

## Rother District Council

Report to	-	Cabinet
Date	-	9 March 2020
Report of the	-	Executive Director
Subject	-	Probity in Planning - Revised Guidance Note on the Role of Councillors and Officers

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The Planning Committee meeting held on 13 February 2020, considered a report on the revised version of 'Probity in Planning: for Councillors and officers'. The recommendation, minute arising and original report at Appendix A is reproduced below.

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**Recommendation to COUNCIL:** That the best practice advice 'Probity in Planning: for Councillors and officers' second revised edition 2019 be adopted as guidance and incorporated into the Council's Constitution.

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### PL19/117. **PROBITY IN PLANNING – REVISED GUIDANCE NOTE ON THE ROLE OF COUNCILLORS AND OFFICERS**

In November 2009, the best practice advice from the Local Government Association (LGA), "Probity in Planning: the role of Councillors and officers" was adopted. The revised edition was then adopted in April 2013. A further revised and updated version dated December 2019 had now been produced by the LGA which was disseminated to the Planning Committee Members at the meeting.

The revised guidance reflected on changes to legislation and the 2019 National Planning Policy Framework. It clarified how Councillors could get involved in planning discussions on plan making and on applications, on behalf of their communities, in a fair, impartial and transparent way. Three areas were specifically highlighted, as the advice had significantly changed or been updated, namely how Councillors dealt with social media; predisposition, predetermination or bias; and the role of legal support. The purpose of the guide was to assist Members in their community engagement role whilst making good standards of probity. The Committee was encouraged to familiarise themselves with the updated guidance.

(Planning Committee Agenda Item 13).

Dr Anthony Leonard  
Executive Director

**Rother District Council**

Report to	-	Planning Committee
Date	-	13 February 2020
Report of the	-	Executive Director
Subject	-	Probity in Planning - Revised Guidance Note on the Role of Councillors and Officers

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**Recommendation:** It be **RESOLVED:** That Cabinet be requested to recommend to Council that the best practice advice 'Probity in Planning: for Councillors and officers' second revised edition 2019 be adopted as guidance and incorporated into the Council's Constitution.

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**Head of Service: Tim Hickling**

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1. This report is seeking the views of Planning Committee on the Probity and Planning revised edition. Views and comments of the Committee will then be presented to Cabinet.
2. The best practice advice 'Probity in Planning: the role of Councillors and officers', issued by the Local Government Association (LGA) (May 2009), was originally adopted by Councillors in November 2009. The first revision (current edition) was updated in 2013 by the LGA in association with the Planning Advisory Service (PAS) and this is our current guidance.
3. The LGA has now produced a second revision (December 2019) stating:

*'Probity in planning is about ensuring that decisions on plan making and planning applications are undertaken, on behalf of communities, in a fair, impartial and transparent way. This guide has been written for officers and councillors involved in making planning decisions in their local authority'. It is informed by contributions from Councillors and officers and includes:*

- a brief overview of the planning system and the role of decision makers;
- Councillor and officer conduct;
- registration and disclosure of interests;
- predisposition, predetermination or bias;
- lobbying of and by Councillors;
- discussions before a decision is taken;
- officer reports;
- public speaking at planning committees;
- decisions which differ from an officer's recommendation;
- committee site visits;
- reviewing past planning decisions and the outcomes; and
- complaints and record keeping.

A link to the document is below:

[https://www.local.gov.uk/sites/default/files/documents/34.2\\_Probity\\_in\\_Planni](https://www.local.gov.uk/sites/default/files/documents/34.2_Probity_in_Planni)

A hard copy of the document will be circulated to Members at Planning Committee.

4. The advice contained in the current revision builds on the previous editions (2009 and 2013) reflecting on changes to legislation and the National Planning Policy Framework (2019). There are changes in the nuances of the advice in part and therefore Members are strongly recommended to read and familiarise themselves of these updates. There are three areas where the advice has significantly changed or updated.

5. Firstly, under Section 3 (Councillors and Officer Conduct) reference is made on how to deal with social media:

*'Care needs to be taken in the use of social media, such as Twitter, Facebook or Instagram, by officers and councillors, where it relates to decision making functions (see Section 5 on predetermination and bias). The Local Government Ethical Standards Report 2019 also addresses issues related to social media use.'*

6. Under Section 5 (Predisposition, predetermination or bias) a new section has been included:

*'Local planning authorities will usually have a cabinet or executive member responsible for development and planning (sometimes known as the portfolio holder). PAS advise that the leader and portfolio holder of a local authority, who play an important role driving planning policies and proposals, should normally exclude themselves from decision making committees. This is to avoid the perception of a conflict of interests and predisposition.'*

*'In smaller councils it may be necessary for a portfolio holder to be on a planning committee. PAS suggest that in these situations they will need to be extremely careful and will need to withdraw when the committee is considering the council's own schemes or other applications that they have been seen to support previously.'*

7. Finally, under Section 9 (Officer Reports) the role of legal support is highlighted:

*'Careful reviews of draft reports, which may involve consultation with the council's legal team, is always recommended. Similarly, appropriate interventions by the legal officer at the committee meeting itself might be needed in order to correct any misconceptions on specific issues.'*

8. The purpose of the guide is to assist Members in their community engagement role whilst maintaining good standards of probity and therefore it is recommended for adoption as guidance.

Dr Anthony Leonard  
Executive Director

**Risk Assessment Statement**

Failure to adopt and enact the provisions of this guide would run the risk that planning decisions on planning applications and plan making are not undertaken in a fair, impartial and transparent way which may lead to Judicial Reviews, Local Ombudsman complaints and award of costs at planning appeals; all of which will adversely impact on the general reputation of the Council.