

## PART 5 – CODES AND PROTOCOLS

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### PART 5C – PROTOCOL FOR MEMBER/OFFICER RELATIONS

#### 1. Introduction - Respective Roles of Members and Officers

1.1 The purpose of this protocol is to guide members and officers of the Council in their relations with one another.

1.2 ~~Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other issues.~~

1.3 ~~This protocol is to a large extent no more than a written down statement of current practice and convention. It does, however, endeavour to anticipate the position when the Council moves to executive arrangements. It also seeks to promote greater clarity and certainty.~~

1.4 This protocol reflects the principles underlying the Code of Members' Conduct. The object of this Code is to enhance and maintain the integrity (real and perceived) of local government and demands ~~very~~ high standards of personal conduct.

1.5 The Code of Members' Conduct provides that :

~~(3)(1) You must treat others with respect~~

~~(2). You must not~~ ~~A member must -~~

(a) ~~do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006). promote equality by not discriminating unlawfully against any person;~~

(b) ~~bully any person~~ ~~treat others with respect;~~ and

(c) ~~not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Council.~~

1.6 In line with the Code's reference to "respect" it is important that in any dealings between ~~M~~members and ~~O~~officers the parties should ~~be courteous~~ ~~observe reasonable standards of courtesy~~ and that neither party should seek to take unfair advantage of ~~his or her~~ ~~their~~ position.

1.7 The fundamental principles essential for ensuring proper relationships between ~~M~~members and ~~O~~officers are:

- (i) the ~~inviolate~~ political neutrality of ~~O~~fficers and
- (ii) a clear understanding of, and respect for, their ~~intrinsicall~~y distinct roles.

## 2. Political Neutrality

2.1 ~~The primary responsibility of any Officers is to serve the Council as a corporate body. Where this duty conflicts with any duty to individual Members of the authority then the duty to the Council shall prevail. whole and they owe equal obligations to all members of the Council.~~

2.2 Officers must act apolitically, whether or not they hold politically restricted posts, and ~~M~~embers must ~~try to avoid not putting O~~fficers, ~~whether intentionally or otherwise~~, in situations where their political neutrality might be compromised or appear to be compromised. ~~This would include actions such as applying pressure on an Officer to alter the presentation or substance of their advice in reports.~~

## 3. Officers as Employees

3.1 Officers are employed by the Council as a corporate body.

3.2 The Officer Employment Procedure Rules deal with the appointment, disciplining and dismissal of officers. These provide, in particular, that members shall not be involved in such matters other than possibly as a member of an appeal panel except in respect of the Chief Executives, Strategic Directors and political assistants.

### 3.3 Member can expect Officers to:

- Maintain confidentiality where necessary and lawful
- Perform their duties effectively, efficiently and with political neutrality
- Behave in a professional and courteous manner
- Be helpful to Members and respect their role
- Avoid close personal ~~else~~ familiarity with Members and not use their relationship with ~~M~~embers to advance their personal interests or to influence decisions improperly
- Report to the ~~Strategic Group~~ Director any time a Member asks or pressurizes the ~~O~~fficer to deal with a matter outside of Council Procedure or policy
- Demonstrate an understanding of and support for respective roles, workloads and pressures
- Comply with any ~~the~~ relevant code of conduct

### 3.4 Officers can expect from Members:

- Political leadership within the Political sphere and direction
- Respect, dignity and courtesy

- An understanding of and support for respective roles, workload and pressures
- Not to be subjected to bullying or undue pressure
- Not to use their position or relationship with officers to advance their personal interests or those of others to influence decisions improperly
- Compliance with the relevant code of conduct

#### 4. Relationship between the Leader and Officers

4.1 The Leader will be at the centre of the Cabinet and will need the close working support of a number of Officers, including, perhaps, a political assistant.

The relationship between the Leader and those Officers must never be, or give the appearance of being, so close as to bring into question the Officers' ability to deal impartially with other Members, especially those belonging to other political groups.

4.2 If the Cabinet chooses to appoint a political assistant, he will be, and will remain, an employee of the Council, not of the Cabinet, and he will be subject to the same corporate obligations and conditions of service as all other Council employees, except where variations are specifically provided in his conditions of contract reflecting the particular nature of his post.

#### 5. Relationships between Members of the Cabinet and Chairmen and Officers

5.1 It is clearly important that there should be a close working relationship between members of the Cabinet (whether or not they exercise personal executive powers), chairmen of overview and scrutiny committees and of other committees and the Strategic Directors, Assistant Directors and other senior Officers who support them in their respective roles.

However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups.

5.2 Where a Director, Assistant Director or a senior Officer submits a report to the Cabinet, an overview and scrutiny committee or a committee, he will always be fully responsible for any part of its contents ~~if it is~~ submitted in his name.

5.3 Officers within directorates are accountable to their Strategic Director, ~~and~~ ~~W~~hilst Officers should always seek to assist members of the Cabinet, a chairman or, indeed, any Member, they must not in so doing go beyond the limits of the authority they have been given by their Strategic Director.

#### 6. Area Committees, Partnerships et cetera

- 6.1 The increasing involvement of the Council in various forms of partnerships with other bodies, and possibly Area Committees, creates situations where **M**embers and **O**fficers are drawn into new non-traditional working relationships. These could pose difficulties if **M**embers and **O**fficers lose sight of the fundamental principles which define their different roles.

## 7. Officer Advice to Party Groups

- 7.1 Party Political Groups are a recognised part of the local government structure and their role is recognised and facilitated by statute. There is now statutory recognition of party political groups.

Officers may properly be called upon to support and contribute to deliberations by party groups of matters likely to come before the Council, the Cabinet or committees. They must do so in ways which do not compromise their political neutrality.

- 7.2 The support provided by **O**fficers can take many forms, ranging from a briefing meeting with a Cabinet member or a chairman to a presentation to a full party group meeting.

Whilst in practice such **O**fficer support is likely to be most in demand from whichever party group forms the administration of the Council, such support is available to all party groups.

- 7.3 Any request for an officer to attend a party group meeting should be made through the Chief Executive or the appropriate **S**trategic Director.

- 7.4 The following matters must be **e**clearly understood by all those participating in party group meetings, **M**embers and **e**Officers alike -

- (a) **e**Officer support must not extend beyond providing information and advice in relation to matters of Council business :  
**e**Officers must not be involved in advising on matters of party business :

the observance of this distinction will be assisted if **e**Officers are not expected to be present at meetings, or parts of meetings, when matters of party business are to be discussed :

- (b) party group meetings, whilst they may form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council :

conclusions reached at such meetings can not in any way bind the Council or the members of the group:

- (c) where officers provide information to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for the obligation to provide all necessary information

and advice to the Cabinet or the committee when the matter in question is considered:

- (d) any strategy or policy which may emerge from the meeting is that of the party group alone :
- (e) special care needs to be exercised whenever **e**Officers are involved in providing information and advice to a party group meeting which includes persons who are not **m**Members of the Council :

such persons will not be bound by the Code of Conduct and the statutory and other provisions concerning the declaration of interests and confidentiality, and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a **m**Member only meeting.

- 7.5 Officers must respect the confidentiality of any party group meetings at which they are present in the sense that they should not relay the content of any such discussion to another party. Officers should not be requested to answer questions on such matters by Overview & Scrutiny Committees.

## 8. Support Services to Members and Party Groups

- 8.1 The only basis on which the Council can **lawfully** provide support services (e.g. stationery, typing, printing, photo-copying, I.T., transport, etc.) to **m**Members is to assist them in discharging their role as **M**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.

## 9. Members' Access to Information and to Council Documents

- 9.1 Members are free to approach the Chief Executive's **Directorate Group** or any other **Directorate Group** to provide them with such information, explanation and advice, especially about the functions of the **Directorate Group** concerned, as they may reasonably need in order to assist them in discharging their role as **M**members of the Council. This can range from a request for general information about some aspect of a **Directorate's Group's** activities to a request for specific information on behalf of a constituent. Such approaches should only be made to the **Strategic** Director or the relevant Assistant Director, unless they have formally agreed **in writing** otherwise. ~~The Chief Executive and Directors should prepare and maintain an up-to-date schedule of officers authorised to deal directly with members on specific areas of service and send copies to members.~~
- 9.2 As regards the legal rights of **M**members to inspect Council documents, these are covered partly by statute and partly by the common law.

9.3 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, ~~the~~ Cabinet or committee meeting. These rights are summarised in the Access to Information Procedure Rules ([Part 4D](#)) and extend 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 as exempt items on agenda (pink papers) or to the advice of any political advisor.

9.4 The common law right of ~~M~~members is ~~much~~ broader, ~~and it~~ is based on the principle that any ~~M~~member has a prima facie right to inspect Council documents so far as his or her access to the documents is reasonably necessary to enable the ~~M~~member properly to perform his or her duties as a ~~M~~member of the Council. This principle is commonly referred to as the “need to know” principle.

9.5 The exercise of this common law right depends therefore upon the ~~M~~member’s ability to demonstrate that he or she has the necessary “need to know”.

In this respect a ~~M~~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 initially be determined by the [Strategic](#) Director holding the document in question, with advice, if necessary, from the Monitoring Officer.

9.6 In some circumstances (e.g. a committee member wishing to inspect documents relating to the functions of that committee or a member of an overview and scrutiny committee wanting to be informed about a matter within the remit of that committee) a ~~M~~member’s “need to know” will normally be presumed. In other circumstances (e.g. a ~~M~~member wishing to inspect documents which contain personal information about third parties) a ~~M~~member will normally be expected to justify the request in specific terms. It is ~~most~~ unlikely that a ~~M~~member will ever have a “need to know” [personal details](#) about individual officers.

9.7 Whilst the term “Council document” is ~~very~~ broad and includes for example, any document produced with Council resources, it is accepted by convention that a member of one party group will not have a “need to know”, and therefore a right to inspect, a document which forms part of the internal workings of another [party](#) group.

9.8 A ~~M~~member is not entitled to inspect any document, or have access to any information, about a matter in which he or she has a pecuniary interest or ~~where a member~~ is acting in a professional capacity, for example, on behalf of a client negotiating with the Council or involved in litigation against the Council.

A Strategic Director or Assistant Director may refuse a Member access to a document for these or other good reasons. He must inform the Member in writing of the actual reason.

- 9.9 If a Member is not satisfied with a decision by a Strategic Director or Assistant Director, he or she may refer the matter to the Assistant Director Chief Executive, who having sought such advice as he considers appropriate, shall determine finally whether or not the Member should be given the access requested.

If the original request had been made to the Chief Executive and a Member is not satisfied with his decision, the matter shall be referred to the Monitoring Officer for determination.

9.10 Members also have access to information under the Freedom Of Information Act 2000 and the Environmental Information Regulation 2004.

- 9.40-11 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer.

- 9.44-12 Finally, any Council information provided to a member must only be used by the member for the purpose for which it was provided, that is to say, in connection with the proper performance of the member's duties as a member of the Council. This point is set out in the Code of Members' Conduct as follows:

3. A member must not:

(a) disclose information given to him in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so; nor;

(b) prevent another person from gaining access to information to which that person is entitled by law.

5. A member:

(a) must not in his official capacity, or any other circumstance, use his position as a member improperly to confer or secure for himself or any other person, an advantage or disadvantage, ....."

## 10. Involvement with Ward Councillors

10.1 Wherever a public meeting is organised by the Council to consider a local issue, all the Mmembers 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 Mmembers should be notified at the outset of the exercise.

## 11. Public Meetings called by Individual Councillors or Political Group

11.1 If an individual Mmember or a political group convenes a public meeting, publicity for the meeting must clearly state the basis on which it is being held and should not state or imply it is a Council meeting.

11.2 Any request for an Officer to attend such a meeting must be made through the Chief Executive or the appropriate Strategic Director.

It must be made clear to those attending such a meeting that any Officer is there in his or her official capacity, is politically neutral and that his or her presence does not signify support for a particular political proposal or initiative. This is essential because of the need for Officers to act, and to be seen to act, impartially and to comply with any political restrictions under which they operate.

## 12. Member/Officer Dealings and Correspondence

12.1 Members should normally only deal with the Chief Executive, Strategic Directors and Assistant Directors unless they have specifically agreed in writing that direct approaches can be made to specified officers as set out in the schedule referred to at paragraph 9.1.

12.2 Similarly Mmembers should normally only address correspondence to the Chief Executive or the Strategic Director or the Assistant Director most concerned with the subject, unless other arrangements have been made in writing. They will normally reply personally.

12.3 Correspondence between an individual Mmember and an officer should not normally be copied by the Officer to any other Mmember, unless the Mmember has himself or herself sent copies to other Mmembers; in this which case copies will normally be sent to those Mmembers as well.

Where exceptionally it is necessary to copy the correspondence to another Mmember, this should be made clear to the original member.

12.4 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 -Mmember. It may be appropriate in certain circumstances (e.g. in respect of executive matters or representations to a Government minister) for a letter to appear in the name of a Mmember, but this should be the exception rather than the norm.



Letters which create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

### 13. **Complaints**

13.1 Should a Member have cause to complain about the actions or failings of any Officer of the Council, he or she the member should lodge their his or her complaint in writing with the Director responsible for that Officer.

If the complaint is against a Strategic Director, the complaint must be lodged in writing with the Chief Executive. If the complaint is against the Chief Executive personally the complaint must be lodged in writing with the Monitoring Officer.

13.2 Should An Officer having e cause to complain about the actions or failings of any member, the officer should lodge his or her complaint in writing with the Chief Executive, who will deal with it in accordance with Standing Orders and, where the complaint appears to involve an allegation of a breach of the Code of Members' Conduct, and in conjunction with the Monitoring Officer, through the Standards Board or the Standards Committee.

13.3 Complaints should not be raised or referred to during committee meetings, except for those expressly called for that purpose.