

5. MEMBER TO MEMBER AND MEMBER TO OFFICER PROTOCOLS

REPORT OF: Tom Clark, Solicitor to the Council and Monitoring Officer
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Wards Affected: All
Key Decision No

1. Purpose Of Report

- 1.1 To consider whether a protocol for Member/Member relations should be considered in addition to the statutory Members' Code of Conduct.
- 1.2 To consider whether the Member Officer protocol needs updating.

2. Summary

- 2.1 The Committee is asked to consider whether some form of Member/Member protocol should be drafted to supplement the clauses in the Code of Conduct relating to Member obligations and in particular the general obligations under paragraphs 3, 4 and 5.
- 2.2 The Committee is further asked to consider the current Member/Officer protocol in the light of other examples from the County Council and from Arun District Council.

3. Recommendations

- 3.1 **The Committee is asked to note the Report and to agree the additional clauses to the Member/Officer protocol recommended in paragraph 5 of this report.**
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4. Background

- 4.1 At its meeting on the 8th June 2010 the Committee indicated that they would like to consider a protocol for Member/Member relations and included this for a future meeting.
- 4.2 Provisions of the Model Code of Conduct deal with Member/Member relations and in particular paragraph 3 dealing with respect for others and bullying ,paragraph 4 dealing with the disclosure of confidential information, and paragraph 5 dealing with conducting yourself in a manner that does not bring your office into disrepute.
- 4.3 In the light of these provisions I have not been able to identify a Council with a supplementary Member/Member protocol but it is possible for a Council to supplement the Member Code of Conduct either directly or by a separate protocol.
- 4.4 As with many local authorities we do have a protocol for Member/Officer relations and our own protocol is attached at Appendix 1. In clause 6 it deals with personal relationships between Members and it may be better to expand those clauses rather than include a new protocol. The protocol itself was put together with the advise from the Standards Board for England following the Direction we received in 2007.

4.5 Most Councils do have a protocol for relationships between Members and Officers and further examples can be found at Appendix 2 from the West Sussex County Council and Appendix 3 from Arun District Council.

5. Suggested Changes to the Member/Officer Protocol

5.1 While robust debate can be expected at public meetings of the Council and its Committees and Groups it is important for public confidence reasons that interchanges between members avoid personal abuse. It is suggested that a paragraph 6.3 should be added to our Member/Officer Protocol to this effect to supplement the Code of Conduct provision at 3(1) "You must treat others with respect."

5.2 At paragraph 10.3 of the Arun Protocol it states " Members should not raise matters relating to the conduct or capability of an individual Council Officer or officers collectively at meetings held in public. Officers should observe the same rule in respect of Members". It is suggested this paragraph should be added to our own Member/Officer Protocol at 6.9 following the re-numbering of the earlier paragraphs if the suggestion in 5.1 is agreed.

6. Financial Implications

There are no financial implications arising from this Report.

Background Papers

Members' protocol on pre-application advice considered by Council on the 21st July 2010.

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1. THE ROLE OF MEMBERS

1.1 Members have a complex role. They are required to act simultaneously as:

- **Politicians** – Members usually belong to a political group that is represented on the Council. Members will express their political values and support the policies of their political group;
- **Representatives** – Members must interpret and express the wishes of the electorate and account for the service priorities, allocation of resources and ultimate performance of the Council. Members may also become involved in the affairs of individual ward residents; and
- **Council members and Members of the Cabinet and of Scrutiny Committees** – Members are individually and collectively responsible for the performance, developments, continuity and overall well being of the Council. In this executive role, members should avoid becoming involved in the detail of individual cases where this is likely to compromise their collective responsibility to protect the Council's interest.

2. THE ROLE OF OFFICERS

2.1 The role of each officer is dependent upon their specific job description. However, in broad terms Council officers have the following main roles:

- **Service Managers** – Officers must manage the services for which the Council have given them responsibility. They are accountable for the efficiency and effectiveness of those services and for proper professional practice in discharging their responsibility;
- **Professional Advisors** – Officers must advise the Council, its committees and members in respect of their service area;
- **Policy Managers** – Officers may initiate policy proposals as well as being implementers of agreed policy; and
- **Legal Advisors** – Officers must ensure that the Council always acts in a lawful manner.

3. MEMBERS AND OFFICERS – THE PROFESSIONAL RELATIONSHIP

What Officers can expect from Members

3.1 Members and officers have very distinct roles. In carrying out these roles Council officers can expect that Members **will**:

- endeavour to maintain a relationship of mutual trust and respect between each other and members and officers;
- treat all Officers with dignity and courtesy;

- provide support and appropriate confidentiality;
- only ask Officers to provide advice on matters that clearly arise from being an elected Councillor; and
- at all time comply with the Mid Sussex Code of Conduct; and
- that Members **will not:**
- ask Officers to breach Council procedures or policy when acting on behalf of constituents;
- seek special treatment for themselves or any individual. For example requesting a renovation grant for a relative. (When dealing with Council officers, members must declare any special relationships with constituents);
- put pressure on an Officer on matters which have been delegated for Officer decision. A Member who behaves in this way may lead officers to make decisions that are not objective and that cannot be accounted for; or
- bring undue influence to bear on an officer to take any action that is a breach of the disciplinary code for employees or in conflict with standing orders or financial regulations.

What Members can expect from Officers

3.2 Council officers are to provide advice and information to members and to implement Council policy, therefore members can expect that Council officers WILL:

- pursue every known lawful policy of the Council;
- serve all Members, not just those of the majority group;
- avoid close personal familiarity with Members;
- behave in a professional manner in all aspects of their job;
- deal with Member enquiries effectively and efficiently;
- be helpful and respectful to Members;
- maintain confidentiality, except where it is proper for the officer to disclose the matter;
- notify the relevant Member where the officer is unable to respect that member's wish that a matter be kept confidential;

- report to their service heads any time that a member asks or pressures the employee to deal with a matter outside of Council procedure or policy;

and that Council officers WILL NOT:

- allow their own personal or political opinions to interfere with their work;
- disrupt any Council meetings;
- seek to influence Members prior to any appointment;
- raise personal matters to do with their jobs directly with Members;
- improperly disclose information received from a Member; or
- conceal any information which it is proper for them to disclose (particularly where they have a duty to reveal it).

Council Officers shall be Politically Neutral

- 3.3 Officers will only attend political group meetings on request but cannot be instructed to do so.
- 3.4 Officers who do attend must make any information available to the majority party group also available to the minority party group on request.
- 3.5 Officers must not be asked to meet with or advise a caucus of Members who have no locus within the decision-making process.
- 3.6 Discussions between Officers and Members on policy issues are quite proper and officers may wish to seek political guidance in framing policy proposals. However when Officers write committee reports for member decision, they have a duty to give the advice dictated by their professional expertise.
- 3.7 Therefore Members must not seek to influence the content of reports to committee and party political groups have no right to rewrite Officer reports or instruct on their content.
- 3.8 Although Officers must report as they see fit, Members are equally entitled to reject proposals and recommendations which are put to them.

Chief Officers, Heads of Service, Members of the Cabinet and Chairman of Committees

- 3.9 Heads of Service and Chief Officers are expected to work closely with members of the Cabinet, committee chairman and their deputies, and to meet regularly with them.
- 3.10 Members of the Cabinet may have individual decision-making powers under the Council's scheme of delegation. Officers must only act under the delegated

authority of a Member of the Cabinet where that member has followed the correct decision making procedure and can support his or her decision with an appropriate written report.

- 3.11 Committee decisions will not be made by the chairman alone but by the committee. The chairman should not seek to influence a director to reduce the options or withhold information which he should properly report to a committee.

4. MEMBERS AND OFFICERS – MEMBERS’ ENQUIRIES

- 4.1 100% of members’ enquiries will be dealt with and responded to within 7 working days.
- 4.2 Each Chief Officer/Head of Service is responsible for ensuring that member enquiries are dealt with promptly and accurately in their directorate.

5. MEMBERS AND OFFICERS – E-MAIL CORRESPONDENCE

- 5.1 It is important that members and officers have a clear idea of the arrangements pertaining to the use of e-mail for correspondence. Council Members are encouraged to use their computers to communicate with the Council. Officers will update Members on casework progress via e-mail.
- 5.2 E-mail correspondence will be treated in exactly the same way as formal letters. That is, enquiries by Members through e-mail will be acknowledged within 2 days and replied to within 7 working days of receipt by the officer.
- 5.3 When Members and Officers contact each other, they will afford each other the same courtesy that they would expect to receive.
- 5.4 Officer’s names are listed in the global address book in exactly the same way as member’s names are, i.e. first name and then surname. Unless otherwise agreed, Members names are followed by the title “Councillor”.
- 5.5 The same courtesy as that when addressing letters should be used when communicating via e-mail. For example, ‘Dear (Officer’s name or Councillor ...’ when starting the communication and finishing with an electronic signature which should state full name and contact details including the title “Councillor” in order to make officers aware of ones position.

6. PERSONAL RELATIONSHIPS

Between Members

- 6.1 Members must not seek to influence or pressure any other member to confer any advantage or benefit upon themselves or any other person.
- 6.2 Members must not sit on the same recruitment panel or disciplinary panel as another member who is their partner or relative, or otherwise where the Member’s relationship with another Member would jeopardise the work of the Council.

Between Members and Officers

- 6.3 Mutual respect between Councillors and Officers is essential to good local government. Close personal familiarity between individual members and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.
- 6.4 It is not enough to avoid actual impropriety. Members must avoid any occasion for suspicion and any appearance of improper conduct.
- 6.5 Members must declare to the Chief Executive any relationships with an Officer, which might be seen as influencing their work as a member. This includes any family, business or sexual relationships.
- 6.6 Officers also have a duty to declare any such relationship to their manager.
- 6.7 The Chief Executive will advise both the Member and the employee of the need to avoid creating any appearance of improper conduct on their part.

Part 5 Section 7

Protocol on Relationships between Members and Officers

This Protocol provides advice and guidance for members and officers on working effectively together and should be read alongside other guidance notes or more formal parts of the Constitution which are referred to within this Protocol. The purpose of this protocol is to provide a helpful and practical point of reference for members & officers in the event of any difficulties arising within relationships. It is not intended to detract in any way from the explicit requirements of the more formal parts of the Constitution nor from the various rights and responsibilities of members thereunder. For the purpose of this Protocol, a senior officer is the Chief Executive, an Executive Director, a Director or a Head of Service.

Good Working Relationships - Mutual Respect and Courtesy

1. For the effective conduct of County Council business there must be mutual respect, trust and courtesy between members and officers. It is important that both members and officers are governed by the general principles of conduct set out in Part 5, Section 2 of this Constitution and remember their respective obligations to provide the best possible service to the public and enhance the County Council's reputation.
2. Members and officers have a duty to:
 - Promote equality by not discriminating unlawfully against any person; and
 - To treat others with respect

Under the Code of Conduct, a member must not:

- Bring the County Council or his or her position as a member into disrepute; or
 - Use his or her position as a member improperly to gain an advantage or disadvantage for him or herself or any other person.
3. Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change his or her professional or technical advice. For issues relating to the drafting of recommendations reference should be made to the Corporate Advice Notes.
 4. Members should be aware of the collective responsibility of the officers of the County Council and should not act in any way which may undermine the trust and confidence between officers and members or prejudice the ability of officers to work collectively in the interests of the County Council.
 5. Members and officers should try to give timely responses to each other's queries.

General Rights and Responsibilities of Members

6. Members have the right to see information and other material held by the County Council which is relevant to the business of the County Council, depending upon the role of the member within the Constitution and the relevance of the material to the member's responsibilities or constituency role. Members will also have a right of direct contact with officers in accordance with the proper discharge of their responsibilities. A summary of the rights to information is attached in the Appendix.
7. Members should not instruct officers other than:
 - when formally discharging a responsibility set out in the Constitution
 - through the formal decision-making process
 - where staff have been specifically allocated to give support
 - in the case of political assistants, in accordance with their role

Members should not attempt to manage or control operational matters or the line management of any officer. Where issues arise as part of the proper discharge of the member's specific responsibilities or the development of policy, members should raise concerns with the relevant senior officer.

8. A member should not apply pressure on an officer either to do anything that he or she is not empowered to do or to undertake work outside normal duties or normal working hours, or to make inappropriate use of County Council property or services. If an officer is at any time in any doubt about the propriety of any request made of him/her, he or she should seek advice from his or her line manager.
9. Members should always give particular regard to any advice from officers that any decision or proposed action may be unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their Code of Conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer (the Head of Legal and Democratic Services) or the designated Finance Officer (the Executive Director Finance and Performance). The Protocol on Decision-Making should be referred to.
10. Members may not initiate or certify financial transactions, or enter into a contract in writing or orally on behalf of the County Council, or direct any officer to do so. Letters which may commit the County Council to any action should not be sent in the name of any member without having first checked the position with an appropriate officer from the Legal Services Unit. Members should not give any assurances to any person outside the County Council or make any public statement which may be interpreted as making a formal commitment on any matter where a formal decision has yet to be made.

The General Responsibilities of Officers

11. Under the direction and control of the County Council, its Cabinet and Committees, and through its Constitution, officers manage and provide the County Council's services within the framework of responsibilities delegated

to them. This includes the management of employees and operational issues.

12. Officers have a duty to implement decisions of the County Council, the Cabinet and committees which have been properly approved and recorded in accordance with the requirements of the law and the County Council's Constitution.
13. Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
14. Officers should assist and advise all members, whatever the officers' role within the County Council. Where they are employed to assist a particular part of the County Council, e.g. Cabinet or Select Committees, they must nevertheless alert their line manager to the implications of proposals for the whole County Council and to the requirements of the County Council's Constitution. They must always act to the best of their abilities in the best interests of the County Council.
15. Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications of any matter for members of the County Council and the community it serves, and the interest of the media.
16. Officers have no duty to support members in any role other than that of member.
17. Officers should not seek to use influence on individual members to make a decision in their favour, or raise personal matters to do with their job. The County Council has a Confidential Reporting Policy to deal with concerns about the behaviour of others and staff must not seek to short circuit it by direct reference to members. The County Council also has formal procedures for grievance, discipline and capability as well as a 'Behaviour at Work' policy and these should be used by officers wherever possible to deal with personal concerns. Officers must not seek to short-circuit these by direct reference to members.
18. Senior officers should have or should put in place arrangements for contact by members with staff at lower levels to allow effective communication on specific or general matters. Senior officers should ensure that staff are aware of such arrangements.

Cabinet Members and Officers

19. Cabinet Members should take decisions in accordance with the Constitution and within their portfolio and will not otherwise direct officers. In most cases officers will be happy to take guidance from Cabinet Members on the direction to take on a particular issue, but where there may be doubt, senior officers are responsible for instructing junior officers. Cabinet Members may have contact with junior officers in accordance with the arrangements referred to in paragraph 18.

20. Senior officers taking decisions under their delegated powers should inform the relevant cabinet member(s) of their intentions in advance when the matter to which the decision relates is likely to be sensitive or contentious. Officers may in the circumstances decide not to exercise their delegated powers and ask the cabinet member to make a formal decision.
21. In formulating recommendations, officers should help members achieve their objectives, consistent with their technical or professional advice and the requirements of the County Council's Constitution. In difficult or sensitive cases officers will ensure that full discussion with Cabinet Members has taken place before recommendations are finalised. Cabinet Members will advise officers what will or will not be supported, but will not direct officers in the framing of recommendations and should always give reasons for not accepting the recommendations of officers.
22. A Cabinet Member intending to make a decision about a matter in his or her portfolio should ensure that other members and senior officers who need to know of the matter are informed, particularly on issues of joint responsibility or mutual interest, and in appropriate cases to brief the whole Cabinet.

Select Committee Members and Officers

23. Chairmen and Vice-Chairmen of Select Committees shall maintain regular contact with the officer(s) providing the principal support to the overview and scrutiny function, both in the Scrutiny Team and in individual directorates. In consultation with Chairmen, those officers must ensure that those who need to know of matters being considered or planned for future consideration are so informed.
24. A Select Committee, or its chairman acting on its behalf, may require officers to attend meetings. Members should not normally expect junior officers to advise the committee. All requests should be made to senior officers in the first instance. When making requests for officer attendance, Select Committee members shall have regard to the workload and prior commitments of officers.
25. Officers required to appear before a Select Committee may be those who have advised the Executive on the matter. If appropriate, supplementary research and advice may be sought elsewhere by the committee, within the resource constraints of the County Council. Officers should be familiar with the Protocol on Select Committees.
26. Officers should be prepared to justify to a Select Committee any decision they have taken under delegated powers.
27. In giving advice to the committee, officers should not be asked to give political views, and should not make comments upon the line taken by the Cabinet Member unless giving legal, technical or other professional advice about the matter.
28. Members should not question officers in a way which could be interpreted as harassment. Select Committee proceedings should not be used to question the capability or competence of officers. Chairmen and members, in

reviewing the policies and performance of the County Council and its services, shall not appraise the personal performance of staff.

29. In exercising the right to call-in a decision of the Cabinet, Select Committee members must seek officer advice if they suspect the decision is contrary to the County Council's approved plans, policies or frameworks, or is unlawful.

Members of other Committees or Panels and Officers

30. The appropriate senior officers will offer to arrange regular informal meetings with Chairmen, Vice-Chairmen, and spokesmen of committees and panels.
31. Senior officers have the right to present reports and give advice to committees and panels and junior officers may be invited to do so.
32. Members of a committee or panel may only take decisions within the remit of that committee or panel, and should not otherwise instruct officers to act. Members should observe the same courtesy toward officers carrying out their responsibilities at any committee or panel as referred to in paragraph 29.
33. A resolution may be passed at a committee or panel which authorises a named officer to take action between meetings in consultation with the chairman. In these circumstances it is the officer, not the chairman, who takes the action and is responsible for it. A chairman has no power to take decisions on behalf of a committee or panel.

Local Role of Members and Officer Responsibilities

34. To enable them to carry out their local representation role effectively, members need to be fully informed about matters affecting their electoral division. Senior officers must ensure that all staff are aware of the requirement to keep local members informed.
35. This requirement is particularly important:
 - when options for likely decisions are being considered;
 - in relation to significant or sensitive operational matters;
 - whenever any form of public consultation exercise is undertaken; and
 - during an overview and scrutiny investigation.
36. Whenever a public meeting is organised by the County Council to consider a local issue, all the members representing the divisions affected should be invited to attend the meeting as a matter of course. Invitations to other events, such as opening ceremonies shall be in accordance with the Protocol for such events.
37. If a local member intends to arrange a public meeting, he or she should inform the relevant senior officer. Provided the meeting has not been arranged on a party political basis, and the subject matter concerns some aspect of the County Council's work:
 - an officer may attend but is not obliged to do so; and
 - the meeting may be held in County Council-owned premises.

38. No such meetings should be arranged or held in the immediate run-up to County Council elections. (Officers and members should be familiar with guidance on meetings and publicity in the 'Purdah' period in the Corporate Advice Notes in the Constitution.)
39. While support for members' divisional work is legitimate, care should be taken if staff are asked to accompany members to ward surgeries. In such circumstances:
 - the surgeries must be open to the general public; and
 - officers should not be requested to accompany members to surgeries held in the offices or premises of political parties.
40. Officers should never be asked to attend and should not attend division or constituency political party meetings.
41. It is acknowledged that some County Council staff (e.g. those providing dedicated support to Cabinet Members) may receive and handle messages for members on topics unrelated to the business of the County Council. While these will often concern diary management, care should be taken to avoid County Council resources being used for private or party political purposes.

Political Groups and Officers (Excluding Political Assistants)

42. Senior officers may properly be asked to contribute to deliberations by political groups on matters concerning County Council business.
43. Officers have the right to refuse such requests, and shall not be expected to attend a meeting of a political group where some of those attending are not members of the County Council. An officer accepting an invitation to the meeting of one political group shall not decline an invitation to advise another group about the same matter. Officers proposing to accept an invitation to a Group meeting should first notify the Chief Executive and Head of Legal and Democratic Services (see Corporate Advice Note on attendance at Group meetings).
44. Officer support will not extend beyond providing factual information or professional advice in relation to matters of County Council business. Officers must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.
45. Political group meetings are not empowered to make decisions on behalf of the County Council, and conclusions reached at such meetings do not amount to formal decisions. The presence of an officer confers no formal status on such meetings. Members should take care to ensure that they do not convey the impression at group meetings that minds have been made up and positions taken irrevocably, or that final decisions have been taken.
46. Where officers provide factual information and advice to a political group in relation to a matter of County Council business, this is not a substitute for

providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the County Council.

47. Officers will respect the confidentiality of any political group discussions at which they are present and, unless requested to do so by the group, will not relay the content of such discussions to another political group or to any other members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.
48. Members must not do anything which compromises or is likely to compromise any officer's impartiality.
49. The duration of an officer's attendance at a political group meeting will be at the discretion of the group, but an officer may leave at any time if he or she feels it is no longer appropriate to be there.
50. An officer who is not a senior officer shall not be invited to attend a political group meeting, but a senior officer may nominate another officer to attend on his or her behalf.
51. An officer should be given the opportunity of verifying comments and advice attributed to him or her in any written record of a political group meeting.
52. Members should not refer in public or at meetings of the County Council to advice or information given by officers to a political group meeting.
53. At political group meetings where some of those present are not members of the County Council, care must be taken not to divulge confidential information relating to County Council business. Persons who are not elected or who are not co-opted members of committees are not bound by the members' Code of Conduct. They do not have the same rights to County Council information as do such members.
54. Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Head of Legal and Democratic Services and the relevant Group Leader.

Political Assistants

55. These officers may be appointed by the County Council exclusively to provide support to each of the political groups. Their function is to assist the work of the group to which they have been assigned. This is in contrast to all other staff whose duty is to serve the County Council as a whole.
56. Political assistants will be treated in accordance with and expected to observe all codes, policies and practices relating to the County Council's staff so far as this is consistent with paragraph 54.
57. Political assistants are not authorised to comment publicly on behalf of the County Council as a whole, nor to commit the County Council to any particular course of action.

58. Members who are given documents and information or have access to such material may share them with or delegate their right of access to political assistants on the strict understanding that they are not disclosed outside the County Council.

Familiarity and Personal Relationships

59. Informal and collaborative working between members and officers is to be encouraged. However, close personal familiarity between individual members and officers can damage the principle of mutual respect. Familiarity could also cause embarrassment to other members and/or other officers and give rise to suspicions of favouritism or conflicts of interest.
60. It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Members should advise their Group Leader of such relationships. Officers should advise their line manager of such relationships. Where a close personal relationship exists, those concerned should avoid a situation where any conflict of interests or impropriety could be perceived. Specifically, a member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.

Redress

61. If members feel that they have not been treated with proper respect, courtesy or efficiency by officers or that an officer has acted in breach of this protocol, they may raise the matter with the individual's line manager, head of service, director, executive director or the Chief Executive as appropriate. Any such referral will be processed within the relevant employment procedures referred to in paragraph 17. The member and the officer will be kept informed of progress with the complaint and the action to be taken. Members do not have any power to discipline any officer other than through a formal member appeal panel.
62. Where officers feel that a member has acted in breach of this Protocol, or has otherwise not been shown proper respect and courtesy by any member, they should raise the matter with their line manager, head of service, director, executive director or the Chief Executive or Head of Legal and Democratic Services as appropriate, if they do not feel able to discuss it with the member concerned. In these circumstances the senior officer consulted will take appropriate action either by approaching the Chief Executive or Head of Legal and Democratic Services or, if appropriate, the individual member and/or their Group Leader. The member concerned should be informed of the complaint and should be advised of any recommended action resulting from the investigation of the complaint.
63. Any complaints from the public about the conduct of officers will be dealt with by the line manager, head of service, director, executive director or Chief Executive as appropriate.

Members' Rights to Information

All members have a right of access to all material in the possession of the County Council if it is established that access is required on a 'need to know' basis that in order to discharge any specific function or role of a member it is necessary to have access to a particular document or piece of information and that (in the case of draft or incomplete documents) this need cannot await later publication or availability.

All members will have specific rights to information which forms part of the business of the County Council and, in particular, documents relating to meetings of the County Council, including reports, agendas and minutes of committees and other meetings and in accordance with the timescales prescribed and subject to exceptions which relate to confidential information or material which is covered by a statutory exemption.

Members have the right of access to any document relating to the business of a public meeting and also the business of any private meeting, subject to the same exemptions as above and only in the case of a private meeting once it has ended.

Members of a Select Committee have the right of access to any documents relating to the business of that Committee, whether discussed at a public or private meeting and will also be able to see documents covered by exemptions or rules of confidentiality provided the material is the subject of the Select Committee's work programme.

The list of exempt information is detailed in the Constitution and guidance on decision-making. The list takes account of the presumption of a right of access to all material set out in the Freedom of Information Act 2000, but this is subject to specific exemptions concerning personal data (confidential to any individual person) or commercially sensitive or confidential information or any information whose disclosure may prejudice legal or similar enforcement procedures or, exceptionally, prejudice the conduct of the County Council's proceedings.

PART 8 – CODES AND PROTOCOLS

SECTION 3 – Protocol on Member/Officer relations

SECTION 3 – PROTOCOL ON MEMBER/OFFICER RELATIONS

1.0 INTRODUCTION

The purpose of this document is to provide a guide to good working relationships between Members and Officers of the Council. It will clearly define the respective roles of Members and Officers and provide some principles governing conduct.

2.0 THE RESPECTIVE ROLES OF MEMBERS AND OFFICERS

- 2.1 Members are elected and represent their constituents. Under the executive arrangements for the Council, Members perform roles on the Cabinet, on Scrutiny Committees and on Committees of the Council, in addition to sitting as Members of the full Council. Some Members represent the Council upon outside bodies.
- 2.2 Officers are employed by and serve the whole Council. They advise the Council, its Committees and the Executive. They implement decisions of the Council and make decisions under powers delegated to them.
- 2.3 Officers are responsible to their Line Manager and ultimately their Director. Directors are accountable to the Chief Executive and Strategy Director. Some senior officers have specific statutory responsibilities, including the Head of Finance as the Chief Financial Officer (Section 151, Local Government Act 1972) and the Solicitor to the Council as Monitoring Officer.

3.0 OFFICERS' ADVICE AND POLITICAL NEUTRALITY

- 3.1 Officer advice and support will be provided at formal Council meetings at which business is transacted, including:
- Council meetings;
 - Meetings of the Cabinet and its Committees;
 - Meetings of Committees/Sub-Committees;
 - Working Parties/Forums/Area Partnership Panels;
 - Meetings of the Chairmen/Vice-Chairmen of the Committees;
 - Briefings for Chairmen/Vice-Chairmen prior to Committee Meetings.
 - Meetings/briefings for Cabinet portfolio holders.

Officers will also provide advice and assistance to individual Members in respect of Council business, including issues raised by constituents.

- 3.2 Where officers are invited to meetings to give advice or comment on their service area by the Chairman of the Overview Select Committee or its Working Parties, the Audit Committee, or any other committee, then their Head of Service must also be informed of the invitation and reason for their attendance; and if the officer would prefer their Head of Service to attend with them, then this should be allowed. Where there are issues of concern about an officer's attendance, responsibility to agree attendance should fall to the Council's Monitoring Officer. Where notes are taken from the meeting, either to record in the minutes or in a separate note for later use, then these must be agreed by the officer following the meeting.

PART 8 – CODES AND PROTOCOLS

SECTION 3 – Protocol on Member/Officer relations

- 3.3 Officer advice and support must relate only to Council business. Officers must not be requested to advise upon matters of party business.
- 3.4 All Officers must treat Political Groups and individual Members in a fair and even-handed manner. Officers must maintain political neutrality and Members must respect this.
- 3.5 Officers must respect the confidentiality of any Political Group discussions which they attend. They should not disclose the content of such discussions to any person who has not attended. Senior officers may be requested to attend group meetings and the Chief Executive and Strategy Director will then decide whether such attendance may take place.
- 3.6 If it is agreed that an Officer can attend a Political Group meeting, then the Chief Executive and Strategy Director will inform the other Group Leaders and offer a similar facility.
- 3.7 Political group meetings fall outside the Council's decision-making process. Conclusions reached at such meetings are not formal Council decisions and so should not be relied upon as such.

4.0 PERSONAL RELATIONSHIPS

- 4.1 Close personal familiarity between individual Members and Officers can damage working relationships and prove embarrassing to other Members and Officers.
- 4.2 It is recognised that there may be occasions where personal familiarity is unavoidable, particularly where family relationships arise.
- 4.3 A Member must promptly declare to both the Chief Executive and Strategy Director and his/her respective Group Leader any relationship with an Officer which might be seen as influencing his/her work as a Member. This includes a family relationship. Similarly, the Officer concerned should notify his/her Director or, in the case of a Director, the Chief Executive and Strategy Director. In the case of the Chief Executive and Strategy Director, then all Group Leaders should be notified. The Chief Executive and Strategy Director and the relevant Director will arrange for the relationship to be included in the formal Declaration of Interest provided by the Officer and the Register of Members' Interests.

5.0 APPOINTMENT OF OFFICERS

- 5.1 Members must not take any part in the appointment of anyone to whom they are:
- married,
 - a partner,
 - otherwise related,
 - a friend.
- 5.2 Members must ensure that Officers are appointed only on merit, with a view to their best serving the whole Council.

6.0 UNDUE PRESSURE

- 6.1 A Member should not apply undue pressure on an Officer either to do anything which he/she is not empowered to do or to undertake work outside normal duties or normal

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hours. Particular care needs to be taken in connection with the use of Council property and services.

- 6.2 Similarly, an Officer must not seek to influence an individual Member to make a decision in his/her favour nor raise personal matters to do with his/her job nor make claims or allegations about other employees. The Council has formal procedures for consultation, grievance and discipline dealing with these matters.

7.0 OFFICERS' REPORTS AND ADVICE

- 7.1 The named author of a report to the Council or any part of its formal structure will always be fully responsible for the contents of it. The Leader, Cabinet Member for the relevant portfolio and/or Chairman of the relevant Committee or body will be consulted as part of the process of drawing up the agenda for a forthcoming meeting and may comment upon a proposed report. The Officer concerned will give due consideration to such comments, consulting his/her relevant Director or Head of Service and other appropriate officers as necessary. A report will only be amended where the amendment reflects the professional judgment of the author of the report. Any remaining disagreements between the Chairman and the author of the report should be referred to the Chief Executive and Strategy Director for resolution in conjunction with the Leader of the Council.

- 7.2 Occasionally, Officers will need to express a professional view on a matter which may not support the view of the Leading Group, the Council and/or the relevant Senior Officers of the Council.

- 7.3 Members should not elicit any criticism from an Officer in respect of his/her Line Manager, Head of Service or Director.

8.0 OFFICER DECISIONS MADE UNDER DELEGATED POWERS

Officers may make decisions under powers delegated to them in accordance with the Scheme of Delegation or by specific formal Committee/Sub-Committee meetings. It must be recognised that it is the Officer, and not any Member, who takes the action and it is the Officer who is accountable for it.

9.0 OFFICER RELATIONSHIP WITH THE LEADER & PORTFOLIO HOLDERS UNDER EXECUTIVE ARRANGEMENTS

The working relationship between senior Officers and the Leader/portfolio holders will be particularly close. Individual portfolio holders will be the Cabinet's spokesperson for a particular service or area of work and have broad-ranging responsibilities. Officers may provide briefing notes, advice and information to the portfolio holders in respect of reports or questions at formal Committee and Council meetings and other external meetings, e.g. meetings with Ministers/MPs, other Local Authorities and outside bodies. This relationship, however, must not:

- compromise Officers' duties to all Members of the Council;
- be so close as to give the appearance of partiality on the part of the Officer;
- undermine the confidentiality of any discussions within the Corporate Board or between Senior Officers and other Members;
- compromise Officers' professional responsibility to advise Members that a particular course of action should not be pursued; and

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- abrogate Officer responsibility for action taken under Delegated Powers.

10.0 THE PROCEDURE FOR CRITICISM/COMPLAINTS

- 10.1 It is important that there should be mutual courtesy and respect between Members and Officers. It is important that there are reasonable standards of courtesy and no Member or Officer should seek to take unfair advantage of their position.
- 10.2 Members and Officers should not criticise or undermine respect for the other at Council meetings or in any public forum.
- 10.3 Members should not raise matters relating to the conduct or capability of an individual Council Officer or Officers collectively at meetings held in public. Officers should observe the same rule in respect of Members.
- 10.4 If a Member believes that he/she has not been treated with proper courtesy or has a concern about the conduct or capability of an Officer, then he/she should raise the matter confidentially with the Director of the Department in question who may utilise the Council's formal disciplinary procedures if this appears to him/her to be appropriate. If the Member is still not satisfied with the action that has been taken in response to this, then he/she may raise the matter confidentially with the Chief Executive and Strategy Director who will look into the matter afresh. If the Chief Executive believes that there is a case to answer then he/she may utilise the Council's formal disciplinary procedures. If the Chief Executive and Strategy Director suggests no action he will inform the Member and relevant Group Leader of this. Concerns raised concerning the Chief Executive and Strategy Director will be referred in the first instance to a meeting of the Leaders of the Political Groups of the Council. They may then refer the matter to Full Council but must do so within the terms of the disciplinary procedure applying to the Chief Executive and Strategy Director.
- 10.5 If an Officer feels that he/she has not been treated with respect or is concerned about any action or statement relating to him/herself or a colleague by a Member, or conduct of a Member, he/she should raise the matter with his/her Line Manager. If he/she is not satisfied with any action that has been taken as a result, he/she should raise the matter with his/her Director. If there is a serious case to answer the Director may request that the matter be investigated through the Council's Standards Committee's procedures.
- 10.6 Where a Member or Officer is concerned about potential unlawful conduct of a Member or Officer, the Council's Whistle-blowing Policy and the Public Interest Disclosure Act 1998 are also relevant. Nevertheless, the procedure outlined in this protocol should be the first point of reference where possible.

11.0 MEMBERS' ACCESS TO INFORMATION AND COUNCIL DOCUMENTS

- 11.1 Each Member has the right to inspect and have copies of the reports, Minutes and background papers relating to the public part of any Council, Committee, Sub-Committee or Working Party agenda. However, Members do not have an automatic right of access to documents relating to confidential ("Exempt") items on the agenda. These might include, for instance, information relating to employees, occupiers of Council property, applications for grants, contracts, industrial relations negotiations, legal advice and criminal investigations.

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- 11.2 In respect of such confidential information, a Member may have access to the documentation insofar as it is reasonably necessary to enable him/her to properly perform his/her duties as a Member of the Council. The relevant question asked is whether he/she needs to know the information to perform such duties.
- 11.3 A Cabinet Member, Member of a Committee or Sub-Committee or Working Party will have a need to know of the documentation and information relating to that body. In other circumstances, a Member will normally be expected to justify the request in specific terms and the motive for requesting the information will be relevant. The relevant question asked is whether he/she needs to know the information to perform his/her duties as a Member. The question as to access to the documentation will be determined initially by the relevant Head of Service but, in the event of a continuing disagreement as to access, then the matter may be referred to the relevant Director and the Solicitor to the Council as Monitoring Officer.
- 11.4 Where a Member has a private, personal or pecuniary interest in a matter, the Member will only be entitled to the same rights of access to documentation as would apply for the public generally. Thus, he/she would have access to the reports, Minutes and background papers relating to the public part of any Council, Committee, Sub-Committee or Working Party agenda but not to any confidential items.
- 11.5 Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Members' duties as a Member of the Council. Confidential information should not be disclosed, discussed with, or released to any other persons unless it reasonably relates to a qualified disclosure, i.e. it relates to an alleged criminal offence, a failure to comply with a legal obligation, maladministration where a breach of administrative law has occurred, a miscarriage of justice, a danger to health or life, damage to the environment or concealment of information tending to show any of these matters. The National Code of Local Government Conduct states as follows:
- "As a Councillor or a Committee or Sub-Committee Member, you necessarily acquire much information that has not yet been made public and is still confidential. It is a betrayal of trust to breach such confidences. You should never disclose or use confidential information for the personal advantage of yourself or of anyone known to you, or to the disadvantage or the discredit of the Council or anyone else."*
- 11.6 Any confidential information provided to Members should be clearly marked as such prior to its provision.
- 11.7 Further advice regarding Members' rights to inspect Council documents may be obtained from the Solicitor to the Council and Monitoring Officer or the Chief Executive and Strategy Director.

12.0 **MEMBERS' ACCESS TO MEETINGS**

- 12.1 The same principles set out at 11 above and in particular paras. 11.2 to 11.4 shall apply to Members' rights of access and attendance at Committees (as defined in the Committee Procedure Rules, Rule 1.0).
- 12.2 Regard shall be had to these provisions when a person presiding at a meeting or (in the case of the Standards Committee) the meeting exercises the powers contained in Rule 22.0 of the Access to Information Procedure Rules.

13.0 **PUBLIC RELATIONS AND PRESS RELEASES**

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13.1 By law the Council is prohibited from publishing material which appears to be designed to affect public support for a political party. News releases are written by Officers but they may contain quotations from the Chairman/Vice-Chairman or Leader/Deputy Leader of the Council, a Cabinet Member or the Chairman/Vice-Chairman of the relevant Committee or Sub-Committee. Such news releases are issued on behalf of the Council and it would not, therefore, be appropriate when repeating quotations from Members to indicate their party political affiliation. Council news releases will be objective, factual and informative. The Council has also adopted a Protocol and Guide to pre-election publicity which provides advice upon publicity and activities during a pre-election period, including a moratorium on publicity during the month preceding an election of the Council.

13.2 The Council will abide by the national Code of Recommended Practice on local authority publicity.

14.0 MEMBER SUPPORT SERVICES

The Council provides a range of support services, including stationery, typing and postage to enable Members to carry out their duties. These may only be used on Council business. They must not be used for party or political work of any kind. Members should not ask Officers to type, photocopy or otherwise process party or political material.

15.0 CORRESPONDENCE

15.1 Correspondence between an individual Member and an Officer on a matter relating to a single constituent should not normally be copied (by the Officer) to any other Member. Where, exceptionally, it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of “silent or blind copies” should not be employed.

15.2 In some cases issues are raised by, or with, individual Members relating to a matter of general interest in a Council Ward. Recognising that it is in the best interests of the Council to ensure that all Members are properly informed of general issues in their Ward, copies of correspondence will normally be sent to all Members for the particular area unless the Member specifically requests that correspondence is not copied to other Members or, there is a political, or other reason, why this is not appropriate. Where correspondence is copied to other Members this will be made clear to the original Member.

15.3 Officer 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 Member. It may be appropriate in certain circumstances for a letter to be signed by a Member, but this should be the exception rather than the norm.

16.0 LEADERS' MEETING

The Leader in consultation with the Chief Executive and Strategy Director will call, as and when necessary, meetings of the Party Group Leaders to discuss matters concerned with the conduct of the Council's business; Member and Officer issues; and matters affecting Members generally. It will have no executive power but will facilitate the efficient running of the Council.

17.0 UNRESOLVED ISSUES AND AMENDMENTS TO THIS PROTOCOL

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- 17.1 If there are any issues of concern which are not dealt with by this protocol, then the relevant Member or Officer may discuss the matter with the Chief Executive and Strategy Director or the Solicitor to the Council and Monitoring Officer with a view to advice being provided. If the issue remains unresolved, then it shall be referred to the Standards Committee for consideration.
- 17.2 Should any Member or Officer wish to suggest an amendment to this protocol then he/she is asked to contact either the Chief Executive and Strategy Director or the Solicitor to the Council and Monitoring Officer.
- 17.3 Any amendment of this protocol will require the approval of the Full Council.