (a) Tokens, mementos of official occasions, visits or conferences are not to be regarded as gifts unless they exceed an apparent value of £50;
 - (b) Receipt of gifts should, in all cases, be reported to the Department's Chief Executive;
 - (c) Gifts of small value (i.e. up to £100) may be retained by the recipient;
 - (d) Gifts of a higher value should be handed over to the Department for disposal, except that -
 - (i) The recipient may purchase the gift at its cash value (abated by £100);
 - (ii) If the recipient wishes to reciprocate with, and pay for, a gift of equivalent value, the gift received may be retained;

If the Planning Committee judges that it would be of interest, the gift may be displayed or used in the Planning Committee;

If the disposal of the gift would cause offence or if it might be appropriate for the recipient to use or display the gift on some future occasion as a mark of politeness, then the gift should be retained in the Planning Committee for this purpose.

- (3) Gifts given to Planning Committee Members in their capacity as Planning Committee Members become the property of the Planning Committee unless the Planning Committee Member wishes to keep the gift (if it is below the threshold of £100) or to purchase it.

Hospitality

- (4) Travel within the Island and hospitality provided within normal bounds which is infrequent or reciprocated cause no difficulty (e.g. attendance as a guest at formal dinner, reception, etc.)
- (5) Travel and hospitality, including accommodation, provided off the Island cause no difficulty if the Member is fulfilling an engagement at the request of the donor, which is of promotional or other sufficient value to the Island.
- (6) Attendance at conferences, dinners, exhibitions, etc., off-Island will involve costs of travel and, frequently, costs of accommodation which exceed an apparent value of £140. In general, an offer of such travel and accommodation should not be accepted.

Travel

- (7) Off-Island travel by Members should normally be arranged, so far as possible, to avoid absences from Planning Committee meetings.
- (8) When Members travel off-Island on official Government business their travel expenses should be borne by the Planning Committee. Such expenditure must have prior approval of the Department. When any expenses are not met in this way, Members must ensure that no undue obligation is involved; recognising that accepting offers of free travel can be misinterpreted.