MEMBER - OFFICER PROTOCOL

Introduction and Principles

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 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. Its objectives are

- To promote trust, openness, fairness and honesty by establishing some ground rules
- To define roles so as to clarify responsibilities (i.e. who does what), avoid conflict and prevent duplication or omission
- To secure compliance with the law, codes of conduct and the Council's own practices
- To lay down procedures for dealing with concerns by members or officers.

Although the protocol offers guidance on some of the issues which most commonly arise, it forms part of the Council's Constitution and as such must be followed by Members and Officers. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances. Except as specifically set out in this Protocol, questions of interpretation will be determined by the Monitoring Officer unless the particular provision requiring interpretation relates to a matter to be determined by the Chief Executive.

1.3 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.

1.4 It also seeks to reflect the principles underlying the Code of Conduct which applies to Members. These are:

- Selflessness – serving only the public interest
- Honesty and integrity – not allowing these to be questioned
- Not behaving improperly
- Objectivity – taking decisions on merit
- Accountability – to the public; being open to scrutiny
- Openness – giving reasons for decisions
- Personal judgement – reaching one's own conclusions and acting accordingly
- Respect for others – promoting equality; avoiding discrimination; respecting others (member/member as well as member/officer)
- Duty to uphold the law – not acting unlawfully
- Stewardship – ensuring the prudent use of the Council's resources

- Leadership – acting in a way which has public confidence

These principles underpin this protocol. Officers are bound by the Council's own code of conduct for staff and, in some cases, by their professional associations. The purpose of this code is to enhance and maintain the integrity (real and perceived) of local government and the Code, therefore, demands very high standards of personal conduct.

1.5 This Protocol should be read in conjunction with the Members' Code of Local Government Conduct, the Council's Constitution and any guidance issued by the Audit, Governance and Standards and/or Monitoring Officer. The protocol has been approved by the Council's Standards Committee (now the Audit, Standards & Governance Committee), which will monitor its operation and which is responsible for reviewing the practical application of the Protocol, and making suggestions for its improvement and development. Breaches of the protocol by a member may result in a complaint to the Standards Board for England if it appears the Members' Code of Conduct has also been breached. Breaches by an officer may lead to disciplinary action.

The Role of Members

2.1 Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.

2.2 Collectively, Members are the ultimate policy-makers determining the core values and priorities of the Council and approving the authority's policy framework, strategic plans and budget.

2.3 Members represent the community, act as community leaders, and promote the social, economic and environmental well-being of the community, often in partnership with other agencies.

2.4 Every elected Member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local outside bodies.

2.5 Some Members have roles relating to their position as members of the Executive, overview and scrutiny committees, or other committees of the Council.

2.6 Members of the Executive may have individual delegated powers, but will often work closely with officers in relevant departments in preparing policies and decisions which are subsequently approved by the Executive. Although Executive members may, to a significant extent, determine matters within their portfolios, the implementation of their decisions is the responsibility of officers.

2.7 Members serving on overview and scrutiny committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor service provision by other bodies insofar as it affects the District, e.g. local health service provision.

2.8 Members who serve on other committees and sub-committees collectively have delegated responsibilities, e.g. deciding planning applications, licensing applications and other quasi-judicial matters, which by law are excluded from the remit of the Executive.

2.9 Some Members may be appointed to represent the Council on local, regional or national bodies. Guidance for Members on their participation with external bodies is contained within the protocol "Guidance for Members on Outside Bodies".

2.10 As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as members they have a duty always to act in the public interest.

2.11 Members are not authorised to instruct officers other than in the circumstances set out below, and should take care to ensure that their conduct is not open to misinterpretation in this regard. Instructions may legitimately be given:-

- Through the formal decision-making process;
- To request the provision of consumable resources provided by the Council for members' use
- Where an Executive Member is indicating to a Senior Officer the way in which policies and decisions might be prepared, but any such instruction given must not compromise an officer's professional judgement and must not be inconsistent with the Council's established policies and procedures
- Where staff have been specifically allocated to give support to a member or group of members; and
- In the case of political assistants

2.12 Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.

2.13 Members must avoid taking actions which are 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 or the Chief Financial Officer.

2.14 Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice.

The Role of Officers

3.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.

3.2 Under the direction and control of the Council (including, as appropriate, the Executive and committees), officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.

3.3 Officers have a duty to implement decisions of the Council, the Executive and committees which are lawful and which have been properly approved in accordance with the requirements of the law and the Council's constitution, and duly minuted.

3.4 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.

3.5 Officers must assist and advise all parts of the Council. They serve the Council as a whole. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.

3.6 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.

3.7 Officers have the right not to support Members in any role other than that of member, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on senior officers' involvement in political activities.

The Relationship: General Points

4.1 Both Councillors and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, the Executive, their committees**,** and subcommittees.

4.2 At the heart of the Code, and this Protocol is the importance of mutual respect, confidence, and trust. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

4.3 A key element in the relationship is a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately. Informal and collaborative two-way contact between Members and officers is encouraged, but personal familiarity can damage the relationship, as might a family or

business connection. Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles. Inappropriate relationships can be inferred from language/style. When attending formal meetings, officers and Members should use formal forms of address to each other – e.g. Members should be addressed as “Councillor XX” or “Chairman”, while Officers should generally be addressed as “Mr. XX” or “Mrs. XX”. A greater level of informality may be appropriate in other circumstances, e.g. a one to one between a Head of Service and their respective Cabinet Member but it is safer to err on the side of formality.

4.4 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. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, an officer should not sit on a body or participate in any decision which directly affects the officer on a personal basis. Members are bound by the Code of Conduct which contains a similar restriction.

4.5 A Member should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with the objectives of this Protocol. This is a long-standing tradition in public service because an Officer has no means of responding to such criticisms in public. If a Member feels he/she has not been treated with proper respect or, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, he/she should raise the matter with the respective senior officer. The senior officer will then look into the facts and report back to the Member. If the Member continues to feel concern, then he/she should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.

4.6 An Officer shall not discuss with a Member personal matters affecting himself/herself or matters relating to the conduct or capability of another Officer or to the internal management of a Section/Division. This does not prevent an officer raising on a personal basis, and in his/her own time, a matter with his/her ward member.

4.7 Where an Officer feels that s/he has not been properly treated with respect and courtesy by a Member, he/she should raise the matter with his/her senior officer or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the senior officer or Chief Executive will take appropriate action either by approaching the individual Member and/or group leader or by referring the matter to the Monitoring Officer in the context of the Council's Code of Conduct.

4.8 With the exception of political assistants, officers work to the instructions of their senior officers, not individual Members. It follows that whilst such officers will always seek to assist a Member, they must not be asked to exceed the

bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, Members should normally direct their requests and concerns to a senior officer, at least in the first instance.

4.9 Officers will do their best to give timely responses to Members' enquiries. However, officers should not have unreasonable requests placed on them. Their work priorities are set and managed by senior managers. Members should avoid disrupting officers' work by imposing their own priorities. Members will endeavour to give timely responses to enquiries from officers.

4.10 Members and officers should respect each other's free (i.e. non-Council) time.

4.11 Members seeking advice, information, or support from officers should as a normal rule make contact firstly with the Head of Service for the department in question, and although the Head of Service may refer the matter to another officer care should be taken to ensure that the other officer is supported in whatever manner may be required. In the event that officers receive direct contact from Members and are uncertain how to respond, they should immediately seek advice from their own Manager or Head of Paid Service. It is acceptable for a custom-and-practice arrangement to develop whereby Members approach other officers direct, but all parties should take care to ensure that the Member, the Officer, and the Head of Service are content with the arrangement.

The Relationship: Officer Support to Members: General Points

5.1 Certain statutory officers – the Chief Executive, the Monitoring Officer and the Chief Financial Officer – have specific roles and these are addressed in the Constitution. Their roles need to be understood and respected by all Members.

5.2 The following key principles reflect the way in which the Council's staffing body generally relates to Members:

- all officers are employed by and accountable to the authority as a whole;
- support from officers is needed for all the authority's functions including Full Council, Overview and Scrutiny, the Executive, individual Members representing their constituents etc;
- the authority will seek to avoid potential conflicts of interest for officers arising from the separation of the Executive and Overview and Scrutiny role; and
- all officers will be provided with training and development to help them support the various Member roles effectively and to understand the Council's structures.

5.3 On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Member or Members. It must be recognised that it is the Officer, rather than the Member or Members, who takes the action and it is the Officer who is accountable for it.

The Relationship: The Council as Employer

6.1 Officers are employed by the Council as a whole

6.2 Members' roles in employment matters are limited to

- The appointment of specified posts as defined in the Council's Officer Employment Procedure Rules and Scheme of Delegation
- Approving human resources policies and conditions of employment; and
- Hearing and determining appeals

Members should not act outside these roles.

6.3 If participating in the appointment of officers, members should

- Remember that the sole criterion is merit (other than in the case of political assistants, where political considerations may apply)
- Never canvass support for a particular candidate
- Not take part where one of the candidates is a close friend or relative
- Not be influenced by personal preferences, and
- Not favour a candidate by giving him/her information which is not available to other candidates

6.4 A member should not sit on an appeal hearing if the appellant is a friend, a relative or an officer with whom the Member has had a working relationship.

The Relationship: Officer Support to Members and Party Groups

7.1 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 any political group, combination of groups, or any individual Member of the Council.

7.2 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 support and contribute to 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.

7.3 The support provided by Officers can take many forms. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.

7.4. Certain points, must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

- Officer support must not extend beyond 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 present at meetings or parts 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. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
- similarly, 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 when the matter in question is formally considered by the relevant part of the Council.

7.5 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not 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 must not attend and/or give advice to such meetings and Members should not ask officers to do so.

7.6 Officers must respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, should not relay the content of any such discussion to another party group or to any other members. This must not prevent an officer providing feedback to other senior officers on a need-to-know basis.

7.7 Members must not do anything which compromises or is likely to compromise an officer's impartiality. The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.

7.8 An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each. An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting. No Member will refer in public or at meetings of the Council to advice or information given by officers to a party group meeting.

7.9 An officer who is not a senior officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on his/her behalf. It is recommended that a Group wishing to invite any officer to address it must seek the approval of the relevant Corporate Director before approaching the officer.

7.10 In relation to budget proposals:

- the Executive Cabinet shall be entitled to confidential discussions with Officers regarding options and proposals. These will remain confidential until

determined by the Executive Cabinet or until published in advance of Committee/Council meetings, whichever is the earlier; and

- the opposition groups shall also be entitled to confidential discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee/Council meetings, whichever is the earlier.

7.11 It must not be assumed by any party group or Member that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of the policy or strategy.

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

The Relationship: Officer Support: The Executive

8.1 It is clearly important that there should be a close working relationship between Executive Members and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups.

8.2 Executive Members will take collective decisions in accordance with the constitution and will not otherwise direct staff except in such circumstances as may be permitted by the Scheme of Delegations. Senior officers will be responsible for instructing staff to implement the Executive's decisions.

8.3 In addition to individual members of the Executive, senior officers have the right to submit papers to the Executive as a whole or to individual Executive members for consideration. Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an officer will be under a professional duty to submit a report. Similarly, a senior officer will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between an Executive Member and a senior officer in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

8.4 Senior officers and Executive members shall agree mutually convenient methods of regular contact. Before taking any formal decisions, the Executive will seek appropriate professional advice including that of the Monitoring Officer and Chief Financial Officer, and will not direct officers in the framing of recommendations.

8.5 Before any formal decisions with a financial implication are taken by the Executive, the Chief Financial Officer and the senior officer(s) for the service(s) concerned must be consulted. This is to ensure that those officers who are budget holders:

- are aware of the proposed decision
- have had the opportunity to offer advice, and
- are subsequently able properly to authorise the financial transactions needed to implement decisions.

8.6 An individual Executive member who is minded to write or commission a report about a matter within his/her portfolio must ensure that those other members and officers who need to know of the matter are so informed. There is a particular requirement to involve other Executive members on cross-cutting issues.

8.7 When making decisions, Executive members must state the reasons for those decisions. The written record of the decisions must include the reasons.

8.8 Where functions which are the responsibility of the Executive are delegated to Officers or other structures outside the Executive, the Executive will nevertheless remain accountable to the Council, through Overview and Scrutiny Committees, for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out. Officers taking decisions under delegated powers must consider the advisability of informing the relevant Executive member(s) of their intentions in advance when the matter to which the decisions relate is likely to be sensitive or contentious, or has wider policy implications.

8.9 Officers will continue to work for and serve the local authority as a whole. Nevertheless, as the majority of functions will be the responsibility of the Executive, it is likely that in practice many Officers will be working to the Executive for most of their time. The Executive must respect the political neutrality of the Officers. Officers must ensure that, even when they are predominantly supporting the Executive, their political neutrality is not compromised.

8.10 In organising support for the Executive, there is a potential for tension between senior officers and Cabinet Members with portfolios. All Members and Officers need to be constantly aware of the possibility of such tensions arising and Officers and Members need to work together to avoid such tensions and conflicts existing or being perceived.

The Relationship: Officer Support: Overview and Scrutiny

9.1 Chairmen and other leading overview and scrutiny members shall maintain regular contact with the officer(s) providing the principal support to the overview and scrutiny function. In consultation with chairmen, it shall be the responsibility of those officers to ensure that those who need to know of matters being considered or for possible future consideration are so informed.

9.2 An overview and scrutiny committee or its chairman acting on its behalf may require officers to attend overview and scrutiny meetings. Regard must be had to the provisions of the Council's Overview and Scrutiny Procedure Rules in respect of the periods of notice which must be given about such attendance. Members should not normally expect junior officers to give evidence. All requests should be made to senior officers in the first instance.

9.3 It is recognised that officers required to appear before an overview and scrutiny committee may often be those who have advised the Executive or another part of the Council on the matter under investigation. In these circumstances, the officer may have a conflict of interest. Both members and officers need to consider the severity of the conflict. If deemed appropriate, research and advice may be sought from external sources.

9.4 Subject to 9.3 above, officers should be prepared to justify advice given to the Council, the Executive, or other committees, even when the advice was not accepted. Officers must also be prepared to justify decisions they have taken under delegated powers.

9.5 In giving evidence, officers must not be asked to give political views.

9.6 Officers should respect Members in the way in which they respond to Members' questions.

9.7 Members should not ask questions of officers or other witnesses in a way which could be interpreted as harassment. Neither should they ask about matters of a disciplinary nature. It is not overview and scrutiny's role to act as a disciplinary tribunal in relation to the actions of Members or officers. Neither is it the role of officers to become involved in what would amount to disciplinary investigations on a Panel's behalf. This is the Chief Executive's function alone in relation to staff, the Monitoring Officer's and the Audit, Governance and Standards as regards the conduct of Members. This means:

- Whilst overview and scrutiny may seek to establish the facts about what occurred in the making of decisions or implementing of Council policies, their questioning should not be directed to the conduct of individuals in such a way that there is the implication of allocating criticism or blame;
- In these circumstances, it is for the Chief Executive to institute a formal enquiry, and overview and scrutiny may ask (but not require) him/her to do so.

9.8 Overview and scrutiny proceedings must not be used to question the capability or competence of officers. Chairmen and Members need to make a distinction

between reviewing the policies and performance of the Council and its services, and appraising the personal performance of staff. The latter is not an overview and scrutiny function.

9.9 Overview and scrutiny should not act as a 'court of appeal' against decisions or to pursue complaints by individuals (Councillors, Officers, or members of the public) as other procedures exist for this. Some of these are internal, e.g. the Corporate Complaints Procedure, and others are external/statutory, e.g. Commissioner for Local Administration or appeal to the Courts. That said,

- Overview and scrutiny may investigate the manner in which decisions are made
- They can comment on the merits of a particular policy affecting individuals.

9.10 It would be unfair to invite someone to appear before a Panel without telling them in general terms what they will be asked, or not giving them adequate time to prepare. Overview and scrutiny Members ought to provide written questions ('Indicative Topics') beforehand, so that the answers can form the basis of the questioning and discussion. In addition, speakers ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Panel had previously indicated.

The Relationship: Officer Support: Regulatory Committees

10.1 The appropriate senior officers will offer to arrange regular informal meetings with chairmen, vice-chairmen**,** and spokesmen of regulatory committees and sub-committees.

10.2 Senior officers have the right to present reports and give advice to regulatory committees.

10.3 Members of a regulatory committee or sub-committee shall take decisions within the remit of that committee or sub-committee, and will not otherwise instruct officers to act.

10.4 At some regulatory committee or sub-committee meetings, a resolution may be passed 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 legal power to take decisions on behalf of a committee or sub-committee, neither should he/she apply inappropriate pressure on the officer.

Local Members and Officers

11.1 To enable them to carry out their ward role effectively, Members need to be fully informed about matters affecting their ward. Senior officers must ensure that all relevant staff are aware of the requirement to keep local Members informed, thus allowing Members to contribute to the decision-making process and develop their representative role.

11.2 This requirement is particularly important:

- During the formative stages of policy development, where practicable
- In relation to significant or sensitive operational matters
- Whenever any form of public consultation exercise is undertaken, and
- During an overview and scrutiny investigation

Issues may affect a single ward but where they have a wider impact, officers should ensure that all relevant Ward Members are informed.

11.3 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the wards affected should be invited to attend the meeting as a matter of course.

11.4 If a local Member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he/she should inform the relevant officer. Provided that the meeting has not been arranged on a party political basis:

- An officer may attend and
- The meeting may be held in Council-owned premises

No such meetings should be arranged or held in the immediate run-up to Council elections (i.e. from the date on which Notice of Election is issued).

11.5 Whilst support for Members' ward 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.

11.6 Officers must never be asked to attend ward or constituency political party meetings.

11.7 It is acknowledged that some Council staff (e.g. those providing dedicated support to Executive members) may receive and handle messages for Members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.

11.8 In seeking to deal with constituents' queries or concerns, Members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested timescale, and may need to seek instructions from their managers.

Members' Access to Information and to Council Documents

12.1 This part of the protocol should be read in conjunction with the Access to Information Rules in the Council's constitution. Regard should also be had to the provisions of the Freedom of Information Act, and the rights of Members described in this section of the protocol are supplementary to their rights as members of the public under that Act.

12.2 Members have the ability to ask for such information explanation and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:

- It is in the public domain, and
- the Data Protection Act does not prevent disclosure

12.3 Every member of the Executive, an overview and scrutiny committee, and/or any other committee or sub-committee, has a right to inspect documents about the business of that overview and scrutiny committee, other committee or sub-committee or the Executive. In relation to business of the Executive, by virtue of Regulation 17 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000:

- where there is a meeting (e.g. Cabinet) and there is a document which is in the possession/under the control of the Executive relating to the business to be conducted at that meeting, that document shall be available for inspection;
- there are exceptions for exempt and confidential material and any document that contains advice provided by a political advisor or assistant.

12.4 A Member who is not a member of a specific overview and scrutiny committee, other committee or sub-committee, or the Executive may have access to any document of that specific part of the Council provided:

- He/she can demonstrate a reasonable need to see the documents in order to carry out his/her role as a member (the "need to know" principle), and
- The documents do not contain "confidential" or "exempt" information as defined by law.

12.5 The exercise of the "need to know" principle depends upon an individual Member being able to demonstrate that he/she has the necessary 'need to know'. In this respect a Member has no right to 'a roving commission' to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the 'need to know'. This question must initially be determined by the particular senior officer whose Division holds the document in question (with advice from the Head of Legal & Democratic Services). In the event of dispute, the question falls to be determined by the Head of Paid Service

12.6 A member should obtain advice from the Monitoring Officer and/or Head of Legal & Democratic Services in circumstances where he/she wishes to have access to documents or information:

- Where to do so is likely to be in breach of the Data Protection Act, or
- Where the subject matter is one in which he/she has a disclosable pecuniary or other disclosable interest as defined in the Members' Code of Conduct.

12.7 Any Council information given to a Member must only be used by the Member for the purpose for which it was requested, i.e. in connection with the proper performance

12.8 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.

12.9 Members and officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so. When requested to do so, officers will keep confidential from other Members advice requested by a Member.

12.10 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Head of Legal & Democratic Services.

Media Relations

13.1 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Authority, explaining its objectives and policies to the electors and rate-payers. In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good effective publicity aimed to improve public awareness of a Council's activities is, in the words of the Government, to be welcomed.

13.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code is issued under the provisions of the Local Government Act 1986 as amended by the Local Government Act 1988 which provides for the Secretary

of State to issue Codes of Recommended Practice as regards the content, style, distribution and cost of local authority publicity, and such other matters as he/she thinks appropriate. That section requires that all local authorities shall have regard to the provisions of any such Code in coming to any decision on publicity. The following is extracted from the Code:-

> *"The period between the notice of election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a member level response to an important event outside the authority's control. Proactive events arranged in this period should not involve members likely to be standing for election."*

13.3 All formal relations with the media therefore must be conducted in accordance with the Council's agreed procedures, with the law on local authority publicity, and with the Government's Code of Recommended Practice on Local Authority Publicity.

13.4 Press releases or statements made by officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They must not be used to promote a party group.

13.5 Officers will keep relevant Members informed of media interest in the Council's activities, especially regarding strategic or contentious matters. Likewise officers will inform the Council's Press Officer of issues likely to be of media interest, since that unit is often the media's first point of contact.

13.6 If any Member is contacted by, or contacts the media, on an issue, he/she should

- Indicate in what capacity he/she is speaking (e.g. as Portfolio Holder, as Ward Member, on behalf of the Council, or on behalf of a party group)
- If necessary (and always when he/she would like a press release to be issued), seek assistance from the Council's Press Officer and/or relevant senior officer, except in relation to a statement which is party political in nature, in which case the statement should not be issued under the Council's name
- Consider the likely consequences for the Council of his/her statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions or pre-determining a decision)
- Never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter

- Consider whether to consult other relevant Members
- Take particular care in what he/she says in the run up to local or national elections (i.e. from the date on which Notice of Election is issued) to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or as a political party activist

Correspondence

14.1 Correspondence between an individual Member and an Officer 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 copies' should not be employed.

14.2 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain limited circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Cabinet Member or the Leader, but this should be the exception rather than the norm. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member, Executive or otherwise. The Chairman of the Council may initiate correspondence in his/her own name.

14.3 When writing in an individual capacity as a ward Member, a Member must make clear that fact.

Access to Premises

15.1 Officers have the right to enter Council land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.

15.2 Members have a right of access to Council land and premises to fulfil their duties. When making visits as individual Members, Members should

- Except in the case of visiting The Council House, and wherever practicable, notify and make advance arrangements with the appropriate manager or officer in charge;
- Comply with health and safety, security and other workplace rules;
- Not interfere with the services or activities being provided at the time of the visit.

Use of Council Resources

16.1 The Council provides all Members with services such as IT,, printing and photocopying, and goods such as stationery and computer equipment, to assist them in discharging their roles as Members of the Council. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.

16.2 Members should ensure that they understand and comply with the Council's own rules about the use of such resources, particularly

- Where facilities are provided in Members' homes at the Council's expense
- In relation to locally-agreed arrangements, e.g. payment for private photocopying; and
- Regarding ICT security

16.3 Members should not put pressure on staff to provide resources or support which officers are not permitted to give. Examples include:

- Business which is solely to do with a political party
- Work in connection with a ward or constituency party political meeting
- Electioneering
- Work associated with an event attended by a Member in a capacity other than as a member of the Council
- Work in connection with another body or organisation where a Member's involvement is other than as a Member of the Council
- Support to a Member in his her capacity as a councillor of another authority

Interpretation, complaints and allegations of breaches

17.1 This part of the protocol should be read in conjunction with the Council's Confidential Reporting Code.

17.2 Members or officers with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Monitoring Officer.

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

- Avoid personal attacks on or abuse of the officer at all times
- Ensure that any criticism is well-founded and constructive
- Never make a criticism in public, and
- Take up the concern with the officer privately.

17.4 If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the Member should raise the issue with the officer's manager or the relevant senior officer.

17.5 A serious breach of this protocol by an officer may lead to an investigation under the Council's disciplinary procedure. Members may not themselves undertake investigations under the Council's disciplinary procedure and such investigations must be undertaken solely by the Head of Paid Service or other officer acting under his/her direction.

17.6 An officer who believes a Member may have acted other than in accordance with this protocol or the Members` Code of Conduct should raise his/her concerns with the Monitoring Officer, who will consider how the complaint or

allegation should be handled. At a minor level, this may be no more than informally referring the matter to the leader of the relevant party group, but more serious complaints may be referred to the Standards Board for England.

Member Enquiries

18.1 Officers will respond to enquiries received from Members in accordance with the 'Best Practice for Handling Member Enquiries', attached at Appendix 1 to this part of the constitution.

Conclusion

19.1 Mutual understanding, openness on these sort of sensitive issues, and basic respect for each other are the greatest safeguard of the integrity of the Council, its Members and Officers.

19.2 This Protocol was first adopted by the Council as part of the Constitution on 5th July 2005 and revised in September 2006 and again in January 2014.

19.3 Copies of the Protocol are available on the Council's website as part of the Constitution.