

STANDARDS COMMITTEE

23 JULY 2018

REPORT OF THE MONITORING OFFICER

A.1 REVIEW OF THE PROTOCOL ON MEMBER/OFFICER RELATIONS

(Report prepared by Lisa Hastings)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To undertake a review of the Protocol on Member and Officer Relations, which was last adopted by the Standards Committee in September 2014 to ensure that it is current and reflects best practice.

EXECUTIVE SUMMARY

The Protocol on Member/Officer Relations was adopted by the Standards Committee in September 2014 in accordance with its terms of reference.

The Protocol has initially been reviewed by the Monitoring Officer in consultation with the Chief Executive and Management Team to reflect the current working practices and enhance the Access to Information provisions. The amendments suggested for consideration by the Standards Committee when undertaking its review are:

- **to ensure the current wording is consistent with the Constitution;**
- **insert that any appropriate challenges between Members and Officers should be undertaken in a professional and respectful manner;**
- **clarify that Officer conduct will be dealt with in accordance with the Council's Human Resources Policies and Procedures; and**
- **insert provisions on the common law 'need to know' principle.**

RECOMMENDATION(S)

It is recommended that:

1. **Subject to any proposed amendments requested by the Standards Committee, that the revised Protocol on Member/Officer Relations as set out in Appendix A is approved and adopted.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The purpose of this protocol is to provide a guide to good working relationships between Members and Officers, defining their respective roles and outlining the principles that underpin their relationship.

This protocol also builds on the Council's good governance arrangements and promotes the maintenance of our Values with Councillors and staffing upholding personal integrity, honesty and respect for others.

FINANCE, OTHER RESOURCES AND RISK

Finance and Other Resources

Finance

None associated with the content of this report.

Risk

The Council must ensure that any Codes and Protocols are up to date with current policy, legislation, good practice and national guidance.

LEGAL

The Protocol follows best practice and assists the Council to fulfil its statutory duty to promote and maintain high standards of conduct for both members and officers.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following:

Equality and Diversity

Wards Affected: All

PART 3 – SUPPORTING INFORMATION

CURRENT POSITION

The success of the Council is greatly dependent upon the positive nature of the working relationship between Members and Officers. Mutual trust and respect between Members and Officers is essential to good local government. In 2014, the Standards Committee adopted the Protocol on Member/Officer Relations, which is contained within the Council's Constitution.

The recent Local Government Association Peer Review feedback in its report that *“Member and Officer relationships are good. Members are engaged and well briefed on issues. They value the informal “all member briefings” that take place each month as well as the other opportunities to be involved.”*

The existing Protocol is considered to still represent best practice however; following an initial review by the Monitoring Officer in consultation with the Chief Executive and his Management Team a few minor amendments are suggested for consideration by the Standards Committee in undertaking its review.

It is essential that the wording of all the Council's Codes and Protocols are up to date with its current policy and the legal position. Therefore, it is suggested that the role of Members is updated to ensure consistency with Article 2 of the Constitution and the position of the Chief Executive, as set in Article 12, is included due to importance in relation to staffing

matters.

An express principle is included stating any appropriate challenges between Members and Officers must be undertaken in a professional and respectful manner.

A new paragraph 5.3 is proposed for inclusion under the Access to Information section referring to the common law principle that councillors have the right to access information held by the Council where it is reasonably necessary to enable the member to properly perform their duties as a councillor. In some instances, it may be necessary for a councillor to demonstrate their 'need to know' and the paragraph provides some explanation on the principle and sets out who can request further justification before providing the information.

*“5.3 Members are entitled to receive information from Officers in a timely manner to reasonable requests for the purposes of undertaking their role as Ward Councillors, decision makers and performing functions, such as overview and scrutiny (**this is referred to as the common law ‘need to know’ principle**). Under common law principles councillors have the right to access information held by their authority where it is reasonably necessary to enable the member to properly perform their duties as a councillor.*

However, if the member’s motive for seeing documents is indirect, improper or ulterior this may be raised as a bar to their entitlement. Members are not, therefore, allowed to go off on ‘fishing expedition’ through their council’s documents. If a councillor is a member of a particular committee or sub-committee, then they have the right to inspect documents relating to the business of that committee or sub-committee. If not a member of that committee or sub-committee, the councillor would have to show good cause why sight of them is necessary to perform their duties (See R v. Clerk to Lancashire Police Committee ex parte Hook [1980] Q.B. 603). In such instances, the Chief Executive, Management Team, Section 151 or Monitoring Officers may request a member to demonstrate their ‘need to know’.”

In a few instances, unreasonable, frivolous and vexatious requests for information are received and the revised Protocol suggests that these matters would be referred to the Chief Executive or Monitoring Officer to respond to.

Subject to any additional observations the Standards Committee may have in undertaking the review of the Protocol at the meeting, it is recommended that the revised document as shown at **Appendix A** is approved and adopted for inclusion with the Constitution and circulated separately to all Members and Senior Managers.

APPENDICES

Appendix A – revised Protocol on Member/Officer Relations