

APPENDIX 1

MEMBER/OFFICER PROTOCOL

1. INTRODUCTION

- 1.1 The purpose of this Protocol is to provide guidance to Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council. There are Codes of Conducts for Members and Officers and this Protocol is to be read in conjunction with those Codes and the Council Constitution. The objective of the Protocol and Codes is to enhance and maintain the integrity and propriety of conduct.
- 1.2 In particular, this Protocol aims to support the enhancement of local democracy by:
- facilitating the participation of Members and Officers in the Council's policy development and decision-making processes;
 - assisting Members and those Officers who support them in their role as representatives of the community within the Council and externally; and
 - clarifying arrangements for the provision of the information and support for Members and their party groups.
- 1.3 Given the variety and complexity of such relations, this Protocol does not seek to be comprehensive. It offers guidance on some of the issues which most commonly arise.
- 1.4 This Protocol is to a large extent a statement of current practice and working arrangements. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and unfair influence .
- 1.5 It is important, therefore, that any dealings with Members and Officers should observe reasonable standards of mutual courtesy and respect and that neither should seek to take unfair advantage of their position in any circumstances.
- 1.6 At the centre of this Protocol, is the importance of mutual respect. Member/Officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe reasonable standards of courtesy, should show mutual appreciation of the importance of work / life balance and

that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party. This standard of conduct should also be adhered to in Members' dealings with Officers employed by external organisations.

- 1.7 A Member should not raise matters relating to the conduct or capability of an Officer at meetings held in public or in the media or social media. This is a longstanding tradition in public service as an Officer has no means of responding to such criticisms in public. If a Member feels they have not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, they should raise the matter with the respective Chief Officer. The Chief Officer will then look into the facts and report back to the Member.
- 1.8 Failure to follow this protocol may be a breach of the Code of Conduct for Members.
- 1.9 Where an Officer considers that they have not been treated with respect and courtesy by a Member, they should raise the matter with their Chief Officer or the Chief Executive as appropriate.

2. OFFICER SUPPORT TO MEMBERS

- 2.1 Officers being employees of the Council must act in the best interests of the Council as a whole. It is understood however that it is important that there is a close working relationship between Executive Members and Officers who support or interact with them.
- 2.2 Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change their professional advice.
- 2.3 Close personal familiarity between individual Members and Officers can damage professional relationships. Situations should be avoided therefore that could give rise to the appearance of improper conduct or behaviour or impression or bias.
- 2.4 Support from officers is needed for all the authority's functions including full Council, Overview and Scrutiny, the Executive, Regulatory and other committees, Joint Committees and individual Members representing their communities etc. Day-to-day managerial and operational decisions is the responsibility of the Chief Executive and other officers under delegated powers.
- 2.5 Members should communicate with Officers at the appropriate level. Routine service related enquiries should be initiated through normal departmental

enquiry/contact points. Other matters will normally involve the appropriate Chief Officer or Head of Service. In communicating with Members, Officers should have regard to the Council's Code of Conduct for Employees, the requirements of this Protocol, and any instructions issued by their Departmental management

- 2.6 It is clearly important that there should be a close working relationship between Chairs of the various committees and the Officers who support and/or interact with them.
- 2.7 The Cabinet Member or Chair will routinely be consulted as part of the process of drawing up an agenda for a meeting. It must, however, be recognised that, in some circumstances, the proper conduct of business may require a particular matter to be included on the Agenda and that the Cabinet Member/Chair is not entitled to require the removal of such an item from the Agenda. There may also be circumstances in which the Chief Executive and Head of Paid Service, the Monitoring Officer or the Statutory Finance Officer, will be under a duty to submit a report.

3. OFFICER ADVICE TO PARTY GROUPS

- 3.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council. The assistance provided by Senior Officers can take many forms ranging from a briefing meeting with an Executive Member, Chair or other Members prior to a meeting to a presentation to a full political group meeting. It is an important principle that such assistance is available to all political groups and individual members. Senior Officers may properly be called upon to assist and contribute to such deliberations by party groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.
- 3.2 Attendance at meetings of party groups is voluntary for officers and must be authorised by the Chief Executive (or in their absence the relevant Chief Officer).
- 3.3 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
 - 3.3.1 Officer assistance must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be

involved in advising on matters of party business. Internal party debates and decision making should take place in the absence of officers.

3.3.2 Party group meetings, whilst they form part of the preliminaries to Council decision making, are not formal decision making bodies of the Council and are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and

3.3.3 Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council decision making body when the matter in question is considered

- 3.4 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Members' Code (in particular, the provisions concerning the declaration of interests and confidentiality). Officers would not be able to provide the same level of information and advice as they would to a Member only meeting.
- 3.5 Officers must respect the confidentiality of any party group discussions at which they are present. When information is disclosed to an officer during discussions with a party group that information should not be passed on to other groups. However, Members should be aware that this would not prevent officers from disclosing such information to other officers of the Council so far as that is necessary to performing their duties.
- 3.6 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leaders.

4. USE OF COUNCIL RESOURCES

- 4.1 The use of the Councils resources including the use of ICT equipment provided to Members of the Council is governed by a guidance note which is circulated to Members.

5. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

- 5.1 The rights of members to inspect council documents are set out in the constitution in the Access to Information Procedure rules. Members and Officers should both be mindful of their obligations under data protection legislation.

- 5.2 A Member must not disclose information given to them in confidence by anyone or information acquired which they believe is of a confidential nature, without the consent of a person authorised to give it, or unless the criteria in the Code of Conduct apply. A breach of these requirements is a breach of the Members Code. If the breach is serious, legal action may be brought against the member and/or the Council for damages.
- 5.3 The Freedom of Information Act 2000 and Environmental Information Regulations 2004 provide rights of access to recorded information held by public authorities. The provision relating to access to Council meetings and documentation are reflected in the Council's constitution.
- 5.4 Members have a statutory right to inspect any document which contains material relating to any business which is to be transacted at a Council meeting. This right applies in respect of whether or not the Member is a member of the Cabinet or of a Committee, and it extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents which are exempt from publication unless the Member is a member of the relevant Committee. The common law right of Members is much broader and based on the principle that any Member has a prima facie right to inspect Council documents, so far as his/her access to the document is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the "need to know". Where a Member is, in any particular case, entitled to exercise this right depends therefore on the Member's ability to demonstrate that he/she has the necessary "need to know". In this respect, a Member has no right to a "roving commission" to examine the documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know" for a purpose necessary to enable the Member to carry out his or her public duties. A Member wishing to inspect documents which contain personal information about individuals or a third party would be expected to justify the request in specific terms and compliance with data protection legislation. In any case of any doubt or difficulty, Members should refer to the Chief Executive or Monitoring Officer.
- 5.5 It is accepted by convention that a Member of one group will not have any "need to know" and therefore no right to inspect, a document which forms part of the internal working of another group
- 5.6 Any Council information provided to a Member must only be used by the Member for the purpose for which it has been provided which is for the proper performance of the functions of the Council.

6. CORRESPONDENCE

- 6.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member unless where necessary for the proper conduct of business.
- 6.2 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It will, however, be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of an Executive Member or the Leader. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member, Executive or otherwise.

7. PUBLICITY AND PRESS RELEASES

- 7.1 Local authorities use publicity to keep the public informed and to encourage public participation in the business of the Council. The Government has issued a Code of Recommended Practice on Local Authority Publicity and all local authorities must have regard to the provisions of any such Code in coming to any decision on publicity.
- 7.2 Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of the Code of Recommended Practice on Local Authority Publicity. If in doubt Officers and /or Members should seek advice from the Chief Executive or the Monitoring Officer.
- 7.3 All press releases are issued through the Communications Office on behalf of the Council. Individual Officers are not permitted to issue any press release to the media. Press releases are not issued by the Council on behalf of political groups. They can contain the comments of Executive members and committee Chairs where they are speaking in connection with the roles undertaken by them. Officers comments can be included on professional and technical issues.
- 7.4 Any Member who approaches the media on any item involving or affecting the Council without first approaching or consulting the Council (through the relevant Cabinet Member of the relevant Chair or Head of Communications) will be responsible for such action. Any Member who does so should make it clear that he/she is speaking on his/her own behalf, or on behalf of his/her political party, and not representing or speaking for the Council. The Code of Conduct for Employees will require Officers to obtain the approval of their Department before issuing any information to the media.

8. INVOLVEMENT OF WARD COUNCILLORS

- 8.1 Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the Ward or Wards affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the

Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise.

9. FURTHER GUIDANCE

- 9.1 Any Member of the Council who needs further guidance on any of the matters referred to in the Code, or on any similar or related issues, is advised to contact the Chief Executive or Monitoring Officer . Any Officer needing such guidance should refer initially to his/her manager, who will consult senior management and obtain advice as necessary.

