

PART 8 – CODES AND PROTOCOLS
(SECTION 3 – MEMBER/OFFICER RELATIONS)

Part 8 is set out in eight sections as follows:

- SECTION 1** – The Principles behind the Members' Code of Conduct
- SECTION 2** – Members' Code of Conduct
- SECTION 3** – Member/Officer Relations
- SECTION 4** – Preparatory Meetings of the Cabinet
- SECTION 5** – Call-in of Prosecutions
- SECTION 6** – Planning Local Code of Conduct for Members and Officers
- SECTION 7** – Petitions
- SECTION 8** – Protocol on the Filming and Recording of Council Meetings

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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. Some senior officers have specific statutory responsibilities, including the Group Head of Corporate Support as the Chief Financial Officer (Section 151, Local Government Act 1972) and the Group Head of Council Advice 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 Groups/Forums/Joint Area Committees;
- 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.

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- 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 Groups, the Audit and Governance Committee, or any other committee, then their Group Head must also be informed of the invitation and reason for their attendance; and if the officer would prefer their Group Head 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.
- 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 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 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.

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4.3 A Member must promptly declare by letter to both the Chief Executive and their respective Group Leader any family relationship or other close association with an Officer employed by the Council. Similarly, the Officer concerned must promptly declare in writing in their Declaration of Interests Form and by letter to their Director or, in the case of a Director, to the Chief Executive. In the case of the Chief Executive, then to all Group Leaders any family relationship or other close association with a Member of the Council should be notified. The Chief Executive 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 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 Group Head and other appropriate officers as necessary. A report will only be amended where the amendment reflects the

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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 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, Group Head 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
- abrogate Officer responsibility for action taken under Delegated Powers.

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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 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 suggests no action he will inform the Member and relevant Group Leader of this. Concerns raised concerning the Chief Executive 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.
- 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.

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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 Group 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.
- 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 Group 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 Group Head but, in the event of a continuing disagreement as to access, then the matter may be referred to the relevant Director and the Group Head of Council Advice 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 Group 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

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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 Group Head of Council Advice and Monitoring Officer or the Chief Executive.

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 set out in Part 5, Section 3 of this Constitution).

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

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.

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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 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

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 or the Group Head of Council Advice & 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.

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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 or the Group Head of Council Advice & Monitoring Officer.

17.3 Any amendment of this protocol will require the approval of the Full Council.