



Part 5, Section 3: Protocol on Member and Officer Relations

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1. INTRODUCTION

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another, in such a way as to ensure the smooth running of the Council.
- 1.2 Both Members and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give impartial advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council and their meetings.
- 1.3 The relationship has to function without compromising the ultimate responsibilities of Officers to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that Officers can legitimately provide to Members.
- 1.4 Mutual respect between Members 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 Members and Officers.
- 1.5 Given the variety and complexity of relations, this Protocol does not seek to be overly prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. Beyond the stricter issues raised, however, it is hoped that the approach which it adopts to these issues will serve as a guide to dealing with other issues.
- 1.6 This Protocol is, to a large extent, no more than a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the advice is followed, it should also ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.
- 1.7 This Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and they, therefore, demand very high standards of personal conduct.

2. ROLES OF MEMBERS AND OFFICERS

The roles of Members broadly are:

- 2.1 Members express political values and support the policies of the party or group to which they belong (if any).
- 2.2 Members represent their electoral ward and are advocates for the citizens who live in the area.
- 2.3 Members are involved in active partnerships with other organisations as community leaders.
- 2.4 Members contribute to the decisions taken in full Council and in its various bodies on which they serve, as well as joint committees, outside bodies and partnership organisations.
- 2.5 Members help initiate, develop and review policy and strategy.
- 2.6 Members monitor and review policy implementation and service quality.
- 2.7 Members are involved in quasi-judicial work through their membership of regulatory committees.

The roles of Officers broadly are:

- 2.8 Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services.
- 2.9 Providing advice to the Council and its various bodies and to individual Members in respect of the services provided.
- 2.10 Initiating policy proposals.
- 2.11 Implementing agreed policy.
- 2.12 Ensuring that the Council always acts in a lawful manner.

3. GENERAL CONDUCT

- 3.1 In line with the Council's Code of Conduct's reference to "respectful and courteous relationships", it is important that any dealings between Members and Officers should observe reasonable standards of courtesy, and that neither party should seek to take unfair advantage of their position.
- 3.2 Members should not raise matters relating to the conduct or capability of a Council employee or of employees collectively at meetings held in public. This is a long-standing tradition in public service. Employees have no means of responding to criticisms like this in public.

- 3.3 If Members feel they have not been treated with proper respect or courtesy, or have any concern about the conduct or capability of a Council employee, they should raise the matter with the Chief Officer concerned. The Chief Officer will then look into the facts and report back to the Member. If the Member continues to feel concerned they should then report the facts to the Chief Executive who will look into the matter afresh.
- 3.4 Where an Officer feels that he or she has not been properly treated with respect and courtesy, or is concerned about any action or statement relating to them or a colleague by a Member they should raise the matter with their Chief Officer, or the Chief Executive as appropriate. In these circumstances, the Chief Officer, or the Chief Executive will take appropriate action by approaching the individual Member and/ or their group leader.
- 3.5 It is unacceptable for Members or Officers to endeavour to take unfair advantage of their position within the authority. In their dealings with Officers (especially junior Officers), Members need to be aware that it is easy for them to be overawed and feel at a disadvantage. Such feelings may be intensified where Members hold senior official and/or political office. Similarly, an Officer must not seek to use undue influence on an individual Member to make a decision in his or her favour, nor raise personal matters to do with their job, nor make claims or allegations about other Officers. Where the behaviour complained of is regarded by the Head of Paid Service, Chief Executive or Chief Officer concerned or the Monitoring Officer (as appropriate) to be a form of bullying, intimidation or harassment intended to influence unfairly a person's actions, thoughts or deeds, the matter will be the subject of either action under the grievance or disciplinary procedures in respect of Officers, or of a complaint to the Standards Sub Committee in respect of Members.

3.6 Members will	Officers will
<p>a) Not become involved in individual staffing matters except at the request of the Corporate Management Team or as provided in the Constitution.</p> <p>b) Not enter into discussion with any other Members or Officers about any employment decisions or an applicant for employment or day-to-day staffing issues (except when an agreed agenda item is being considered by a Committee or other formal Member group).</p> <p>c) Always make employment decisions on merit.</p>	<p>a) Not lobby any Member about any employment decisions or an applicant for employment or day-to-day staffing issues.</p> <p>b) Not seek Members' involvement in staffing matters except at the request of the Corporate Management Team or as provided in the Constitution, for example staffing policy formation.</p> <p>c) Always make employment decisions on merit.</p> <p>d) Not seek to involve Members in operational issues except at the request of the Corporate Management Team.</p>

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d) Not seek to become involved in operational issues except at the request of the Corporate Management Team.	
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4. ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

Introduction

4.1 The following paragraphs identify arrangements for Members' access information and documents beyond that set out in the Access to Information Rules in Part 4(2) of the Constitution. It is important to note that such access only applies where Members are undertaking Council business. Where a Member has a private or personal interest in a matter, the Member will only be entitled to the same access to documents as would be the case for a private individual. In these circumstances the Member must make it clear to the employee that they are acting on their own behalf, and not acting as a Member.

Access to Information

4.2 Members are free to approach the Service Manager of any Council section to provide them with such information, explanation and advice (about that Section's functions) as they may reasonably need in order to assist them in discharging their role as Members of the Council, or in any particular role to which they have been appointed by the Council. This can range from a request for general information or research about some aspect of a Section's activities to a request for specific information on behalf of a constituent.

4.3 Members will	Officers will
a) Be provided with the direct line work telephone numbers of all Service Managers and more senior Officers.	a) Ensure that Members are able to leave messages for them out of normal working hours.
b) Only approach staff via the Head of Service or Service Manager of the Section concerned.	b) Other than in exceptional circumstances, agree to any requests for a meeting received from the group leaders on behalf of individual Members (having consulted the Chief Executive).
c) Exercise their right to contact Officers during the working hours of the Council between Monday and Friday.	
d) In cases of doubt, contact the Chief Executive or the Monitoring Officer.	

Access to Council Documents

- 4.4 The legal rights of Members to inspect Council documents are covered partly by statute and partly by the common law.

Statute:

- 4.5 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 or Cabinet meeting. This right applies irrespective of whether the Member is a Member of the meeting concerned, and extends not only to reports which are to be submitted to that meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items, including background papers, which may appear on the private agenda for meetings. Therefore, Members do not have a statutory right to inspect all exempt information e.g. that relating to employees, occupiers of Council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from Counsel and criminal investigations. However, Rule 20.5 of Part 4, Section 2, Access to Information Procedure Rules, enables Members to inspect (and to request a copy of all or part of) advice received from Counsel or other external legal adviser, or received from any other external professional adviser, which is under the control of the Cabinet and relates to an executive decision taken at a private meeting or by an Officer. Inspection and the provision of copies are to take place under such conditions as may be required by the Monitoring Officer, e.g. in a particular room, under supervision, after signing an undertaking to observe confidentiality. The same right applies to any such advice held by the Council, not under the control of the Cabinet, in relation to any business which is to be transacted at a Council meeting, or a meeting of a Committee of which the Member is a member, where the advice is not provided to Members as part of a report. Such advice which relates to the business of a Committee of which the Member is not a member shall be open to inspection on the same basis as provided in Rule 20.5 of Part 4, Section 2.

Common Law:

- 4.6 The common law right of Members is much broader, and is based on a presumption in favour of any Member being able to inspect Council documents so far as their access to the documents is reasonably necessary to enable the Member properly to perform their duties as a Member of the Council. This principle is commonly referred to as the “need to know” principle.
- 4.7 The exercise of this common law right depends, therefore, upon the Member’s ability to demonstrate that they have the necessary “need to know”. In this respect a Member has no right to “a roving commission” to 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 particular Head of Service whose Section holds the document in question (with advice from the Chief Executive or Monitoring Officer). In the event of dispute, the question falls to be determined by the relevant meeting, i.e. the meeting in connection with whose functions the document is held.

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4.8 In some circumstances (e.g. a Member wishing to inspect documents relating to the business of a meeting of which they are a Member), a Member’s “need to know” will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties), a Member will normally be expected to justify the request in specific terms. Furthermore, there will be a range of documents which, because of their nature, are either not accessible by Members or are accessible only by the political group forming the administration and not by the other political groups. An example of this latter category would be draft document compiled in the context of emerging Council policies and draft committee reports, the premature disclosure of which might be against the Council’s and the public interest.

4.9 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.

4.10 Members will	Officers will
<ul style="list-style-type: none"> a) Only seek information that they have a need to know to perform their duties. b) Not knowingly seek information which is not publicly available and which they do not have a need to know to perform their duties, in which they are professionally interested, in which they have a prejudicial interest. 	<ul style="list-style-type: none"> a) Respond promptly to requests for information. b) Refer a request for information which is not publicly available and in which it would seem that Member may have an interest to their Head of Service or a Deputy Chief Executive for them to take appropriate action in consultation with the Monitoring Officer. c) Refer a decision to refuse a Member access to requested information to the Monitoring Officer at the member’s request (or to the Chief Executive if the refusal was by the Monitoring Officer) for decision.

4.11 Officers have to advise Members from time to time that a certain course of action cannot be carried out. Members sometimes assume that this is a case of Officers deliberately obstructing the wishes of politicians. In fact, Officers are employed to give unbiased professional advice even if it is not what Members wish to hear. They do this as much for the protection of Members as for any other reason. However, if an Officer has to give negative advice, it should be accompanied by suggestions as to how Members might achieve some or all of their objectives in other ways.

4.12 Members may be entitled under the Freedom of Information Act 2000 (FOI) to receive information which falls outside their common law rights based on the “need to know”. Officers are encouraged to supply documents to Members without the need for a formal FOI request if it is apparent from the Member’s

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enquiry that any individual would be entitled to receive such documentation. The Service Manager – Corporate Services will be able to advise, in consultation, if necessary, with the Monitoring Officer, on whether any request would fall within FOI.

5. CONFIDENTIALITY

- 5.1 Any Council information provided to a Member, orally, in writing or via a copy document, must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member’s duties as a Member of the Council. Confidential information provided to Members should not be discussed with, or released to, any other persons, except in the limited cases accorded by the provisions of the Members’ Code of Conduct. Part 4(2) of the Constitution sets out the circumstances in which confidential or exempt information may become disclosable to the public.
- 5.2 Officers should make it clear to Members if they are giving them confidential information. If a Member is not sure whether information is confidential, he or she should ask the relevant Officer, but treat the information as confidential in the meantime.
- 5.3 If a Member receives confidential information and considers it should be disclosed to another person because it is reasonable and in the public interest to do so, then he or she must first consult the Monitoring Officer and shall not disclose the information without having regard to any advice given by that Officer.

5.4 Members will	Officers will
<p>a) Comply with requests by Officers that information they provide should remain confidential subject only to it being information which should be made available under a statutory obligation on the Council, under the Council’s Constitution or by the lawful decision of the Cabinet, a Committee or sub-Committee.</p> <p>b) Ensure that as much information as possible shall be available to the public through the proper channels.</p>	<p>a) Comply with requests by Members that information they provide must remain confidential subject only to it being information which should be made available under a statutory obligation on the Council, under the Council’s Constitution or by the lawful decision of the Cabinet, a Committee or sub-Committee.</p> <p>b) Not communicate Member correspondence relating to political or sensitive matters to other Members without the original Member’s consent.</p> <p>c) Ensure that as much information as possible shall be available to the public through the proper channels.</p>

6. ACCESS TO PREMISES

6.1 Members will	Officers will
<p>When making visits as individual Members:</p> <ul style="list-style-type: none"> a) Whenever practicable, notify and make advance arrangements with the appropriate manager or Officer in charge. b) Comply with health and safety, security and other workplace rules. c) Not disrupt the services or activities being provided at the time of the visit. 	<ul style="list-style-type: none"> a) Endeavour to accommodate visits by Members, subject to the exigencies of the service. b) Advise Members making such visits of any relevant health and safety, security and other workplace rules as appropriate.

7. CORRESPONDENCE

- 7.1 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.
- 7.2 In some cases, issues are raised by, or with, individual Members relating to a matter of general interest in a District Council Ward or individual Parish or Town. 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/Parish or Town, 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.
- 7.3 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 Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to be signed by a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

8. PUBLIC RELATIONS AND PRESS RELEASES

- 8.1 The Council’s Public Relations facility serves the Council as a whole, and must operate within the limits of the Local Government Act 1986 which prohibits the

Council from publishing material which appears to be designed to affect public support for a political party. In general, Members provide comments and views while Officers provide factual information.

8.2 Council press releases are drafted by Officers, and will often contain quotations from the Leader and/or a Cabinet Member, the Chairman and Vice-Chairman of the committee or sub-committee whose service is involved, and from the Chairman and Vice Chairman of the Council about ceremonial events. Such press releases are issued on behalf of the District Council and it would not, therefore, be appropriate when repeating quotations from Members to indicate their party political affiliation.

8.3 In carrying out their role as Members, however, the Council will attempt to advise and assist Members in responding to the press or media.

8.4 Members will	Officers will
<ul style="list-style-type: none"> a) Comply with the Code of Recommended Practice on Local Authority Publicity. b) Not disclose confidential or exempt information to the media. c) Not request assistance from Officers in facilitating any media contact which is intended or likely to criticise the Council, its partners or its policies. d) When taking part in a ceremonial event, not seek disproportionate personal publicity, or use the occasions for party political advantage bearing in mind that the Member is representing the Council as a whole. 	<ul style="list-style-type: none"> a) Assist Members in explaining proposals and policies to journalists, but not in promoting individual Members, their political views or criticising the Council, its partners or its policies. b) Promptly pass media requests for interviews and contributions on to Members and make arrangements to bring these about. c) Not divulge to other Members any media contact made or planned by a Member without their consent, unless such disclosure is essential to the interview or event. d) Make available for inspection by Members all media releases which are issued on behalf of the Council.

9. OFFICER AND CHAIRMAN / CABINET MEMBER RELATIONSHIPS

9.1 It is clearly important that there should be a close working relationship between the Leader, other Cabinet Members or the Chairmen of a Council committee and the Chief Executive and other senior Officers of any Section which deals with their meetings. Such relationships, however, should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal with other Members and other party groups.

9.2 Whilst the person presiding over a meeting, as well as the Cabinet Members holding a portfolio for relevant matters and group spokespersons as appropriate, will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations

the Chief Executive or Head of Service will be under a duty to submit a report on a particular matter. Similarly, the Chief Executive or other senior Officer will always be fully responsible for the contents of any report submitted.

- 9.3 This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. Any issues arising between a Chairman or Cabinet Member and the Report Author in this area should be referred to the Chief Executive for resolution, in conjunction with the Leader of the Cabinet, group leaders or Chairman of the Council as appropriate.
- 9.4 At the established Chairman's briefing before any meeting, all Members, and particularly other Members of that meeting, may attend, subject to prior notice to that Chairman.
- 9.5 At meetings held for Officers to brief or consult Cabinet Members on matters considered to be within an Cabinet Member's Portfolio of areas of the Cabinet's work, or to brief or consult Committee or Panel Chairmen or other Members on interim matters, no other Members may be present, unless specifically invited by the Officers or Members concerned.
- 9.6 Members and Officers should be very conscious of their continuing obligations under their respective Codes of Conduct at these informal briefings or meetings, and should assist others in meeting these obligations wherever possible.
- 9.7 In relation to action between meetings, it is important to remember that the law (in respect of non-Executive functions) and the Constitution (in respect of Executive functions) only allows for decisions relating to the discharge of functions to be taken by a meeting of the Cabinet, the Council or a committee of the Cabinet or Council or an Officer. No decision can be taken by a Chairman, or indeed by any other single Member.
- 9.8 At some meetings, a resolution may be passed which authorises named Officers to take action between meetings in consultation with the Chairman or other named Members. It must be recognised that it is the Officer, rather than that Member, who takes the action, and it is the Officer who is accountable for it.
- 9.9 It must be remembered that Officers within a Section are accountable to the Chief Executive, and that whilst Officers should always seek to assist a Chairman (or indeed any Member) they must not in so doing go beyond the bounds of whatever authority they have been given by the Chief Executive. Members should not put staff in a position where there would be conflict between themselves and their Manager and/or the Chief Executive.

9.10 Members will	Officers will
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<p>a) Have a high regard for:</p> <ul style="list-style-type: none"> (i) The rights of Officers to have a personal and family life; (ii) The need to comply with the Working Time Regulations; (iii) Honouring and respecting the published timetable of meetings, briefings and consultative events agreed at the commencement of the municipal year. <p>b) Have regard to the need for Officers to research and prepare reports in exercising their right to direct that any item of business (within the terms of reference of that meeting) as they may specify is included on the agenda for that meeting.</p>	<p>a) Have a high regard for:</p> <ul style="list-style-type: none"> (i) The rights of Members to have a personal and family life; (ii) The demands placed on Members who are in full-time employment; (iii) The need to comply with the Working Time Regulations; (iv) Honouring and respecting the published timetable of meetings, briefings and consultative events agreed at the commencement of the municipal year. <p>b) Be entitled to make whatever recommendation in a report that they may decide in the exercise of their professional judgement.</p>
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10. INVOLVEMENT OF WARD COUNCILLORS

10.1 Whenever the Council undertakes any form of consultative exercise on a local issue, the relevant Ward Members should be informed or involved, as appropriate, through the operation of the Sensitive Issues Procedure. Similarly, whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting.

11. OFFICER ADVICE TO PARTY GROUPS

11.1 It must be recognised by all Officers and Members that, in discharging their duties and responsibilities, Officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual Member of the Council.

11.2 There is now statutory recognition for party groups, and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to brief such deliberations by party groups, but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.

11.3 The support provided by Officers can take many forms, ranging from a briefing meeting with a Chairman or Spokesperson prior to a meeting to a presentation at a full party group meeting. Certain points must, however, be clearly

understood by all those participating in this type of process, Members and Officers alike. In particular:

- Request for Officers to attend any party group meeting must be made through the Chief Executive. The Chief Executive will advise the Head of Paid Service of any requests made.
- Officer support must not extend beyond briefing matters, i.e. providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings or part of meetings when matters of party business are to be discussed.
- Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Such meetings do not therefore rank as meetings of a decision-making body. Conclusions reached are not Council decisions in any way, and it is essential that they are not interpreted or acted upon as such.
- Any request for advice, together with the advice given to a political group or Member will be treated with strict confidentiality by the Officers concerned, and will not be accessible to any other political group. It is acknowledged, however, that factual information upon which any advice is based will, if requested, be available to all political groups.
- It must not be assumed by any political group or Member that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.
- Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.
- Where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant meeting when the matter in question is considered.
- Unless otherwise agreed in advance with the Chief Executive, Officers will not attend party group meetings which include persons who are not Members of the Council. However, where attendance in these circumstances has been agreed by the Chief Executive (as an exception), special care needs to be exercised by Officers involved in providing information and advice to such party group meetings. Persons who are not Councillors will not be bound by the Council's Code of Conduct (in particular, the 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 Members-only meeting.

11.4 Usually the only Officers involved in attending party group meetings will be the Chief Executive and Heads of Service and generally they will leave the meeting after making their presentation and answering questions.

11.5 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups must be raised with the Chief Executive, who will then discuss them with the relevant group leader(s).

11.6 Members will	Officers will
<p>a) Direct requests for Officer attendance at group or other political meetings to the Chief Executive or in his/her absence a Deputy Chief Executive at whose absolute discretion attendance rests.</p> <p>b) Not discuss party political business in the presence of Officers.</p> <p>c) Not ask Officers to attend group meetings where there are persons present at the meeting who are neither Members nor Officers.</p>	<p>a) Inform the leaders of the other political groups of any such attendance and the subject matter involved.</p> <p>b) Not divulge confidential or exempt information at political group meetings where there are persons present at the meeting who are neither Members nor Officers.</p> <p>c) Provide all groups with copies of information provided to any one group which is likely to be cited in support of a particular option or decision at a meeting of the Council, the Cabinet or a committee.</p>

12. POLITICAL ACTIVITY

12.1 There are a number of constraints that apply to an Officer who occupies a post that is designated as “politically restricted” under the terms of the Local Government and Housing Act 1989.

12.2 In summary, such Officers are prevented from:

- being a Member of Parliament, European Parliament, Scottish Parliament, National Assembly for Wales or local authority, or the Police and Crime Commissioner for any area covered by the Officer’s local authority;
- acting as an election agent or sub-agent for a candidate for election as a member of any of those bodies;
- being an officer of a political party or any branch of a political party or a member of any committee or sub-committee of such a party or branch, if the duties would be likely to require the Officer to:-

(a) participate in the general management of the party or branch; or

(b) act on behalf of the party or branch in dealings with persons other than members of the party;

- canvassing on behalf of a political party or a candidate for election to any of those bodies;
- speaking to the public with the apparent intent of affecting public support for a political party; and
- publishing any written or artistic work of which the Officer is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection, if the work appears to be intended to affect public support for a political party.

13. CLOSE MEMBER AND OFFICER RELATIONSHIPS

13.1 The Council recognises that there may be close social or personal relationships between Members and Officers, which commenced before or after a Member was elected to the Council, or before or after a person became employed by the Council. In a large organisation this may be inevitable. In these circumstances, however, the Member should disclose this relationship to their Group Leader and the Head of Paid Service (who will inform the Monitoring Officer), and the Officer to the Chief Executive. The Head of Paid Service will arrange for such relationship to be entered as declarations in the Registers of Member and Officer Interests respectively. In order to maintain the integrity of the individuals concerned, and the Council, such relationships should never be hidden. To do so can lead to suspicion and mistrust. The Group Leaders and Chief Executive will endeavour to ensure that neither the Member nor the Officer is placed in a position where such a relationship will be seen to conflict with the remaining provisions of this Protocol.

14. SUPPORTING FRONT-LINE MEMBERS

Casework

14.1 Members will	Officers will
a) Raise casework issues with: <ul style="list-style-type: none"> • An appropriate Head of Service, or • Such other member of staff as may be arranged with a Head of Service, or • A designated member of staff within Customer Services b) Ask for, or provide, information on a particular case, seek clarification on the application of the Council's policies or procedures but:	a) Respond promptly to enquiries by providing a reply within 5 working days of the receipt of the request, or, if a full response is not possible, provide an interim reply explaining why a full response is not possible with an estimate of when the full reply will be made. b) Treat enquiries from Members in which they have a personal interest no more, or less, favourably than they would an enquiry from any other local person, and provide them with the same

<ul style="list-style-type: none"> • Will balance the interests of their constituents with the interests of other local people in a fair and objective way • Not raise issues in which they have a personal interest except by correspondence only (making sure that they clearly state both the existence and nature of their personal interest) • Not do anything which could be interpreted as a direction to, or pressure on, a member of staff in relation to an issue but to raise any concerns with the Chief Executive. <p>c) Use any support services provided, including stationery, <u>e-mails</u>, printing and photocopying, for Council business only, and not in connection with party political or campaigning activity or for private purposes.</p>	<p>information that a member of the public would receive.</p> <p>c) Report to a senior manager any contact from a Member that does not comply with the protocol.</p>
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15. SUPPORTING OVERVIEW AND SCRUTINY

Scrutiny

15.1 Members will	Officers will
<p>a) Conduct their scrutiny role through the appropriate committee on decisions taken or proposed and their merits.</p> <p>b) Not raise the conduct or capability of an Officer at meetings or in any public forum.</p> <p>c) Conduct overview and scrutiny meetings in accordance with the overview and scrutiny procedure rules in Part 4, Section 5 of the Constitution.</p> <p>d) Exercise their individual rights to place items on the agenda with due</p>	<p>a) Ensure that overview and scrutiny committees have access to appropriate internal resources within the overall resources of the Council.</p> <p>b) Be no less accountable to overview and scrutiny committees as to the Cabinet and provide the overview and scrutiny committees with uninhibited objective professional support to assist them in their work for the benefit of local people.</p> <p>c) Be open in responding to the enquiries of overview and scrutiny committees and never seek to obstruct their work.</p>

<p>regard to the overall work programme of the committees and the capacity of Officers to provide the support needed.</p> <p>e) Treat admissions of failure or mistakes made by Officers as an opportunity to improve the service provided for local people.</p> <p>f) Welcome the opportunity to congratulate Officers on a job well done, bearing in mind the potential positive impact on staff morale and Member / Officer relations.</p> <p>g) Not ask Officers to explain the actions of Members.</p> <p>h) Be open about failures or mistakes for which they have responsibility and be supportive of others, be they Members or Officers, who may have made an error.</p>	<p>d) Explain and justify the advice they have given to decision-takers, but not criticise decision-takers in committees or public forums where lawful decisions have been taken which do not follow that advice.</p> <p>e) Be open about failures or mistakes for which they have responsibility and be supportive of others, be they Members or Officers, who may have made an error.</p> <p>f) Not ask Members to explain the advice given by Officers.</p>
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Policy Development

15.2 Members will	Officers will
<p>a) Conduct their policy development role through the appropriate body with due regard to the overall work programme of the body and the capacity of Officers and partner organisations to provide the support needed.</p>	<p>a) Provide advice, expertise and their professional judgement to support policy development proposals whether these have been initiated by the Cabinet or by overview and scrutiny committees or by partnership structures, and according to any protocols within the Council's current policy framework.</p>

16. SUPPORTING THE CABINET AND DECISION-MAKING BODIES

Taking decisions

16.1 Members will	Officers will
<p>a) Always consider the advice and recommendations submitted to them by Officers.</p> <p>b) Where possible, seek clarification on the content or recommendations contained in a report from Officers</p>	<p>a) Regardless of their personal or political views, Officers will provide decision-takers with professional advice within their areas of expertise on how best the Council can achieve its objectives. Officers will diligently seek to implement decisions taken. Officers at all times will</p>

<p>prior to discussions in formal meetings.</p> <p>c) Recognise that Officers are not always able to defend themselves in meetings and other public forums and therefore make any negative observations privately to the Chief Executive or Head of Service wherever possible. If in exceptional circumstances that proves impossible, they will ensure that any criticism of reports or actions is never personal.</p> <p>d) Never seek to pressurise an Officer to make a recommendation that is against their professional judgement.</p> <p>e) Always give reasons for their decisions, particularly on those occasions when they do not accept the recommendation of Officers.</p>	<p>strive to act fairly, in good faith and in an impartial way to achieve the objectives set by the Council.</p> <p>b) Be entitled to request that the minutes of a meeting record their advice on any matter where Members have decided not to follow that advice.</p>
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Members appointed to outside bodies

16.2 Members will	Officers will
<p>a) Report back to the appropriate Council body on the activities of the outside body where such information would assist the Council's service to local people and not breach any requirement of confidentiality or duty owed by the Member to the outside body.</p>	<p>a) Provide reasonable assistance to support Members in their membership of outside bodies to which they have been appointed by the Council, subject to the availability of designated resources.</p> <p>b) On request, provide information about the body prior to appointment and a named contact for briefing purposes.</p>

17. PLANNING (DEVELOPMENT MANAGEMENT) – PROTOCOL FOR OFFICER/MEMBER RELATIONSHIPS

Planning Stage	Ward Member	Portfolio Holder	Planning Committee Member	Officers
General	Can request notification under Sensitive issues	Provision of information through Chief Executive, Director Planning and Regeneration or Development Control Manager	Sensitive issue route available	Respond to requests for Sensitive issues notification
		Should not use portfolio holder status as such to influence other members of Planning Committee or officers making Development Control decisions / recommendations. Normal Sensitive issue procedures exist		
Pre Planning Committee	Member can be included in pre-application discussions. Generally for larger or more contentious planning applications either at the discretion of Planning Officer, with applicant's agreement, or by request of Ward member with applicant's agreement.	Portfolio holder and any member of the Cabinet may be a member of the Planning Committee but may not Chair that Committee	Right to request a site visit for Planning Committee applications. Representatives from Planning Committee may attend Planning briefing (i.e. Chairman and one representative from each group only).	

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	<p>Ward Members are also entitled to see a draft copy of the officer's Committee report on request as it appears in the papers for the Planning Committee briefing meeting. This is on a confidential basis.</p>			
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	<p>Scheme of Delegation- All Members can require that a delegated application is brought to Planning committee for determination (within 28 days of weekly list publication). Sound planning reasons for a 'call in' must be provided and will be recorded.</p> <p>Ward member has right to call for and to attend a site visit for Planning Committee applications. Sound planning reasons for a site visit must be provided and will be recorded.</p>			
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	Ward member has right to access and discuss planning report content, recommendations and reasons and to see Heads of Terms of legal agreement etc.- but not to influence the content of these items.			
Planning Committee	<p>Right to make written and oral representations to Planning Committee outlining the reasons they consider the application should be approved or refused, conditions amended etc.</p> <p>Entitled to represent the views of external group when exercising this right.</p>		<p>Planning Committee members have the right to fetter their discretion and relinquish their right to vote in order to act solely as Ward Member (see left), but must declare that intention at the meeting, no later than at the commencement of the item.</p>	

Appeal	Ward member right to see appeal documentation in			Officers prepare all Appeal documentation (Rule 6 statement, Statement of
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	<p>draft form but cannot seek to influence the content.</p> <p>Ward member prohibited from divulging the content of any documentation to third parties, including pressure groups, before it goes public.</p>			<p>Common Ground, proofs of evidence etc.) under delegation in line with the Council / Planning Committee decision / delegated decision.</p>
	<p>Ward member can attend and make submissions to a Public Inquiry / Hearing and make written submissions in respect of written representations appeals.</p> <p>Ward member can align his/her views to any lobby group to which they are linked.</p> <p>If appearing as a Council representative (see right in particular) their position has to align itself <u>totally</u> to the Council's formal position i.e. the reasons for refusal as established by the decision maker (usually the Council's Planning Committee).</p>		<p>Planning Committee members can appear at a Public Inquiry / Hearing.</p> <p>If appearing as a Council representative (see right in particular) their position has to align itself <u>totally</u> to the Council's formal position i.e. the reasons for refusal as established by the decision maker (usually the Council's Planning Committee).</p>	<p>Officers will take a proactive role in providing support and training according to the needs and level of Member input.</p> <p>This is particularly significant in the case of a Public Inquiry into an appeal against a decision made contrary to Officers' recommendation, when it is likely that Officers will not be able to act as witnesses to defend the decision because they would be in breach of their professional code of conduct. Officers may appoint an external consultant to carry out this role.</p>

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Planning Policy Review		The portfolio holder can discuss the Council/Planning Policy implications of Development Control activity and use the Portfolio position to advise and collaborate on the review of Planning Policy through the Constitutional arrangements already in place for review of planning policy.		
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18. BRIEFING OF PORTFOLIO HOLDERS, WARD MEMBERS AND SHADOW PORTFOLIO HOLDERS

18.1 General

Portfolio holders will be briefed on issues where:

- 1) there are considerable budgetary implications
- 2) the reputation of the Council is an issue
- 3) there is likely to be press interest however small
- 4) the issue is likely to be the subject of a future report to Cabinet or Scrutiny
- 5) the issue is receiving a significant number of complaints
- 6) it impacts on the Council's performance indicators
- 7) it affects the Council's priorities
- 8) it is an issue raised in the portfolio plan
- 9) it is a proposed change to service provision
- 10) the Council is taking action in the courts
- 11) the outcome of an audit report is known;/the terms of reference/scope of the audit
- 12) the issue is particularly sensitive (e.g. :
 - i) there is conflict between tiers of Government,
 - ii) there are a number of objections,
 - iii) the size/nature of the proposal requires an Environmental Impact Assessment (EIA)

Shadow Portfolio Holders will be briefed on the above issues, but usually in anticipation of a forthcoming report to the Council, Cabinet, Scrutiny or Committee.

Ward Members will be briefed where the Council consults local residents within their Ward on issues which do not affect the residents of the District as a whole.

However this entitlement to briefing could be restricted if the Member has an interest in the issue under consideration within the scope of the Members' Code of Conduct.

18.2 Portfolio Holders /Ward Members/Shadow Portfolio Holders interests

The Members' Code of Conduct is set out in Part 5(1) of the Constitution. The following is a summary of the elements relating to Members' interests, but anyone wishing to consider a particular circumstance should refer to the Code of Conduct or consult the Monitoring Officer.

There are three categories of interest: Disclosable Pecuniary Interests; Personal Interests; and Personal Interests which might lead to bias.

Disclosable Pecuniary Interests are defined by Statutory Instrument. In summary, they relate to employment or vocation, sponsorship, contracts with the Council, beneficial interests in land in the district, licences to occupy land,

corporate tenancies and securities held in businesses which have premises in the district. Members must disclose such interests of theirs and, to the extent that the Member is aware of them, those of their spouse, civil partner or person with whom they live as spouse or civil partner.

When attending a meeting where they have a Disclosable Pecuniary Interest in any matter being considered, a Member must disclose the existence and usually the nature of the interest to the meeting. Unless a dispensation has been given, the Member may not participate in any discussion of the matter or in any vote taken on the matter, and they will leave the room for the duration of the matter. However, the Member may remain for the sole purposes of making representations, answering questions or giving evidence relating to the matter, provided that the public are allowed to attend the meeting for the same purposes. The Member will then leave the room immediately after doing those things. Propriety and other obligations within the Code make it inappropriate for the Member to be involved in briefing on the business.

Personal Interests arise from the Member's membership of, or position of general control or management in, a body to which the Council has appointed or nominated them, or any other body with public, charitable or public opinion-influencing functions. They arise also where the Member has received gifts or hospitality with a value of £50 or more within the last year, or where a decision might affect the wellbeing or financial position of the Member, a member of their family (parents, children, siblings, aunts, uncles or grandparents) or a close associate, an employer of such persons, a firm or company of which such persons are a partner or director, or a body in which such persons have a significant shareholding.

When attending a meeting where a matter being considered relates to, or is likely to affect, a Personal Interest of which a Member is aware, or ought reasonably to be aware, the Member must disclose the existence and usually the nature of the interest to the meeting. The Member may speak and vote on the matter unless to do so would compromise obligations of impartiality or other obligations within the Code of Conduct.

Personal Interests which might lead to bias are those which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that they would be likely to prejudice the Member's judgment of the public interest. This will not arise normally simply from the Member's service on more than one local authority.

When attending a meeting where a matter being considered relates to, or is likely to affect, a Personal Interest which might lead to bias, a Member must disclose the existence and usually the nature of the interest to the meeting. Unless a dispensation has been given, the Member may not participate in any discussion of the matter or in any vote taken on the matter, and they will leave the room for the duration of the matter. However, the Member may remain for the sole purposes of making representations, answering questions or giving evidence relating to the matter, provided that the public are allowed to attend

the meeting for the same purposes. The Member will then leave the room immediately after doing those things.

There are five types of matter where a Member who has disclosed a Personal Interest which might lead to bias may remain in the meeting, speak and vote. The types of matter are set out in paragraph 4.15 of the Code of Conduct. They include setting Council Tax and allowances given to Members.

Examples of interests which might affect a Cabinet Member's decision making:-

The establishment of a Council building/asset in close proximity to a close friend of the Member.

A tender bid by the Member's daughter's partner for a Council contract

Enforcement /Court action against a former business partner of the Member.

A close friend of the Member is employed in the business of a contract under discussion and over which the Member has influence.

Whether a Member has an interest in any particular matter is ultimately a matter for each individual Member.

Further Options where the Portfolio Holder is conflicted and therefore precluded from fulfilling their portfolio holder role.

1) The Leader to be briefed instead (where the Leader of the Cabinet is conflicted, the Deputy Leader to be briefed) or

Another Portfolio Holder to take responsibility for the issue for the entirety of its consideration.

2) Where another Portfolio Holder/Leader is briefed the conflicted Portfolio Holder should be made aware that others are being briefed and where and when they can get publicly available information if appropriate.

3) The conflicted Portfolio Holder is entitled to information that a member of the public would receive but not information which would confer personal advantage.

All Members are entitled to briefing and the protocol for these briefings is set out in the Political Conventions document which is referred to in paragraph 18.3.

18.3 Entitlement to Briefing

The Council has in place a number of political conventions that operate within the ethical governance framework. The entitlement to briefing is one such convention and is set out in detail below. The convention covers briefing of Members, other than when the Council is briefed as a whole.

	Convention	Members	Officers
18.3.1	Members are entitled to be briefed in accordance with their need to know, taking account of any particular role they have. There are the same restrictions as for information. Members with a particular role may expect to be briefed about relevant matters without having to make a request.	Members should declare any relevant interest when requesting or receiving a briefing. If dissatisfied with a refusal to brief, a member of CMT should be approached. If still dissatisfied, the Monitoring Officer may be asked to determine entitlement.	Officers should be clear about the capacity in which the Member is being briefed and the implications of any interest. In cases of doubt, the Monitoring Officer may be consulted. The Officer should always make it clear if a briefing is not based on unified advice, (i.e. is still subject to consultation with other Officers). Otherwise, the Member is entitled to assume unified advice is being given.
18.3.2	A Party Group meeting may be briefed, provided: The Chief Executive knows of and approves the briefing;		
18.3.3	The content of briefings is confidential to the Members concerned. Confidentiality extends to the questions asked by the Members.		
18.3.4	Cabinet Members, individually and collectively are entitled to regular confidential briefing on matters relevant to their portfolios.	The relevant Cabinet Member or the Cabinet collectively determines whether confidential briefing material may be released to others for consultation or otherwise. When the stage of formal	A briefing to help a Member respond to a question at Council may be in the form of suggested reply. It should be confined to factual and professional matters and to explanations of existing

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Convention		Members	Officers
		proposals is reached, supporting Officer advice becomes publishable in conjunction with the proposals.	policy, leaving the Member to add any political comment.
18.3.5	Members must respect the confidentiality of information supplied in briefing and must use it only for the purposes for which they would have been entitled to receive it (for example, information supplied as Cabinet Member or Scrutiny Chair may not be used to pursue a special Ward interest, if it would not have been supplied to the Ward Member).		