

PROTOCOL ON MEMBER & OFFICER RELATIONS

INTRODUCTION:

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 both Members and Officers is essential to good local government.

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.

The protocol also builds on the respective Codes of Conduct for both Members and Officers and through this promotes the maintenance of integrity, both real and perceived, of the Council as well as very high standards of personal conduct.

1. THE ROLES OF MEMBERS AND OFFICERS:

- 1.1 In fulfilling their roles, the elected Members and Officers are both jointly responsible for:
 - (a) acting honestly, with integrity and in the public interest; and
 - (b) open and transparent objective decision making;
- 1.2 In addition, **as set out in Article 2 of the Council's Constitution**, the elected Members **role is to** ~~are responsible for~~:
 - (a) ~~the initiation and direction of policy;~~ **UPDATED WITH CURRENT WORDING**
 - (b) ~~democratic accountability to the electorate for their actions and service delivery;~~
 - (c) ~~the scrutiny of Council services;~~
 - (d) ~~community leadership;~~
 - (e) ~~the promotion of partnership working; and~~
 - (f) ~~the presentation of Council policy.~~
 - a) **Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;**
 - b) **Represent their communities and bring their views into the Council's decision-making process, i.e. become an advocate for their communities;**

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- c) Effectively represent the interests of their ward and of individual residents;
 - d) Respond to residents' enquiries and representations, fairly and impartially and assist in the resolution of concerns and grievances;
 - e) Be involved in decision-making for the people of the District as a whole;
 - f) Be available to represent the Council on other bodies; and
 - g) Contribute to the governance and effective management of the Council's business at meetings of the Council, Cabinet and other Committees and Sub-Committees, maintaining the highest standards of conduct and ethics.

1.3 In addition, the Officers are responsible for:

- (a) providing professional and technical advice that Members must have before them when formulating policy and when taking decisions;
- (b) lawfully implementing Members' decisions;
- (c) day-to-day administration, including staffing matters;
- (d) taking managerial and operational decisions in accordance with the Council's Scheme of Delegation;
- (e) the provision of information regarding Council services; and
- (f) undertaking public consultation.

2. **WORKING RELATIONSHIPS – UNDERPINNING PRINCIPLES:**

To be followed by **both Members and Officers** in fulfilling their duties:

- mutual respect and courtesy between Officers and Members;
- an awareness of each other's responsibilities and duties;
- no inappropriate criticism, intimidating behaviour or the creation of a threatening work environment of any kind from either Members or Officers.

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- Any appropriate challenges are to be conducted in a professional and respectful manner;
 - equal treatment, regardless of personal or political opinion (actual or perceived);
 - an adherence to the law and the lawful instructions and advice of others; and
 - an avoidance of close personal familiarity.

The above principles are designed to foster the good working relationships between Officers and Members that are essential to effective decision making and the delivery of services.

Alleged breaches of the Members' Code of Conduct are dealt with through the Council's Standards Committee and in relation to the Officer Code, by the Head of Paid Service, in accordance with the Council's Human Resources Policies and Procedures.

If an Officer is concerned about the conduct of a Member, they should report this to their senior manager, who will notify both the Head of Paid Service and the Monitoring Officer. These concerns could include public criticism of an Officer by a Member or unreasonable, frivolous or vexatious requests for information.

3. OFFICER APPOINTMENTS, PERFORMANCE AND POLITICAL NEUTRALITY:

- 3.1 The appointment of the Chief Executive (Head of Paid Service), the Monitoring Officer, the Chief Financial Officer, the Deputy Chief Executive/Corporate Directors and Heads of Service will be made in accordance with the Officer Employment Procedure Rules. All other appointments are made at the appropriate Officer level.
- 3.2 The **Main Functions and Areas of Responsibility of Officers** are set out in Article 12 of the Council's Constitution. The Position of the Chief Executive (Head of Paid Service) is to have overall corporate management and operational responsibility (including overall management responsibility for all officers).
- 3.3 Staffing matters (including discipline, training, setting and monitoring targets) are dealt with by the relevant managers, although the relevant Portfolio Holders/Cabinet Members will agree to targets in the case of the Chief Executive. All other targets are set at Officer level.
- 3.4 Members wishing to comment on an individual Officer's performance and/or deficiencies are usually expected to raise the matter with the relevant Deputy Chief Executive/Corporate Director in the first instance. Thereafter to the Chief Executive if unresolved.

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- 3.5 Officers are politically neutral, serve the whole Council and must avoid being identified with any political group. In order to safeguard this neutrality, Officers must avoid involvement in party political matters, such as campaigns in the

political arena. This assumes particular significance in the run up to ~~District Council and General~~ Elections. In their lives outside work, all politically restricted posts, which includes the Chief Executive, the Deputy Chief Executive/Corporate Directors and many Senior Officers are prevented from active political involvement.

3.5 OFFICER ATTENDANCE AND ADVICE TO PARTY GROUPS

- 3.5.1 The political parties represented on the Council hold regular group meetings. Officers do not usually advise at these meetings, but may be invited to give information. All invitations should be routed through the Chief Executive.
- 3.5.2 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such items being considered by the relevant Council decision-making body. The support provided by Officers can take many forms, ranging from a briefing meeting with a Cabinet Member, Chairman or spokesperson (either jointly or individually) prior to a meeting, to a presentation to a full party group meeting. Whilst in practice such Officer support is likely to be most in demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 3.5.3 The parameters for support to party groups and individuals must be clearly understood, and to assist in this the following applies:-
- (i) The Chief Executive will inform all party groups of the facility for an Officer to attend a party group meeting for a specific purpose and will decide, on request, which Officer may attend.
 - (ii) Support must not extend beyond providing information and advice in relation to Council business. Officers must not be involved in advising on matters of party business and should not, therefore, be present at group meetings when such matters are being discussed.
 - (iii) Party group meetings are not empowered to make decisions on behalf of the Council and therefore any conclusions reached at group meetings do not rank as a Council decision and cannot be interpreted or acted upon as such.
 - (iv) Advice provided to party groups on an issue does not act as a substitute for providing all the necessary information and advice to Members at meetings when that issue is being considered.

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- (v) The attendance of Officers at a party group meeting does not confer any official standing to that meeting.
 - (vi) Special care will be exercised when non-Members are in attendance at a group meeting.
 - (vii) The provisions of the Code of Conduct do not apply to non-Members and therefore the nature of advice, guidance and information given by Officers may not be the same as that given to a Members-only meeting.
 - (viii) Officers must respect the confidentiality of discussions at party group meetings and must not relay the content of these discussions to any other party group.

4. DECISION MAKING – PROVIDING AND CONSIDERING ADVICE

- 4.1 Decision-making by local authorities is closely regulated by law. The taking of a decision by the wrong person/body or in the wrong way can invalidate the decision from the beginning or leave it vulnerable to being challenged and overturned by a court.
- 4.2 In the event of challenge, attention may also be focussed on the information, professional advice and options made available to the decision-making body or individual prior to that decision being made. Reports and/or other papers placed before decision-making bodies or individuals must therefore contain the relevant facts, correct and complete professional advice and alternative options that may be open to the Council. Officers have the duty to ensure that all of the information on an issue for decision by Members is available, subject to the provisions in this protocol and the Constitution on access to information.
- 4.3 The Officers are responsible for providing those reports and/or papers, and the Monitoring Officer and Chief Financial Officer are required to ensure that their proper advice is placed before decision-makers.
- 4.4 Officers preparing reports for consideration by Council or its Committees do so in the best interests of the Council and not to promote the viewpoint of a particular Member or group of Members.
- 4.5 Reports to Cabinet are drafted by Officers but submitted in the name of the relevant Cabinet Member and will be prepared with their input. Members must recognise that Officers drafting reports on behalf of the Cabinet, delivering the administration's policies, must include all the relevant information, various options and highlighting financial considerations and legal powers, ensuring informed decisions are made, as a whole through the Head of Paid Service.

4.6 Officers have a duty to give advice to the Council and its Members using their professional technical knowledge and experience. This will be provided within the report and/or papers and at the meeting, if required.

4.7 Members are entitled to expect Officer attendance at meetings at an appropriate level of expertise to ensure adequate knowledge and advice on the subject matter under discussion. Officers in attendance at meetings will

always be fully briefed as far as is practical on the issues under discussion on an Agenda.

4.8 Such advice is given in good faith and will be in line with and reflect legislation, good practice, Council procedures, experience, professional and technical knowledge, and the Council's formally adopted policies.

4.9 Members are entitled to expect clear, concise and unambiguous information from Officers at all times to assist them in the decision making process. Officer's advice must be given in accordance with the Council's instructions through the decision making and review process set out in the Council's Constitution and should be taken into account by Members when considering an action or making a decision.

4.10 Officers are also expected to faithfully and conscientiously implement the lawful decisions of Councillors and properly take decisions delegated to them.

4.11 Officers and Members must ensure that the Council's responsibilities regarding notification of and publication of decisions are complied with, as set out in the Access to Information Rules of Procedure in Part 5 of the Council's Constitution.

4.12 In addition to legal challenges and implications, failure to follow the decision making principles may amount to breaches of both the Members' and Officers' Code of Conduct and lead respectively to action under the Standards Framework or to disciplinary proceedings.

5. ~~ACCESS TO CONFIDENTIAL~~ ACCESS TO INFORMATION

5.1 Both Members and Officers must adhere to the Access to Information provisions concerning **all information, including** confidential information set out in Part 5 of the Council's Constitution.

5.2 Disclosure of confidential information by either a Member or Officer will constitute a breach of their relevant Code of Conduct and the appropriate action will be taken. In addition, the Council could be exposed to a damages or compensation claim as a result of the disclosure.

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**

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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'.

6. SCRUTINY

The rules and procedures governing Officer and Member responsibilities in support of the Council's overview and scrutiny function are set out in Part 5 of the Constitution.

7. WORKING WITH THE MEDIA

7.1 Information provided to the media is governed by the Local Government Act 1986 and the Code of Practice on Local Authority Publicity. In particular:

Information should be:-

- Objective, factual and informative
- Non-party political or designed to affect public support for a political party

7.2 The functions of the Council are discharged corporately and it is not, therefore, appropriate for public resources to be used to promote the views of individual Members. This does not preclude, in the interests of public accountability, publicity of the views of individual Members when they are representing the Council.

7.3 Press releases containing comments by individual Members are similarly acceptable practice. The Communications & Public Relations Manager will provide the press with factual information but comment will only be provided by Officers with the prior consent of the Chief Executive and/or the relevant Portfolio Holder/Cabinet Member or the relevant Committee Chairman.

7.4 The principle that the Council cannot use public resources at any time to promote the views or policies of a particular party is heightened during **election periods**. During the period just before elections there are restrictions on local authority publicity and rules concerning media reporting of the election campaign, the so-called “purdah” period, is defined as beginning with the last date for publication of notice of the election. Prior to this period, guidance will be issued to both Members and Officers setting out the Council’s own version of the convention in the period leading up to the elections.