

PROTOCOL FOR MEMBER-OFFICER RELATIONS

This protocol forms part of the local framework for standards of behaviour approved by the Standards Committee and Council. Monitoring of compliance with this protocol is the responsibility of the Standards Committee, the Monitoring Officer and the Head of Paid Service.

1. Introduction

- 1.1 The purpose of this protocol is to guide Members (also known as councillors) and Officers (also known as Council staff) in their relations with one another. The relationship between Members and Officers is essential to the successful working of the Council and it is hoped the protocol will help build and maintain good working relationships between Members and Officers as they work together

This relationship within the authority is characterised by mutual respect, informality and trust. Members and Officers should feel free to speak to each other openly and honestly.

- 1.2 This protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of Local Government and they therefore demand very high standards of personal conduct. 1.3 The Protocol must be read and operated in the context of any relevant legislation and national and local codes of conduct and any relevant Council policies, procedures and processes.

The following extract from the beginning of the previous national guidance on conduct for Members remains relevant in its description that:

“1. Both Members and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Members and the Council, and to carry out the Council’s work under the direction and control of the council, their committees and sub-committees.

“2. Mutual respect between Members and Officers is essential to good local government.”

2. Members

- 2.1 It is important that any dealings between Members and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.

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Close personal familiarity between individual Members and Officers can damage this relationship and prove embarrassing to other Members and Officers.

- 2.2 In line with the Code of Conduct, as set out in Part 5(a) of this Constitution, a Member must treat others with respect and must not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.
- 2.3 Officers can expect Members:
- to act within the policies, practices, processes and conventions established by the Council
 - to work constructively in partnership with Officers acknowledging their separate and distinct roles and responsibilities
 - to understand and support the respective roles and responsibilities of Officers and their associated workloads, pressures and reporting lines
 - to give political leadership and direction and to seek to further their agreed policies and objectives with the understanding that Members have the right to take the final decision in issues based on advice to treat them fairly and with respect, dignity and courtesy
 - to act with integrity, to give support and to respect appropriate confidentiality
 - to recognise that Officers work to the instructions of their Senior Officers and not to individual Members
 - not to subject them to intimidation, harassment, or put them under undue pressure. Members will have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between the Member and Officer, and the potential vulnerability of Officers, particularly at junior levels
 - not to request them to exercise discretion which involves acting outside the Council's policies and procedures
 - not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a Member without proper and lawful authority
 - not to use their position or relationship with Officers to advance their personal interest or those of others or to influence decisions improperly
 - to comply at all times with the Members Code of Conduct, the law, the Constitution and such other policies, procedures, protocols and conventions agreed by the Council.
- 2.4 It is important that Members of the Authority:
- respect the impartiality of Officers and not undermine their role in carrying out their duties
 - do not ask Officers to undertake work, or act in a way, which seeks to support or benefit a particular political party or gives rise to an Officer being criticised for operating in a party political manner

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- do not ask Officers to exceed their authority where that authority is given to them in law, by the Council or by their Managers.
- 2.5 The Head of Paid Service, the Monitoring Officer and the Chief Finance (section 151) Officer and other Statutory Officers have specific responsibilities placed on them by law. These responsibilities go beyond their obligations as employees of the Council.
- 2.6 Where an Officer is discharging their responsibilities under any statutory office a Member or Members shall not:
- improperly interfere with or obstruct the Officer in exercising those responsibilities
 - victimise any Officer who is discharging or has discharged their responsibilities of the Statutory Office.
- 2.7 **Officers:**
Officers are responsible for:
- (a) providing professional advice and information and support to Members in developing and implementing lawfully agreed policies and in decision-making;
 - (b) day-to-day administration of the Council;
 - (c) managerial and operational decisions taken within the Council's Scheme of Delegation; Members should avoid inappropriate involvement in such matters;
 - (d) information to and consultation with local people about Council services.
- 2.8 Members and Officers will wish to discuss policy issues and Officers will require political guidance in preparing proposals. In performing their role Officers will act professionally, impartially and with political neutrality. When Officers prepare reports for Member decision, they have a duty to give advice in accordance with their professional expertise and their own professional codes of conduct. In some situations, Officers will be under a duty to submit a report on a particular matter. Officers expect to have their professional integrity respected and whilst respecting a Member's view on an issue should not be influenced or pressured to reduce options, withhold information or make recommendations to the Council or a Committee which are contrary to their professional judgement or views.
- 2.9 Members can expect the following from Officers:
- (a) a commitment to the Council as a whole and not to any political group;
 - (b) performance of their duties effectively and efficiently and in the best interests of the Authority;
 - (c) a working partnership;
 - (d) an understanding of respective roles and pressures;

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- (e) timely responses to enquiries and complaints in line with the Council's standard protocol;
 - (f) impartial professional advice;
 - (g) regular and up to date information on matters which are appropriate and relevant to their needs;
 - (h) awareness of and sensitivity to the political environment, including the implications for Members, the media or other sections of the public;
 - (i) honesty, respect, courtesy and appropriate confidentiality;
 - (j) support and learning and development opportunities to help Members carry out their various roles effectively;
 - (k) that they will not use their relationship with Members to advance their personal interests to influence decisions improperly;
 - (l) compliance with the Staff Code of Conduct and such other Policies or procedures approved by the Council;
 - (m) support for the role of Members as the local representatives of the authority, within any scheme for Member support approved by the authority.
- 2.10 Officers have the right not to support Members in any role other than that of Members and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on Officer involvement in political activities.

3. Working Relationships

- 3.1 Mutual trust and respect between Members and Officers is essential, but gives rise to two contrasting requirements. On the one hand, close personal familiarity can damage the relationship and prove embarrassing to other Members and Officers, but on the other hand, Members must bear in mind that Officers cannot respond to personal criticism in the same way that other Members can, and should, temper their remarks accordingly. This is particularly important when Members are dealing with less senior Officers. .
- 3.2 The normal conduct of business will mean that Members are likely to deal directly with some Officers below senior level. These dealings will be conducted according to the principles outlined in this protocol and any difficulties should be reported to the relevant Line Manager.
- 3.3 Members should bear in mind that unless there is an on-going relationship with a particular Officer, for example in relation to a case or application they are dealing with, Members are expected to deal in the first instance with the relevant Group Head. This is because:
- (a) Group Heads are in a better position to provide authoritative information or advice;
 - (b) they need to be aware of any questions or complaints raised by Members;

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- (c) they are able to respond to Members' requests, for example, by making a judgement as to whether action may be taken under Officers delegated authority; and
 - (d) they are able to investigate and deal with any shortcomings there might be at the point of service delivery.
- 3.4 In addition, this avoids the possibility of Officers below the levels identified above being 'intimidated' or even 'bullied' by over-enthusiastic Members.
- 3.5 Where there is a serious breach of this protocol, this may lead to action being taken against a Member for non-compliance with the Members' Code of Conduct.

4. At Meetings

4.1 Officers and Members will most frequently come into contact with each other at the various meetings held to conduct Council business, and at partnership and other consultative bodies. The respective roles of Members and Officers may vary according to the purpose of the meeting and therefore their relationship to each other will also vary. The following basic rule will apply in all situations.

4.2 At all times, Members and Officers will show respect to one another. Although Members are entitled to question Officers at meetings or in any public forum, they should not raise matters relating to the conduct or capability of an Officer or of Officers collectively, in a manner that is incompatible with this Protocol at meetings held in public or in any public forum. This is a long-standing tradition in public service. An Officer has no means of responding to criticisms like this in public.

A Member who is unhappy about the actions taken by, or conduct of, an officer should:

- avoid personal attacks on, or abuse of, the officer at all times,
- ensure that any criticism is made in private
- ensure that any criticism is well founded and constructive,
- take up the concern with the appropriate Group Head or Deputy Chief Executive.
- If the matter is of a particularly serious nature to inform the Chief Executive.

4.3 Neither should an Officer raise with a Member any staffing matters relating to the conduct or capability of another Officer, or to the internal management of the section or Service in a manner that is incompatible with the objectives of this Protocol.

4.4 Potential breaches of this Protocol are considered at paragraph 12 below.

4.5 Wherever a formal public meeting is organised to consider a local issue, all the Members representing the ward(s) affected should, as a matter of course, be invited to attend the meeting. Similarly when the Council

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

5. Correspondence

- 5.1 Correspondence between individual Members and Officers should not normally be copied by the Officers to any other Members. However, where such correspondence concerns Council policy or, the interpretation of Council policy, in this instance a copy should be sent to the relevant Chair and Vice-Chair of the Committee and this should be made clear to the original Members. Under no circumstances should 'silent copies' be made available to a third party, and copies should only be sent to third parties with the express permission of the Member involved.
- 5.2 Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Members. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Members, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council, should never be sent out in the name of a Members.

Correspondence to individual Members received from officers concerning regulatory matters such as planning, enforcement, licensing and environmental health matters should not be forwarded to or shared with complainants or other third parties if they are marked "confidential" . In sending such correspondence the relevant officer should make clear what is to be treated as being shared with the Member in confidence only and why that is so.

6. Officer Briefings and Advice To Political Groups

- 6.1 It is common practice for political groups to discuss issues of council business before they are considered by the relevant Council decision making body. Officers may properly be asked to provide information and advice to assist informed discussion at any group meetings.
- 6.2 Any Group Leader may seek a briefing from the Chief Executive, a Deputy Chief Executive or their representative on any item which falls within that Officer's area of responsibility. The Chief Executive or Deputy Chief Executives will provide factual information and advice on possible actions or options but will not and should not be asked to become involved in any political debate or decisions.
- 6.3 If asked to do so by a Group Leader, the Chief Executive or a Deputy Chief Executive will attend a Political Group meeting in order to provide a factual briefing to members of their Group about any aspect of Council business. The Chief Executive will advise other Group Leaders of all such requests received. The Chief Executive or a Deputy Chief Executive will not and should not be asked to become involved in any party political debate and will withdraw from the meeting before Group members start to discuss the decisions they wish to see taken.

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- 6.4 Officers will respect the confidentiality of any discussions they have with Group Leaders or Groups generally and will not relay them to members of other Groups. Information or advice given by Officers to Members at political group meetings should not be passed to non- Members unless this is first agreed with the Members concerned.
- 6.5 Officer advice to a political group cannot be a substitute for providing all necessary information and advice to the Leader, relevant Chair/Vice-Chair of a Committee or Council when the matter in question is considered.
- 6.6 Officers will respect the confidentiality of any matter that they hear in the course of attending a political group meeting.
- 6.7 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 Leader(s).

Support Services to Members and Party Groups

- 6.8 The only basis on which the Council can lawfully provide support services (e.g. stationery, printing, photocopying, transport, etc.) to Members is to assist them in discharging their role as members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes

7. Members' Access to Information and Council Documents

- 7.1 Members are free to approach any Group Head to provide them with such information, explanation and advice (about the relevant service area's functions) as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Group Head or Deputy Chief Executive concerned.
- 7.2 Information requested will be provided, subject to any legal constraints (e.g. confidentiality relating to individuals) or unless the Deputy Chief Executive believes it would involve excessive resources to provide it, in which case he/she will seek guidance from the relevant Group Leader.
- 7.3 Members have legal rights to inspect Council documents containing material relating to business to be transacted at Council and Committee or sub-committee meetings. . This right applies irrespective of whether the councillor is a member of the Committee or Sub-Committee concerned and 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 relating to certain items which may appear in Part II (exempt) of the Agenda for meetings but in the spirit of openness, such documents are made available to all members.

7.4 Further details are contained in the Access to Information Rules at Part 4(g) of the Council's Constitution. Examples are documents that contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations.

7.5 Members also have common law rights to inspect documents.

This right is much broader and is based on the principle that any member has a prima facie right to inspect Council documents *so far as their access to the documents is reasonably necessary to enable the member properly to perform their duties as a member of the Council*. This principle is commonly referred to as the "need to know" principle.

7.6 The exercise of this common law right depends therefore upon 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 go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must be determined by the particular Group Head or Deputy Chief Executive who holds the document in question (with advice from the Monitoring Officer).

7.7 Council information provided to Members should only be used for the purpose it is given, i.e. to help the Members discharge their duties as a Member. . The Code of Conduct restricts the disclosure of confidential information provided to Members.

7.8 Any Member encountering difficulty or uncertainty about access to documents should contact the Monitoring Officer.

7.9 For completeness, Members do, of course, have the same right as any other member of the public to make requests for information under the Freedom of Information Act 2000.

8. Officer - Chair Relationships

8.1 It is clearly important that there should be a close working relationship between the Chair and Vice-Chair of a Committee and the Chief Officers who support that Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other Party Groups.

8.2 Whilst the Chair and Vice-Chair of a Committee (or Sub-Committee) will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some

situations an Officer will be under a duty to submit a report on a particular matter. Similarly, an Officer will always be fully responsible for the contents of any report submitted in their name. Any issues arising between a Chair/Vice-Chair and an Officer in this area should be referred to the Chief Executive for resolution.

- 8.3 It is important to remember that the law allows for decisions (relating to the discharge of any of the Council's functions) to be taken only by the Council, a Committee, a Sub-Committee or an Officer.
- 8.4 The Council's delegation scheme and resolutions passed at Committee meetings authorise a named officer to take action, sometimes in consultation with one or more Members such as the Chair and Vice-Chair of a Committee. In these circumstances it is the officer, rather than the Member, who takes the decision or action, and it is the officer who is accountable for it.
- 8.5 Finally, it must be remembered that officers within a Service Area are accountable to their Group Head or Deputy Chief Officer and that, whilst officers should always seek to assist a Chair (or indeed any Member) they must not, in so doing, go beyond the bounds of whatever authority they have been given by their senior officer.

9. Involvement of Ward Members

- 9.1 Whenever a public meeting is organised by the Council about a local issue all Members representing the Ward or Wards affected will be advised and invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultation on a local issue, the Ward Members will be notified at the outset. Officers will keep Ward Members advised of significant issues which have an impact in their Ward.

10. Press and Media

- 10.1 The Council frequently issues press releases and has contact with the media to provide information about the Council's activities and policies.
- 10.2 The provision of information in this way is governed by the Local Government Act 1986 and a national Code of Practice for Local Authority Publicity. The Code is statutory guidance and the Council must have regard to it and follow its provisions when making any decision on publicity.
- 10.3 Particular restrictions apply about publicity issued during election periods.
- 10.4 The Leader, Deputy-Leader and Chairs act as spokespersons for the Council in responding to the press and media and making public statements on behalf of the Council. Press releases on decisions by the Council or its Committees will be prepared by Officers and issued by the

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Communications department. They should be cleared with the Leader, and appropriate, Committee Chair and Vice-Chair before being issued and may include a statement from them (within the limits of statute and the Code of Practice).

- 10.5 Any press release that may be necessary to clarify the Council's position in relation to disputes, major planning developments, court issues or individuals' complaints should be approved by the appropriate Group Head or the Monitoring Officer.
- 10.6 Press releases on routine service issues will be authorised by the relevant Deputy Chief Executive and may contain a factual quote from the relevant Officer.
- 10.7 For more detailed information and guidance on the Council's policy towards interaction with the press and media reference should be made to the Press and Media Protocol contained as an annex to this Part of this Constitution.

11. Freedom of Information

- 11.1 Officers are subject to the provisions of the Freedom of Information Act 2000 (FOIA) and Members may also be subject to the Act in respect of work undertaken on behalf of the Council as opposed to the political party. Both are reminded of their duties under the FOIA in respect of requests for information and any questions in this area should be addressed to the Council's Freedom of Information Officer.

12. Breaches of the Protocol

- 12.1 Where a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the appropriate Group Head or Deputy Chief Executive. Where the Officer concerned is a Group Head or Deputy Chief Executive, the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with the Monitoring Officer.
- 12.2 Where the relationship between Members and Officers breaks down or becomes strained, every effort will be made to resolve matters informally, through conciliation by an appropriate senior manager or Members.
- 12.3 Where an officer feels that they have not been properly treated with respect and courtesy or is concerned about any action or statement relating to themselves or a colleague by a Member, they should raise the matter with their line manager, Group Head or the Chief Executive as appropriate. In these circumstances the Chief Executive or Group Head will take appropriate action either by approaching the individual Member and/or the party group leader.

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12.4 Breaches of this Protocol by a Member may constitute a breach of the Members' Code of Conduct.

12.5 Breaches of this Protocol by an Officer may be referred for disciplinary action.