

## REPORT OF STANDARDS COMMITTEE

(Meeting held on 25 June 2003)

### 1. THE MONITORING OFFICER'S ROLE AND FUNCTIONS (REPORT B) (MINUTE 7)

The Committee has considered a proposed Code of Practice setting out the Monitoring Officer's role and responsibilities. As well as setting out her responsibilities within the organisation, the Code outlined the duty on other parts of the organisation to co-operate with her to ensure that those roles and responsibilities were fulfilled. District Audit had confirmed that it was desirable for Councils formally to adopt such a Code of Practice, in particular so that all parties in the organisation could be clear about their roles in furthering probity and other such issues in the Council.

The Committee noted that regulations granting the Monitoring Officer powers to undertake the local investigation of complaints to the Standards Board for England about a breach of the Code of Conduct had been awaited for some time. It was considered that the procedures adopted in response to these pending regulations should be included in the Code of Practice, and therefore preparation of the Code had been held in abeyance pending receipt of the regulations. Information has since been received that these regulations may not be made until primary legislation has been amended, so they were now not likely to be made until later in the year. The Committee considers that, in the circumstances, there is no good reason to delay further before adopting a Code of Practice setting out the Monitoring Officer's role and responsibilities.

#### **RECOMMENDED:**

- (a) ***That the Code of Practice setting out the Monitoring Officer's role and responsibilities, attached as Appendix 1 to this report, be approved; and***
- (b) ***That when regulations are made giving the Monitoring Officer power to arrange for the investigation of complaints to the Standards Board about breaches of the Code of Conduct, the investigatory procedures approved by this Committee be incorporated into the Code of Practice.***

### 2. PENSIONS FOR COUNCILLORS (REPORT C) (MINUTE 8)

The Committee has considered the effect of regulations published on 1 May 2003 which provide for local authorities to make membership of the Local Government Pension Scheme (LGPS) available to Councillors.

The Council's Independent Remuneration Panel is required to make a recommendation with regard to membership of the LGPS. In anticipation of the new regulations, the Independent Remuneration Panel has recommended that membership of the LGPS should be open to all Councillors, and that both basic and special responsibility allowances should be pensionable.

It will be for eligible Councillors to decide whether or not to join the LGPS. An eligible Councillor is entitled to join the scheme at any age prior to 70 and remain as an active member in the LGPS until age 70. There is an exception in that a Councillor is not eligible to join if after age 65 he/she already has 40 years membership of the scheme. If a person remains a Councillor beyond age 70 he/she will not be able to draw pension benefits until he/she ceases to be a Councillor or, if earlier, age 75.

Councillor members of the LGPS will be entitled to benefits from the scheme if they had two years membership or attain normal retirement age (age 70).

A Councillor who opts to join the LGPS will pay contributions at 6% of his/her pensionable allowances. Contributions are subject to tax relief which is given at source. The Council will pay an employer's contribution which is currently 2.15 times the Councillor's contribution. The employer's contribution rate is assessed by the scheme actuaries every three years.

Councillors who pay National Insurance (NI) contributions on their allowances will pay a lower rate of NI (broadly 1.6% less) if they join as the LGPS is contracted out of the State Second Pension. Similarly, the Council will pay a lower rate of Employer's NI contributions for those Councillors.

Councillors will also be able to make Additional Voluntary Contributions (AVCs) if they wish. These would have to be used on retirement to purchase an annuity from a provider in the open market. An Employer's contribution is not payable in respect of AVCs.

Councillors cannot transfer pension rights into the LGPS from another scheme or arrangement, or from another LGPS fund, and cannot aggregate any concurrent periods of "Councillor Membership".

Benefits for a Councillor leaving LGPS or retiring consist of a lump sum retirement grant plus an annual pension.

The Committee noted that administration for the District Council would generally be straightforward and all calculations regarding career average pay would be undertaken by Hampshire County Council's Pensions Service, based on NFDC's annual returns.

Annual costs to the Council for the employer's contribution would vary depending on the number of members who wish to join the scheme, but the maximum additional costs would be as follows:-

- If the Basic Allowance only was pensionable - £22,000
- If Special Responsibility Allowances only were pensionable - £9,212
- If both Basic and Special Responsibility Allowances were pensionable - £30,110.

If the Council agrees the Committee's recommendation regarding the pensionability of allowances, and assuming:

- (i) all eligible members of the council opt to join the LGPS; and
- (ii) arrangements for membership of the scheme could take effect from September 2003;

a supplementary estimate for the part year costs to a maximum of £20,000 would be required.

**RECOMMENDED:**

- (a) That with effect from the earliest date on which membership can be arranged, membership of the Local Government Pension Scheme be open to all eligible members of the Council;**
- (b) That both the basic and special responsibility allowances be pensionable; and**
- (c) That a supplementary estimate to a maximum of £20,000 be approved for the Council's contribution to the LGPS for 2003/04, and that provision for a full-year's costs be made in future budgets.**

**3. MEMBERS' ALLOWANCES SCHEME (REPORT D) (MINUTE 9)**

The Committee at its last meeting on 4 April made recommendations to the Council for the members' allowances to apply with effect from May 2003. These were received by the Council on 28 April 2003. In making its recommendations, the Committee recognised that the Council might wish to defer consideration of the allowances until after the elections on 1 May and, indeed, the Council on 28 April decided to defer the issue for consideration by the new Council.

The Committee has now:

- (a) reconsidered the recommended allowances to members; and
- (b) considered and made recommendations for a new scheme of Members' Allowances to apply from 22 July, in the light of new Regulations which came into force on 1 May 2003.

Attached to the report submitted to the Committee on 25 June were, amongst other documents, a copy of the report of the Independent Remuneration Panel detailing the recommendations for the level of allowances to apply from May 2003. All members of the Council have received a copy of the report.

With regard to the level of allowances to members, the Council will recall that, in making its recommendations to the Council on 28 April, the Committee endorsed the recommendations made by the Independent Remuneration Panel, with the exception of that relating to the basic allowance. The Independent Panel had recommended that the basic allowance be calculated on the basis of a time input of 12 hours per week, instead of the current 10 hours per week. The Committee was not convinced that there was sufficient evidence of an increase in the basic workloads of members to warrant an increase to 12 hours. Subsequent to the meeting of the Committee, the Chairman of the Independent Remuneration Panel, Mrs Madeleine Sumsion of South East Employers, was requested to provide more detail as to why the Panel had felt that the increase of two hours was justified. Mrs Sumsion's response, in a letter dated 14 April 2003, was attached to the agenda for the meeting of the Committee on 25 June. The Committee considered further the reasoning behind the Panel's recommendation for an increase but still felt that there was insufficient evidence that members' workloads had increased to warrant an allowance calculated on a time input of 12 hours per week.

The Committee has therefore reaffirmed its previous recommendations with regard to the allowances to apply for the current year. These appear in the recommended new Scheme of Allowances attached to this report as Appendix 2.

The Committee has also received details of the new Members' Allowances Regulations that came into effect on 1 May 2003. Amongst other things, the Regulations require Councils, by 30 September 2003, to revoke their existing schemes of allowances and to adopt new schemes that meet the requirements of the new Regulations (although it is understood that, in response to pressure from the Local Government Association, this deadline of 30 September is to be extended to 31 December 2003).

The Committee has given careful consideration to the Regulations and recommends that the Council adopt the scheme attached as Appendix 2. New provisions have been inserted into the draft Scheme to comply with the requirements of the new Regulations – these are shown in bold italics. As mentioned above, the Scheme includes the level of the basic and special responsibility allowances recommended by the Committee. Other issues which are likely to be of particular interest to the Council are:

- (a) The draft scheme includes provision for pensions to be payable to eligible members on both the basic and special responsibility allowances. This issue is dealt with in more detail in item 2 of this report (Minute 8);
- (b) The draft scheme provides for withholding allowances payable to members who may be suspended or partially suspended from his/her duties as a member of the Council, or, in circumstances where allowances have already been paid, to be repaid to the authority;
- (c) For the first time, the regulations permit the payment of a "co-optee's" allowance. Provision for the payment of such an allowance to non-District Council members of the Standards Committee has been made in the draft Scheme;

- (d) Provision may be made for allowances to be uprated annually by reference to an index. Where the only change to a scheme is this adjustment, a recommendation from the Independent Remuneration Panel is not required. However, a Council may only rely on this annual adjustment for a maximum period of four years. Provision for annual uprating has been made in the draft Scheme.
- (e) Specific provision is made in the regulations for allowances to be backdated to the date the new regulations came into force, i.e. 1 May 2003. The Committee recommends that the revised basic allowance, the new co-optee's allowance and the revised Dependant Carer's allowance be backdated to 1 May, and that the revised Special Responsibility Allowances be backdated to 20 May, i.e. the day after the Council made appointments to these positions.
- (f) Previous restrictions on the level of travel and subsistence allowances have been removed. Until now, travel and subsistence rates were fixed by the Secretary of State but this will no longer be the case. However, Councils must now receive recommendations from their Independent Remuneration Panels on travel and subsistence allowance for their members, and these allowances must be included in the Scheme. The Committee has reconvened the Panel to make recommendations in this regard.

The travel and subsistence allowances set out in the draft Scheme are those currently in force. The Committee recommends that these be retained until the Independent Remuneration Panel is able to submit recommendations for future allowances. The Council is asked to note that once these recommendations are received, an amendment to the Scheme is likely to be necessary to include revised travel and subsistence allowances.

The full-year cost of implementing the new basic and special responsibility allowances recommended by the Committee will be approximately £347,000, against budget provision of £321,330 (i.e. requiring additional budget provision of £26,000). This amount includes provision of £12,000 for National Insurance contributions. If the Council is minded to agree the basic allowance recommended by the Independent Remuneration Panel (an allowance of £4,462 instead of the Committee's recommended £3,722), the estimated total budget requirement would be £390,552, requiring a supplementary estimate of £69,312. As mentioned in item 2 of this report, the cost of the Council's contributions to the Local Government Pension Fund will depend on the take-up by members of membership of the Fund.

**RECOMMENDED:**

- (a) ***That the members' allowances scheme currently in force be revoked on 21 July 2003;***
- (b) ***That the scheme of members' allowances attached as Appendix 2 to this report be adopted from 22 July 2003;***
- (c) ***That a supplementary estimate of £26,000 to meet the costs of the revised basic and special responsibility allowances be approved.***

**4. STANDARDS COMMITTEE – TERMS OF REFERENCE (REPORT E)  
(MINUTE 10)**

The Committee has considered two proposals to amend its Terms of Reference.

A report setting out an analysis of complaints to the local government ombudsman, and those investigated on behalf of the Chief Executive, over the previous year, has been submitted each year to the Corporate & Finance Review Panel. (Complaints investigated and resolved by individual services were reported as part of the Best Value and Performance Management arrangements.) The Committee considers, in the light of the Committee's wider remit for probity issues and its statutory responsibilities regarding complaints and the Council's Ethical Framework, that it would be consistent with its role for it to receive the annual report on complaints and to make any appropriate recommendations for changes in procedures to prevent similar complaints being made in the future.

The Committee also recommends a further amendment to its Terms of Reference to allow it to recommend a Code of Corporate Governance to the Council and annually to review the Council's compliance with it.

**RECOMMENDED:**

***That the Committee's Terms of Reference be amended by the addition of:***

**(9) *To receive annual reports on corporate complaints, and complaints to the local government ombudsman, and recommend to Council any changes in procedures that it considers advisable.***

**(10) *To recommend a Code of Corporate Governance to the Council and annually to review the Council's compliance with it.***

**5. THE ROLE AND FUNCTIONS OF THE CHIEF FINANCE OFFICER  
(REPORT F) (MINUTE 12)**

The Committee has considered and recommends the adoption of a formal Code of Practice which sets out the role and responsibilities of the Council's Chief Finance Officer, attached as Appendix 3 to this Report. The Code consolidates the existing responsibilities of and delegations to the Director of Resources and his Deputy.

**RECOMMENDED:**

***That the Code of Practice attached as Appendix 3 to this report, setting out the roles and responsibilities of the Chief Finance Officer, be approved.***

**Cllr J A G Hutchins  
Chairman**

# APPENDIX 1

## NEW FOREST DISTRICT COUNCIL

### CODE OF PRACTICE

#### ROLE AND RESPONSIBILITIES of the MONITORING OFFICER

##### A. GENERAL INTRODUCTION TO STATUTORY RESPONSIBILITIES

1. The Monitoring Officer is a statutory appointee under section 5 of the Local Government and Housing Act 1989. This Code of Practice provides some general information on how the Monitoring Officer's function will be discharged in New Forest District Council.
2. The Monitoring Officer undertakes to discharge her statutory responsibilities in a manner that enhances the overall reputation of the Council. In doing so she will, so far as possible, safeguard Members and Officers acting in their official capacities from legal difficulties and/or criminal sanctions.
3. A summary of the statutory responsibilities is at Annex 1. In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will largely depend on Members and Officers:-
  - a) complying with the law of the land (including any relevant Codes of Conduct);
  - b) complying with any Local Codes adopted by the Council;
  - c) complying with any general guidance issued from time to time by the Standards Committee and/or the Monitoring Officer;
  - d) making lawful and proportionate decisions; and
  - e) not taking action that would bring the Council, their offices or professions into disrepute.

##### B. WORKING ARRANGEMENTS

4. Excellent working relations between the Monitoring Officer and Members and Officers will help her discharge her statutory responsibilities and keep the Council out of trouble. Equally, a speedy flow of relevant information and access to debate (particularly at the **early stages** of any decision-making by the Council) will help her fulfill her responsibilities. Members and Officers must, therefore, work with the Monitoring Officer (and her staff) to discharge the Council's statutory and discretionary responsibilities.
5. The following arrangements are designed to ensure the effective discharge of the Council's business and functions.

The Monitoring Officer will:-

- (a) be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including in particular issues about legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (b) have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of Members or of the Corporate Management Team at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken);
- (c) have the right to attend any meeting of Members or of the Corporate Management Team the Council (including the right to be heard) before any binding decision is taken (including a failure to take a decision where one should have been taken);
- (d) in carrying out any investigation(s) have unqualified access to:
  - i. any information held by the Council and
  - ii. any Officer who can assist her in the discharge of her functions;
- (e) ensure the other statutory officers (Head of Paid Service and the Chief Finance Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (f) meet regularly with the Head of Paid Service and the Chief Finance Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (g) report to Members, as and when necessary, on any necessary or desirable changes to the Council's Constitution following consultation with other officers as appropriate;
- (h) report to Members, as and when necessary, on the staff, accommodation and resources she requires to discharge her statutory functions;
- (i) have a relationship of respect and trust with the Chairman and Vice-Chairman of the Council, the Leader and Deputy Leader of the Council, Portfolio Holders, the Leaders of Opposition Groups, and the Chairmen of the Regulatory Committees and Review Panels, with a view to ensuring the effective and efficient discharge of Council business;



- (j) develop an effective working relationship with the Standards Board for England, the District Auditor and the Local Government Ombudsman (including having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate procedures, if necessary) and settle any compensation payments for alleged or actual maladministration found against the Council;
  - (k) maintain the statutory registers for the declaration of members' interests, gifts and hospitality (including those for Parish and Town Councils in the District);
  - (l) give informal advice and undertake relevant enquiries into allegations of misconduct (in the absence of a written complaint to the Standards Board for England) and, if appropriate, make a written report to the Standards Committee or to the Standards Board for England if, in the opinion of the Monitoring Officer, there is a serious breach of the Council's Code of Conduct for Members;
  - (m) in consultation, as necessary, with the Chairmen of the Council, Cabinet, Standards Committee and the Standards Board for England, defer making a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
  - (n) make arrangements to ensure effective communication between her office and the Clerks to Parish and Town Councils in the District on Monitoring Officer and Standards Committee issues;
  - (o) have sufficient resources to enable her to address any matters concerning her Monitoring Officer functions;
  - (p) be responsible for preparing any training programme for Members and/or officers of the District Council and/or of Parish and Town Councils on ethical standards and Code of Conduct issues (in consultation with the Standards Committee if appropriate; and
  - (q) nominate a deputy during any period of absence from work, and keep the deputy briefed on any relevant issues that s/he may be required to deal with.
6. To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other constitutional concerns to the Monitoring Officer, as soon as practicable.
7. The Monitoring Officer is also available for Members and Officers to consult on any issues about the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (such as Standing Orders, policy framework, terms of reference, scheme of delegations etc).

8. To ensure the effective and efficient discharge of this Code of Practice, the Chief Finance Officer will ensure adequate insurance and indemnity arrangements are in place to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

**C. SANCTIONS FOR BREACH OF THE CODE OF CONDUCT AND THIS CODE OF PRACTICE**

9. Complaints about any breach of the Council's Code of Conduct must be referred to the Standards Board for England, which could lead, ultimately, to the disqualification of a Member. Complaints against any breach of this Code of Practice by a Member will be referred to the Standards Committee and, if the Member is a member of a Political Group, to the Leader of that Group. Complaints against any breach of this Code of Practice by an Officer will be referred to the relevant Director and/or the Chief Executive.

## ANNEX 1

### SUMMARY OF MONITORING OFFICER FUNCTIONS

Description		Source
1	Report on contraventions or likely contraventions of any enactment or rule of law	Section 5 Local Government and Housing Act 1989
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5 Local Government and Housing Act 1989
3	Appointment of Deputy	Section 5 Local Government and Housing Act 1989
4	Report on resources	Section 5 Local Government and Housing Act 1989
5	Advise on the Public Interest Disclosure Act 1998 concerning disclosure of information in the public interest	Fraud, Corruption and Probity Guide in Council Constitution
6	Investigate misconduct in compliance with Regulations (when made) and directions of Ethical Standards Officers	Regulations when made. Directions when made in individual cases. Local Government Act 2000 Section 66
7	Establish and maintain registers of members interests and gifts and hospitality	Local Government Act 2000 Section 81 and Code of Conduct
8	Advice to members on interpretation of Code	Code of Conduct
9	Key role in promoting and maintaining high standards of conduct through support to the Standards Committee	Statutory Government Guidance paragraph 8.20
10	Liaison with Standards Board and Ethical Standards Officers	
11	New ethical framework functions in relation to Parish Councils	Local Government Act 2000 Section 83(12)
12	Compensation for maladministration	Local Government Act 2000 Section 92
13	Advice on constitutional issues, maladministration, financial impropriety, probity and policy framework and budget issues to all members	Statutory Government Guidance paragraph 8.21

# APPENDIX 2

## NEW FOREST DISTRICT COUNCIL MEMBERS' ALLOWANCES SCHEME

This scheme will be known as the New Forest District Council Members' Allowances Scheme, and shall have effect on 22 July 2003. A list of definitions is given in Appendix 1.

### 1. Basic Allowance

- 1.1 Each Councillor shall receive a basic allowance of £3,722 per annum. *Where the term of office of a Councillor begins or ends otherwise than at the beginning of the year to which the scheme relates, his entitlement shall be to payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which his term of office as Councillor subsists bears to the number of days in that year.*

### 2. Special Responsibility Allowance

- 2.1 The following annual Special Responsibility Allowances shall be paid:

Leader of the Council	£15,624
Portfolio Holders	£7,812
Chairmen of Review Panels	£3,906
Chairman of Planning Development Control Committee	£3,906
Chairman of General Purposes & Licensing Committee	£984
Chairman of Standards Committee	£984
Major Opposition Group Leader	£6,912
Minority Group Leader	£912
Shadow Portfolio Holders	£480

- 2.2 *Where a Councillor does not have throughout the whole of a year any such special responsibilities as entitle him to a special responsibility allowance, his entitlement shall be to payment of such part of the special responsibility allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.*

### 3. Limitation on Payment of Special Responsibility Allowances

- 3.1 A Councillor may receive only one special responsibility allowance at any one time.

#### 4. Co-optees' Allowance

- 4.1 A co-optees' allowance of £176 per annum shall be paid to the Independent and Parish/Town Council representatives on the Standards Committee.
- 4.2 ***Where the appointment of a member begins or ends otherwise than at the beginning or end of a year, his entitlement shall be to payment of such part of the co-optees' allowance as bears to the whole the same proportion as the number of days during which his term of office as member subsists bears to the number of days in that year.***

#### 5. Dependant Carers' Allowance

- 5.1 A dependant carers' allowance of £5.50 per hour shall be paid to those Councillors who incur expenditure for the care of dependant relatives or children whilst the Councillor is undertaking approved duties, subject to the following:
- (i) a maximum allowance of 8 hours per week;
  - (ii) the allowance being payable in respect of –
    - (a) care for dependant children under 14, living at home with the Councillor;
    - (b) elderly or dependant relatives living at the same address as the Councillor and in need of full-time care;
  - (iii) Councillors claiming the allowance declaring that the minder or carer is not an immediate member of the family and is over 16 years or age.

(See Appendix 1 for list of approved duties)

#### 6. Pensions

- 6.1 ***That all eligible Councillors be entitled to membership of the Local Government Pension Scheme, and that their basic and special responsibility allowances be treated as amounts in respect of which pensions are payable.***

#### 7. Travel Allowances

- 7.1 An annual lump sum travel allowance will be paid to members. This will be calculated on the basis of their home/office to meeting venue mileage x the estimated number of meetings they will attend, and will be subject to the provisions set out in (i) - (vii) below:
- (i) the inclusion of an additional eighteen visits to Appletree Court for attendance at training sessions, seminars, meetings of the Executive/Committee or Panel of which the councillor is not a member, etc;

- (ii) payments for meeting attendance being calculated on 80% attendance at all meetings of the Council, Committees and Panels of which the Councillor is a member (*see Note \**), with the anticipated number of meetings of each body being determined by the Council from time to time;
- (iii) an allowance of 150 miles to each councillor for travel to outside bodies on which the councillor represents the Council;
- (iv) the average mileage travelled to site visits of the Planning Development Control Committee being fixed at 40 miles per visit;
- (v) the travel allowances paid to those members who do not have use of a motor vehicle for their Council duties being agreed by the Chief Executive in consultation with the Chairman of the Standards Committee and the councillor concerned;
- (vi) where members attend courses, conferences, seminars, etc, additional mileage allowances will be payable only where journeys of 15 miles or more (round trip) are involved. Claims for journeys of 15 miles or more will be paid in full;
- (vii) The travel allowance will be calculated at 34.6 pence per mile when the member's normal mode of transport is by private motor vehicle and 8.5 pence per mile when travel is normally by motorcycle.

*Note\* The number of meetings is calculated on the basis of all programmed meetings, (with 6 Appeals and 5 Standards Committee meetings per year assumed), plus two special meetings of Review Panels.*

*The Portfolio Holder allowance does not include a specific allowance for attending Cabinet meetings, but is based on payment for two visits to Appletree Court per week.*

The Chief Executive has delegated authority to:

- (a) authorise additional mileage payments to members for exceptional travel costs incurred in attending formal meetings of outside bodies as the Council's official representative or substitute on that body;
- (b) adjust a member's annual travel allowance in exceptional cases where a member's annual mileage on approved duties will change substantially because of a change in that member's circumstances.

**8. Automatic Uprating of Allowances**

- 8.1 *The basic and special responsibility allowances, the dependant carers' allowance and the co-optees' allowance shall be uprated annually, with effect from a date to be determined by the Council each year, by the annual increase in the average New Forest hourly earnings rate.*

**9. Payments**

- 9.1 Payment of the annual basic, special responsibility, travel and co-optees' allowances shall be made in 12 equal monthly instalments paid in arrears on the 20<sup>th</sup> day of each month or thereabouts, subject to compliance with the part-year payment provisions set out above.

**10. Subsistence Payments**

- 10.1 Subsistence allowances at the rates set out in Appendix 2 will be paid to members undertaking approved duties as set out in Appendix 1.

**11. Time Limit for Submission of Claims**

- 11.1 *Any claims submitted for the payment of:*

- (a) *dependant carers' allowance;*
- (b) *travelling and subsistence allowance;*
- (c) *co-optees' allowance*

*where such claims are necessary, must be made by the person to whom they are payable within two months from the date on which the entitlement to the allowance arises.*

**12. Suspension/Repayment of Allowances**

- 12.1 *Where a member is suspended or partially suspended from his responsibilities or duties as a member of an authority in accordance with Part III or the Local Government Act 2000 or regulations made under that Part, the part of the basic, special responsibility, co-optees' or travel allowance payable to him in respect of the period for which he is suspended or partially suspended in respect of the responsibilities or duties from which he is suspended or partially suspended will be withheld.*

- 12.2 *Where the allowances referred to in paragraph 12.1 have already been paid to the member and where the member concerned is:*

- (a) *suspended or partially suspended from his responsibilities or duties as a member of the authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part; or*

- (b) *ceases to be a member of the authority; or*
- (c) *is in any other way not entitled to receive the allowance in respect of that period;*

*such part of the allowance as relates to any such period shall be repaid to the Council.*

**13. Members of other authorities**

*Where a member is also a member of another authority, he/she may not receive allowances from more than one authority in respect of the same duties.*

**14. Backdating of Allowances**

*The following allowances payable under this scheme shall be backdated to the dates indicated:*

<i>Basic Allowance</i>	<i>1 May 2003</i>
<i>Special Responsibility Allowances</i>	<i>20 May 2003</i>
<i>Co-optees' Allowance</i>	<i>1 May 2003</i>
<i>Dependant Carers' Allowance</i>	<i>1 May 2003</i>

**15. Renunciation**

A member may by notice in writing given to the Chief Executive elect to forego all or any part of his or her entitlement to allowances payable under this scheme.



## **DEFINITIONS**

In this scheme -

"Councillor" means an elected member of the New Forest District Council;

"Leader of the Council" means the councillor elected by the Council each year to fill that office;

"Leader of the Major Opposition Group" means the councillor notified to the Chief Executive by the opposition group having the largest number of members on the Council as the councillor elected as that Group's Leader;

"Minority Group Leader" means the councillor notified to the Chief Executive by a group having a lesser number of members than the Major Opposition Group as the councillor elected as that Group's Leader;

"Member" in relation to co-optees', travel or subsistence allowances means an elected member of the New Forest District Council or a person who is a member of a committee or sub-committee of the authority;

"Portfolio Holder" means a councillor appointed by the Leader of the Council to be responsible for a particular portfolio as a member of the Cabinet;

"Shadow Portfolio Holder" means a councillor nominated as the major opposition group spokesperson for each of the Review Panels, as notified to the Chief Executive by the leader of that group;

"immediate member of the family" means a member of the Councillor's own household living at the same address as the Councillor and the dependant requiring care.

"approved duty" means -

- A meeting of the authority
- A meeting of a committee or sub-committee of the authority
- A meeting of the Executive
- A meeting of a committee of the Executive
- A meeting of some other body to which the authority makes appointments or nominations
- A meeting of a committee or sub-committee of a body to which the authority makes appointments or nominations
- A meeting which has **both** been authorised by the authority, a committee or sub-committee of the authority or a joint committee of the authority and one or more other authorities, or a sub-committee of a joint committee **and** to which representatives of more than one political group have been invited
- A meeting of a local authority association of which the authority is a member

- Duties undertaken on behalf of the authority in pursuance of any standing order requiring a member or members to be present while tender documents are opened
- Duties undertaken on behalf of the authority in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorises the inspection of premises.

**SUBSISTENCE ALLOWANCES**

Subsistence rates in connection with official duties (receipts to be provided):

Breakfast Allowance (more than 4 hours away from normal place of residence before 11.00 a.m.)	£ 4.92
Lunch Allowance (more than 4 hours away from normal place of residence including the lunchtime between 12 noon and 2.00 p.m.)	£ 6.77
Tea Allowance (more than 4 hours away from normal place of residence including the period 3.00 p.m. to 6.00 p.m.)	£ 2.67
Evening Meal Allowance (more than 4 hours away from normal place of residence ending after 7.00 p.m.)	£ 8.38
Overnight Subsistence (absence overnight from normal place of residence)	£79.82
London/Approved Conference Subsistence (absence overnight from normal place of residence in London or at an approved Conference)	£91.04

# APPENDIX 3

## NEW FOREST DISTRICT COUNCIL

### CODE OF PRACTICE

#### ROLES AND RESPONSIBILITIES of the CHIEF FINANCE OFFICER

##### 1.0 STATUTORY RESPONSIBILITIES OF THE COUNCIL

- 1.1 The Council recognises its responsibilities under Section 151 of the Local Government Act 1972 (LGA); this imposes a requirement on every local authority in England and Wales to **'make arrangements for the proper administration of their financial affairs and to secure that one of their officers has responsibility for the administration of those affairs'**. This role is referred to as the Chief Finance Officer (CFO).
- 1.2. Section 114 of the Local Government Finance Act 1988 in England and Wales significantly extended the duties of the CFO, requiring that officer to report to all elected members of the local authority, in consultation with the Monitoring Officer, any unlawful expenditure incurred or to be incurred or an unbalanced budget.
- 1.3. The designated Officer for the purpose of exercising the duties under Section 151 of the LGA 1972 and Section 114 of the LGFA 1988 is the Director of Resources. The Assistant Director Resources - Financial Services is the designated deputy for the exercise of these statutory duties in the absence of the Director of Resources.
- 1.4. The Council recognises its responsibilities under Section 113 of the Local Government Finance Act 1988 in England and Wales (LGFA) that requires **that the officer with the designated responsibility for financial administration (i.e. the CFO) be a member of a specified accountancy body**. The Council will therefore delegate the duties of the CFO to a member of one of the professional accountancy bodies identified in section 113 of the LGFA 1988.
- 1.5. The Account and Audit Regulations 1996 (2003) places the responsibility for maintaining an adequate and effective system of internal audit with the authority. The Council will delegate the discharge of this responsibility to the S151 Officer.
- 1.6 The Local Government Act 2000 places the responsibility for advising the Council whether particular decisions are likely to be contrary to the policy framework jointly with the CFO and Monitoring Officer.
- 1.7 The Local Government Bill 2002 (England and Wales) imposes a statutory responsibility on the Council to set and arrange its affairs to remain within prudential limits for borrowing and capital investment. The CFO will be given additional powers to ensure that the legal

requirements are complied with in discharging their responsibilities for capital finance.

- 1.8 The Bill also requires the CFO to report to the Council, at the time the budget is considered and the council tax set, on the robustness of the budget estimates and adequacy of financial reserves. The Council recognises the independent responsibility of the CFO to report in a public forum on these specific issues and will adopt the relevant professional Codes of Practice in relation to the management of these functions.

## **2. FINANCIAL ADMINISTRATION AND STEWARDSHIP ROLE FOR THE SECTION 151 OFFICER**

- 2.1 The Council recognises that it is the trustee of the local tax-payers' money, and the CFO has a prime duty of stewardship on behalf of the general public to ensure that the local authority's resources are properly managed.
- 2.2 It also recognises that this responsibility extends into partnerships, joint ventures and controlled companies that the local authority is engaged in.
- 2.3 In ensuring proper financial administration and stewardship of the Council's affairs, the following duties are vested in the Section 151 Officer:
- **Securing effective systems of financial administration** to meet the requirements of the law and of other authorities.
  - **Securing effective arrangements for treasury management** of the cash flows, borrowing and investments of the Council's own funds, ensuring effective management of risk together with pursuit of optimum performance
  - **Ensuring financial management arrangements are in line with broad policy objectives** by providing advice on implementing effective financial management arrangements within changing service delivery arrangements.
  - **Advising on effective systems of internal control** which provide assurance of effective and efficient operations, internal financial controls and compliance with laws and regulations
  - **Ensuring effective systems of internal financial control are in place** which encompass budgetary systems, accounting procedures, information systems, segregation of duties, authorisation processes, physical safeguards, management reviews.
  - **Ensuring anti-fraud and anti-corruption strategies are adopted** to deter, prevent, detect and investigate allegations of fraud and corruption by external parties or from within the Council.

- **Advising on corporate risk management and profiling, including safeguarding assets, risk avoidance and insurance** by assisting the Council to develop an appropriate risk strategy and procedures
- **Preparation of statutory and other accounts and grant claims** ensuring compliance with the law, appropriate regulations and approved accounting standards
- **Ensuring there is an effective internal audit function** which has sufficient authority to undertake duties in accordance with professional standards
- **Advising management in providing effective arrangements for financial scrutiny**
- **Ensuring a prudential financial framework is in place** that ensures the Council maintains its commitments in balance with available resources.

2.4 In addition to these responsibilities, the Council requires the Chief Finance Officer:

- To support the democratic process by providing impartial advice to all councillors as individuals, to all political groups, and to both executive and scrutiny functions, maintaining the confidentiality of that advice where appropriate.
- To contribute to corporate management by assisting the Council to put in place appropriate corporate governance arrangements, appropriate codes of conduct and an ethical framework which define the standards of behaviour to which all councillors and employees subscribe

### **3. ROLE OF THE RESPONSIBLE CHIEF FINANCE OFFICER UNDER SECTION 114 OF THE LGFA 1988**

3.1 The Council acknowledges the statutory responsibilities of the CFO within section 114 of the LGFA 1988 and will provide the designated officer with such staff, accommodation and other resources as are in his opinion sufficient to allow his duties under this Act to be performed.

3.2 The Council acknowledges that the CFO will make a report under this section if it appears to him that the Council, a committee or officer of the Council, or a joint committee on which the Council is represented:

- (a) has made or is about to make a decision which involves the Council incurring expenditure which is unlawful;
- (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Council;

- (c) is about to enter an item of account, the entry of which is unlawful, or
  - (d) has incurred or proposes to incur expenditure in a financial year which is likely to exceed the resources (including sums borrowed) available to meet that expenditure.
- 3.3 The Council acknowledges that the report prepared by the CFO under Section 114 will not be subject to approval by the Cabinet or called in under the Council's scrutiny arrangements and will be sent to the Council's external auditor and every member of the Council at that time.

#### **4.0 ROLE OF THE CFO AND MONITORING OFFICER UNDER THE LOCAL GOVERNMENT ACT 2000**

- 4.1 The Council recognises the need to ensure that the CFO and Monitoring Officer have access as necessary to meetings and papers and that members must consult these officers regularly.
- 4.2 The Council acknowledges the mandatory standing order by the Secretary of State, to provide statutory protection in relation to the dismissal of the CFO. This requires that the CFO may not be suspended for more than 2 months for the purpose of investigating misconduct, unless the recommendation so to do is made in a report by an independent person.
- 4.3 To ensure the CFO is able to fully undertake the statutory functions delegated by the Council, and particularly to ensure the legality of all financial transactions, the CFO will be entitled to receive copies of all reports prepared by officers or members which contain any financial implications for the current or future years. This will be provided in sufficient time (as to be determined by the CFO) to enable proper consultation with the Council's Monitoring Officer and advice to be formulated for the Cabinet or Council.