

# Standards Committee

16 September 2010

## Member Officer Working Arrangements



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### Purpose of the Report

- 1 The purpose of this report is to make recommendations to clarify and improve Member/officer working arrangements.

### Summary

- 2 The Leader of the Council has requested a review of officer/Member working relationships now that the new Council has been operational for a year, all senior officer posts have been filled and to take account of feedback received from Members through Member seminars and other forums.
- 3 A brief review is presented of the existing Member officer protocol and other supporting information within the Council's Constitution; good practice from other authorities and the IDeA.
- 4 The main issues raised by Members are identified and recommendations are made to address these in the light of good practice elsewhere. An action plan is presented to ensure that the recommendations, once adopted, are implemented. Much of the work required to complete the action plan is already underway.

### Recommendations

- 5 It is recommended that Members:
  - note the existing Member officer protocol and improvements made to date;
  - provide more specific guidance on key areas of Member officer working relationships by adopting the guidance produced as appendices to this report which were developed through research into good practice elsewhere that could be adapted to suit this Council's needs;
  - agree the areas for improvement listed in the report that have been identified through listening to issues raised by Members;
  - agree the action plan designed to address the areas for improvement identified and note progress to date.

## Background

- 6 The creation of the new unitary council brought many 'firsts' for Member officer working arrangements including a new constitution, new Cabinet and a new management structure with many new managers. The pace of business as evidenced by both the volume and content of the Cabinet, Scrutiny and Council agendas is faster than in any of the predecessor authorities. The existence of a majority administration is new for one part of the County, whilst there are others where the presence of a sizable opposition is similarly new. It is also clear, as expected, that there is considerable press and media interest in the region's largest authority.
- 7 The Council's Constitution contains the following core content in this area:
- Protocol on Member/officer relations<sup>1</sup> which sets out guidance for Members and officers in addressing the most common issues which arise in local government relations. This is reproduced as **Appendix A**;
  - Local Member consultative charter<sup>2</sup> which sets out minimum standards for the consultation of Members, clearly stating that it is the responsibility of corporate directors to identify the issues on which Members must be consulted and to ensure that this consultation takes place. This is reproduced as **Appendix B**.
- 8 It is not the intention of this report to replace this core content but rather to build on this guidance, providing further clarity and seeking to address issues raised by Members throughout the first year of operation.

## Review

- 9 The IDeA has published a guide to effective Members officer relationships<sup>3</sup> which starts from clarifying expectations on both sides. These are reproduced in the next two paragraphs.
- 10 What Members can expect from officers:
- Commitment to the authority as a whole and not to an individual political group;
  - A working partnership;
  - A timely response to enquiries and complaints;
  - Professional advice not influenced by political views or preference;
  - Integrity, mutual support and appropriate confidentiality.
- 11 What officers can expect from Members:
- Political leadership and direction;
  - A working partnership;

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<sup>1</sup> [http://www.durham.gov.uk/PDFApproved/ConstitutionPt5\\_ProtocolonMemberOfficerRelations.pdf](http://www.durham.gov.uk/PDFApproved/ConstitutionPt5_ProtocolonMemberOfficerRelations.pdf)

<sup>2</sup> [http://www.durham.gov.uk/PDFApproved/ConstitutionPt5\\_ConsultativeCharter.pdf](http://www.durham.gov.uk/PDFApproved/ConstitutionPt5_ConsultativeCharter.pdf)

<sup>3</sup> [http://www.durham.gov.uk/PDFApproved/ConstitutionPt5\\_ProtocolonMemberOfficerRelations.pdf](http://www.durham.gov.uk/PDFApproved/ConstitutionPt5_ProtocolonMemberOfficerRelations.pdf)

- Compliance with ethical standards and probity requirements;
  - Non involvement in day to day management;
  - No special considerations.
- 12 The guide goes on to stress the importance of interpersonal skills and recognising that *“Mutual respect and good communication is the key to establishing good member/officer relationships. Close personal familiarity should be avoided. It is important to get this right and there are some simple things that can make it easier to establish relationships that work.”*
- 13 It is established practice for local authorities to capture the principles of effective Member officer relations in a protocol contained within the constitution. Research has shown that these vary considerably in length with some, like Durham’s, very short and focusing on setting out a guidance framework and others more detailed and practically focussed. Analysis of those authorities showing maximum ratings for governing the business (part of the CAA Use of Resources assessment) showed similar wide variation in the content of the Member/officer protocols.
- 14 The conclusion to be drawn from the review was that more information could usefully be provided in the following areas:
- The relationship between officers and Members depending on the role played by each. For example some authorities spell out the expected level of service from officers to be expected by the Chairman/Vice Chairman; Leader/Deputy Leader; Cabinet Members; scrutiny chairs/vice chairs; chairs of committees; opposition spokespersons; and ward Members. There are also examples from other authorities that spell out the particular expectations for Members and officers who occupy senior roles. Further guidance in this subject area has been provided as **Appendix C**.
  - Requests for officers to attend political groups and clarifying that agreements reached by political groups are not decisions of the Council. Further guidance is provided at **Appendix D**.
  - Clarity on press and PR covering how Members are quoted in Council statements. Further guidance is provided at **Appendix E**.
  - Access to information including the development and publication of the statutory Forward Plan; agendas and reports; background reports and the ‘need to know’ principle. Further guidance is provided at **Appendix F**.
- 15 Simple, short ‘key issues’ summaries have been developed for each type of guidance. The action plan attached at **Appendix G** contains an action to brief Members on this guidance.

### **Listening to Members**

- 16 The main issues identified through Member seminars and from other feedback on effective Member/officer relationships are:

- How Members find out information about what the Council is doing. In particular Members report examples of where they find key information from the press and/or constituents before they are briefed by officers;
- When Members have specific issues, questions or complaints which they want to raise on their constituents behalf, it is not always clear whom to contact. Some Members are concerned that 126 councillors are or will resort to contacting members of CMT with inevitable bottlenecks developing.
- Press and communications: specifically requests to raise Members' profile in council publications and press releases and personalisation of publicity relating to AAPs at the expense of the wider partnership board and the denigration of the Council's role in funding local action.
- Diary and meeting management including changes to meetings at short notice and the volume of Members' seminars.
- Miscellaneous issues relating to ICT provision and support.

17 Taking each of these topics in turn, it is clear that the following improvements have been made in recent months:

- How Members get information:
  - i. Press releases, when issued by the Media Relations team, are circulated to relevant Members by e-mail. A small group of Members have requested to receive all press releases issued. In addition, hardcopies of press releases are circulated to the Members' Resource Centre, as well as the four respective political party rooms.
  - ii. The Forward Plan is now much better populated with information on key decisions to be taken over the statutory four month period. This is a considerable improvement over the transitional period and the first half of 09/10 when only the current or next meeting was reasonably accurate;
  - iii. The Cabinet have developed a draft agenda schedule looking a year ahead and which has formed the basis of the improvements to the Forward Plan recognised by the OSMB;
  - iv. Members' Support has been developed to assist Members with questions and complaints. Any questions or complaints made to Members' Support are currently recorded in paper files and there are 126 files, one for each Member. The officer asks for information from the relevant service and sometimes will arrange for a meeting between the officer and the Member. Legal and Democratic Services are aiming to develop an electronic case work system. It was initially hoped that this could be accommodated by CRM, but it does not currently have ties with all departments. The Members' Support office has identified contact points within each service.
  - v. The Members' Resource Centre acts as a library for Members who can request information for example general information including Acts of Parliament and guidance notes, and the library officer will arrange for them to be provided. Cabinet also has a Policy Officer to carry out research for Cabinet.

- vi. A huge increase in the numbers of Member seminars organised which reflects the volume of business being decided by Cabinet and the involvement of Members at the early stages of strategy development;
  - vii. Increased use of emails to keep all Members involved in issues of interest to local people e.g. daily updates on winter maintenance.
  - viii. During LGR, Members received regular newsletters, however since Vesting Day the number of newsletters issued has been small with the main examples being on specific issues such as swine flu. The Member Development Group has recently developed a Members' Update newsletter with the first issue sent earlier this month. There are clear opportunities for this update to feature updates from the work presented in this report.
- How Members can raise issues, complaints etc.:
    - i. The complaints system has been reviewed and improved using enhanced Customer Relationship Management software. This has speeded up the handling of complaints, compliments and requests for service for most Council services though it has not yet been linked to handling issues received by Members. Since 1<sup>st</sup> April 2010 the CRM has 62 service related requests recorded which were raised by Members, whilst the complaints system has a further 36 entries relating purely to complaints. In practice many of the Members' requests are raised with officers and auctioned directly by them or through Members' Services as outlined above;
    - ii. On Vesting Day Members were given an information pack with information on who to contact should they need to raise issues or clarify something. This was then followed up by a booklet spelling out the first 4 tiers of managers and included contact details. This has been updated to include new appointments to all of these levels, with the latest version available on the Council's Website under the 'Council and Democracy' section. Currently, it is planned to update the information every six months. Hard copies will be provided for inclusion within the new Members' diaries.
    - iii. Members can also access contact details on the staff directory available through the intranet. Until recently, there were issues over the quality of the data which were extremely frustrating for users. This has now been replaced by 'ResourceLink' data. This should improve data quality, although it is likely some areas will still be out of date as staff information has not yet been transferred into a single system.
    - iv. Increasingly Members' Seminars are presented by Heads of Service and other senior officers exposing them to Members and enabling Members to learn who is responsible for what area;
    - v. Improved responsiveness of Heads of Service and CMT to Members' contacts.
  - Press and Communications:
    - i. Durham County News is now produced ten times per year;
    - ii. Press releases are now produced for Cabinet reports when the agenda is published i.e. much earlier than previously;
    - iii. Communications strategies are produced for major projects;

- iv. The volume of press releases has increased considerably over the year with increased percentages of positive external press. During the period April 2009 to June 2009 there were 1,085 press articles about County Council with the percentage of negative articles totalling 9%. During the last quarter (October-December) of 2009, a total of 2,093 articles appeared in the local and national press with the percentage of negative articles falling to 7%.
  - v. A nominated officer from the Media Relations team is assigned to each service grouping and to the AAPs to improve the throughput of press releases.
- Diary and Meeting Management:
    - i. All Members receive copies of a diary containing all meetings for the municipal year;
    - ii. A copy of the weekly schedule of meetings is available through Members Services and it is suggested that these are emailed weekly to all Members.
- Miscellaneous ICT issues:
    - i. Members receive dedicated ICT support. Each Member is provided with a laptop, printer and mobile phone or smartphone depending upon need. Training has been provided in classroom style events. A team of three operations staff are available to support Members with ICT. Technical support is available both in County Hall and through the main centres across the County.
    - ii. By issuing Members with new equipment to a standard specification since Vesting Day this has allowed the quality of the equipment available to be improved, although this has not suited every Member and is currently under review.
- 18 Notwithstanding the improvements described above, there are areas for development in each of the topics that would benefit Members:
- How Members get information:
    - i. Review and clarify how Members are briefed and/or receive information in line with their roles and in particular clarify and strengthen the consultation arrangements with ward Members. The new guidance provided in Appendices C-G is a good starting point for this.
    - ii. A forward work programme (looking a year ahead) is co-ordinated by the Head of Policy and Communications to align with the Cabinet schedule and avoiding excessive demands on Members' time;
    - iii. As outlined above, a monthly newsletter for Members is now circulated by e-mail This has been developed by the Members Development Group. The newsletter's content will be made relevant to Members, with different service groupings contributing Member-specific information. A limited number of hard copies will be printed. The Members' Development Group, which was recently re-launched, is a cross-party Member grouping with relevant Officers / functions

- represented such as Member Support Services, Scrutiny, Internal Communications, and Democratic Services.
- iv. Ensure that Members' seminars continue to include the content of staff roadshows so that Members are aware of key messages from CMT;
  - v. Encourage better use of opposition briefings in line with example content in Appendix C.
  - vi. Review the potential for increased use of emails to keep all Members involved in issues of interest to local people e.g. daily updates on winter maintenance.
- How Members can raise issues, complaints etc.:
    - i. Clarify and raise awareness of the expected turnaround times for responses to Members' issues.
    - ii. Publish revised officer structures, clarifying the main contacts for Members for specific functions – paper copies and on-line.
    - iii. Review how Members can use Customer Services and how response times and response quality is monitored.
    - iv. Ensure that the contacts database on the intranet is up-to-date and complete;
    - v. Promote detailed services that each Member can expect according to his/her role in line with the new guidance contained in Appendix C.
  - Press and Communications:
    - i. Promote detailed understanding of the Council's legal responsibilities regarding press and communications as set out in Appendix E;
    - ii. Ensure that Members, AAP co-ordinators and the Media Relations team understand and act in accordance with the fact that the Council provides the majority of resources to AAPs.
  - Diary and Meeting Management:
    - i. Ensure that the meetings schedule is proactively co-ordinated by Democratic Services to prevent clashes and reduce the number of changes to dates and/or venues of meetings;
    - ii. Review the content of the Members' diary to ensure that it reflects good practice e.g. on containing appropriate contact details etc.
  - Miscellaneous ICT issues:
    - i. In order to review the current needs of Members in respect of ICT, a Members' ICT review group has been set up which is looking at Members' needs and solutions to meet these. They are looking to design a range of services which is able to meet the differing needs amongst Members as the current 'one size fits all' approach is clearly not the right solution.
    - ii. The service level received by Members is not currently captured so work is in hand to develop an approach to measuring the service received. Calls from Members received by the service help desk are now being recorded separately to aid this work.

- iii. It is also proposed to review the Members protocol on ICT to ensure Members can maximise the use of the technology they have available to them.

### **Action Plan**

- 19 An action plan consisting of all of the actions identified above is presented as Appendix G.

### **Conclusion**

- 20 Much progress has been made on building effective Member officer working arrangements in the first year of the new authority. However, the Council is not complacent in this area and has already identified areas for improvement and an action plan to ensure that we continue to improve. Strong and increasingly mature relationships in this area are extremely important for the continued progress of the authority.

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## **Appendix 1: Implications**

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### **Finance**

All identified improvements are possible within existing resources.

### **Staffing**

The Council's structures were designed to enhance support to communications, Members' services and build support for AAPs. No additional staffing resources are necessary to achieve the recommendations of the report. However it will be necessary to brief staff on the changes here according to the roles they play.

### **Equality and Diversity**

No changes are proposed by this report.

### **Accommodation**

None

### **Crime and disorder**

None

### **Sustainability**

None

### **Human rights**

None

### **Localities and Rurality**

None

### **Young people**

None

### **Consultation**

This report summarises the issues raised by Members at Members' seminars and informally. Further consultation with Members is proposed following consideration by the Standards Committee.

### **Health**

None

## **Appendix A: DCC Protocol on Member/Officer Relations**

### **Protocol on Member/Officer Relations**

#### **1. INTRODUCTION**

- 1.1 The purpose of this Protocol is to guide Members and Employees of the County Council in their relations with one another.
- 1.2 Given the variety and complexity of such relations, the Protocol does not seek to be prescriptive and it may not cover all situations. However, it does seek to provide guidance on some of the issues that most commonly arise. The approach to these issues will serve as a guide to dealing with other issues.
- 1.3 The Protocol is a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.
- 1.4 It also seeks to reflect the principles underlying the respective rules of conduct that apply to Members and Employees. Its purpose, therefore, is to enhance and maintain the integrity (real and perceived) of local government by demanding very high standards of personal conduct.
- 1.5 Members and Employees are servants of the public and they depend on each other in carrying out the work of the Authority. Members are responsible to the electorate and serve only so long as their term of office lasts, while Employees are responsible to the Council. Their job is to give advice to the Council, as well as to individual Members, and to carry out the Council's work under the direction and control of the Council and its various Bodies
- 1.6 Mutual respect between Members and Employees is essential to good local government. However, close personal familiarity between individual Members and Employees can damage this relationship and prove embarrassing to other Members and Employees.
- 1.7 The relationship has to function without compromising the ultimate responsibilities of Employees to the County Council as a whole, and with due regard to such technical, financial, professional and legal advice that Employees can legitimately provide to Members. The Protocol seeks to set a framework that assists the working relationships between Members and Employees.

#### **2. ROLES OF MEMBERS**

- 2.1 Members undertake many different roles. Broadly these are:
  - Members express political values and support the policies of the party or group to which they belong (if any)
  - Members represent their electoral division and are advocates for the citizens who live in the area
  - Members are involved in active partnerships with other organisations as community leaders

- 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
- Members help develop and review policy and strategy
- Members monitor and review policy implementation and service quality
- Members are involved in quasi-judicial work through their membership of regulatory committees

### 3. ROLES OF EMPLOYEES

3.1 Briefly, Employees have the following main roles:

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

### 4. RESPECT AND COURTESY

4.1 For the effective conduct of County Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Employees. This plays a very important part in the County Council's reputation and how it is seen in public. It is very important that both Members and Employees remember their respective obligations to enhance the County Council's reputation and to do what they can to avoid criticism of other Members, or other Employees, in public places.

#### **Undue Pressure**

- 4.2 It is important in any dealings between Members and Employees that neither should seek to take unfair advantage of their position.
- 4.3 In their dealings with Employees (especially junior Employees) Members need to be aware that it is easy for them to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold senior official and/or political office.
- 4.4 A Member should not apply undue pressure on an Employee either to do anything that he is not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of County Council property and services.
- 4.5 Similarly, an Employee must neither seek to use undue influence on an individual Member to make a decision in his favour, nor raise personal matters to do with their job, nor make claims or allegations about other Employees. *(The County Council has formal procedures for consultation, grievance and discipline, and Employees have the right to report possible wrongdoing under the Council's Confidential Reporting Code).*

## **Familiarity**

- 4.6 Close personal familiarity between individual Members and Employees can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.
- 4.7 Such familiarity could also cause embarrassment to other Members and/or other Employees and even give rise to suspicions of favouritism.
- 4.8 For the above reasons close personal familiarity must be avoided.

## **Breach of Protocol**

- 4.9 If a Member considers that he has not been treated with proper respect or courtesy he may raise the issue with the Employee's line manager. If direct discussion with the manager does not resolve the complaint it should be referred to the Head of Service or Corporate Director responsible for the employee concerned. Breach of the Protocol may give rise to disciplinary proceedings against an Employee if the circumstances warrant it.
- 4.10 If an employee considers that a Member has contravened the protocol he should consult his line manager who will if necessary involve the Head of Service or Corporate Director. In certain circumstances breach of the Protocol may also constitute a breach of the Members' Code of Conduct. If the breach is sufficiently serious this may warrant a formal reference to the Monitoring Officer as a complaint to be considered for potential investigation by the Standards Committee. Many complaints will be capable of informal resolution without the need for involvement of the Standards Committee. The Monitoring Officer or the Chief Executive will assist in this process if necessary.

## **5. PROVISION OF ADVICE AND INFORMATION TO MEMBERS**

- 5.1 Members are free to approach Employees of the Council to provide them with such information 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.
- 5.2 Employees should always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any appreciable delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed i.e. either a full response or, if this is not possible, an acknowledgement that fully explains what is happening within 5 working days of the receipt of the enquiry.
- 5.3 The legal rights of Members to inspect County Council documents are covered partly by statute and partly by common law.
- 5.4 The Access to Information Rules of the Constitution explain the position with regard to access to papers relating to the business of a Council body.

- 5.5 The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a Member has no right to "a roving commission" to examine any documents of the County Council. Mere curiosity is not sufficient.
- 5.6 The information sought by a Member should only be provided by the respective Service as long as it is within the limits of the Service's resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.
- 5.7 It is important for Services and their staff to keep Members informed both about the major issues concerning the County Council and, more specifically, about issues and events affecting the area that he represents. Local Members should be informed about proposals that affect their electoral division and should also be invited to attend County Council initiated events within their electoral division. (*Further details are contained in the Local Member Consultative Charter*).
- 5.8 If a Member asks for specific information relating to the work of a particular Service, and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate Cabinet Member or Committee Chairman concerned should be advised about the information provided.
- 5.9 Members may be entitled under the Freedom of Information Act 2000 to receive information which falls outside their common law rights based on the "need to know". Employees are encouraged to supply documents to Members without the need for a formal FOI request if it is apparent from the Member's enquiry that any individual would be entitled to receive such documentation. The Council's Freedom of Information and Data Protection Coordinator will be able to advise in consultation if necessary with the Monitoring Officer on whether any request would fall within the Freedom of Information Act.

## **6. PROVISION OF SUPPORT SERVICES TO MEMBERS**

- 6.1 The only basis on which the County Council can lawfully provide support services (eg stationery, word processing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the County Council. Such support services must therefore only be used on County Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

### **Correspondence**

- 6.2 Official letters on behalf of the County Council should be sent in the name of the appropriate Employee, rather than over the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to that Member. Letters which, for example, create obligations or give instructions on behalf of the County Council should never be sent out in the name of a Member.

## Media

6.3 Communication with the media can be an important part of a Member's workload. In general, Members provide comment and views while Employees provide factual information. If a Member is unsure about the circumstances of a particular issue he should contact the appropriate Corporate Director of Head of Service concerned or ask the Press Office to do so.

## 7. POLITICAL ACTIVITY

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

7.2 In summary, such employees are prevented from:

- (a) being a Member of Parliament, European Parliament or local authority;
  - (b) acting as an election agent or sub-agent for a candidate for election as a member of any the bodies referred to in a);
  - (c) 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 his duties would be likely to require him –
    - (i) to participate in the general management of the party or branch;or
    - (ii) to act on behalf of the party or branch in dealings with persons other than members of the party;
  - (d) canvassing on behalf of a political party or a candidate for election to any the bodies referred to in a);
  - (e) speaking to the public with the apparent intent of affecting public support for a political party; and
  - (f) publishing any written or artistic work of which he 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.
- 7.3 It is common for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Employees may properly be called upon to support and contribute to such deliberations by party groups provided they maintain a stance which is politically impartial. Support may include a range of activities including briefings for Members relating to their roles e.g. chairperson or spokesperson. Employees should be required to give information and advice to political groups on Council business only and not on matters which are purely of a party political nature. Such advice should be available to all party groups

and not solely to the majority group. It is important that the political neutrality of Employees is preserved and that group confidentiality is maintained by Employees.

- 7.4 Usually the only Employees involved in attending group meetings will be the Chief Executive, Corporate Directors and Heads of Service and they will generally leave the meeting after making their presentation and answering questions.
- 7.5 Employees are employed by the County Council as a whole. They serve the County Council and are responsible to the Chief Executive and their respective Corporate Directors/Heads of Service, and not to individual Members of the Council whatever office they might hold.
- 7.6 Both Members and Employees are subject to their own Code of Conduct which can be found in the Constitution. This Protocol provides guidance on working relationships between Members and Employees. It is essential that both are familiar with the detailed obligations in their respective Codes of Conduct which will prevail in the event of any conflict between the Code and this Protocol.

## 8. **CONCLUSION**

- 8.1 It is hoped that, by following good practice and securing sensible and practical working relationships between Members and Employees, we can provide one of the cornerstones of a successful local authority and thereby enhance the delivery of high value quality services to the people of County Durham. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Employees.

## **Appendix B: DCC Local Member Consultative Charter**

### **1. LOCAL MEMBER CONSULTATIVE CHARTER**

- 1.1 The County Council is committed to providing its Elected Members with accurate, helpful and timely consultation, advice and information in relation to any matters of any significance or sensitivity which relate to their particular Electoral Division and where circumstances render it appropriate to involve a Local Member.
- Corporate Directors and staff will be continually vigilant to identify such matters and ensure that Local Members are informed accordingly. This will also include any matter which could impact upon the neighbouring areas of other Members.
  - Corporate Directors will ensure that all correspondence/enquiries from Local Members are dealt with promptly and if necessary Members will be kept advised of progress.
  - Appropriate Corporate Directors will ensure that, where the County Council's Constitution allows, Local Members will be invited to meetings and receive the necessary documentation.
  - Any matter of significance or sensitivity which relates to a particular Electoral Division or Divisions will be discussed with the Local Member(s) concerned before being submitted for consideration by the Cabinet or other Council Body. This will provide the opportunity for early awareness and allow a local perspective to be obtained.
  - Corporate Directors and staff will regularly brief appropriate Cabinet Members on service and partnership issues and developments and will use such occasions to help identify any potential local issues.
  - Details of any petitions received which relate to matters in a particular Electoral Division will be sent to the Local Member concerned. In addition, copies will also be provided to the Leader of the Council. Local Members will be kept informed on the progress/outcomes of such petitions.
  - Subject to any restrictions caused by commercial, legal or personal confidentiality, copies of all correspondence with Parish/Town Councils and the Local Government Ombudsman which relate to matters of any significance or sensitivity in a particular Electoral Division will be sent to the Local Member concerned.
  - Copies of all correspondence with MPs and MEPs which relate to matters in a particular Electoral Division will be sent to the Local Member concerned. In addition, copies will also be provided to the Leader of the Council.
  - Corporate Directors and staff will ensure that as much local service information as possible is provided to local members.



- Complementary to individual contact with Members, Services will maximise the use of the Members' Resource Centre to provide local service information.
- Services will provide every Member with an Officer contact guide for the services they provide, including where appropriate local contacts.
- Wherever appropriate, Services will make Local members aware of and invite them to service events and activities in their area. This will include strict adherence to the arrangements that have been agreed for the official opening/launch of County Council projects, schemes, exhibitions etc.
- In certain instances, both Members and Officers will receive an enquiry which relates to a matter in a particular area. In order to ensure consistency of approach in these circumstances, Officers will agree with the Member(s) concerned a single response to such enquiries.
- As part of a continual review of the Charter's effectiveness, the co-operation of Members is sought in the responsible use at all times of advice and information that is provided to them, and Members are encouraged to advise Officers of the information requirements and of any local circumstances or sensitivities which might have a bearing on the County Council's work.

## Appendix C: Further Guidance on Officer Support Provided to Members According to their Role

### KEY MESSAGES

- Officers support the whole Council
- The type of officer support available to members is tailored according to the roles that members play. Specific guidance is provided for:
  - Chairman and Vice-chairman
  - Leader and Deputy Leader
  - Cabinet members
  - Chair and Vice-chairs of OSMB and scrutiny committees
  - Ward councillors
- Key points for ward members:
  - Members Services is the key point of contact for information and queries – with links to the Members Resource Centre and service contacts
  - Regular information is available through:
    - Press release lists in the Members Resource Centre
    - The new Members' Update
    - Durham County News
    - Members' seminars (with a schedule available soon)
- Consultation with members
  - Every effort will be made to ensure that Members have a realistic time scale to respond to consultations
  - When preparing reports to Cabinet and/or committees, officers will include details of any consultation undertaken with and any comments received from members
  - Officers will ensure that appropriate consultation is undertaken with Cabinet members on issues relating to their thematic areas
  - Members will be consulted on all issues which impact on their ward. Such issues typically include:
    - Ward specific changes to service delivery
    - Planning applications and proposals
    - Regeneration initiatives
    - Programmed maintenance of street lights, carriageways and/or footpaths
    - Roadwork improvement schemes
  - Members will be notified of consultation proposed in their ward before consultation commences and is in the public domain
  - Members will be consulted on issues in order to fulfil their community leadership role. Typical issues include:
    - Changes to service delivery
    - Changes to access to services
    - Charges and concessions
    - Issues relating to community resources
    - Determination of grant aid to the voluntary sector
- Contact information on which officer to contact is available through
  - Intranet – [Management Contact Directory](#) (of the main responsibilities of senior officers – 4<sup>th</sup> tier and above with key locality posts so that you can go to the most appropriate contact
  - [Management Contact Directory](#)

- Customer Services
- Member Services
- Members should expect a response to enquiries within 5 working days.
- On request the Chief Executive and members of the Corporate Management Team will be available to discuss forthcoming agenda items for Cabinet with Leaders/Spokespersons of political groups.

## 1. Officers

- 1.1 Both the traditional and legal position of local authority officers is that they are employees of, and serve, the whole Council. Officers support and advise the Council, and the constituent parts of its decision-making machinery; implement Council decisions and may themselves take decisions formally delegated to them through the approved Scheme of Delegation. All officers are required to be politically neutral, and for senior officers this is enforced through the political restrictions of the 1989 Local Government and Housing Act. This position is also enshrined in the national model code of conduct for officers and the Council's Employees' Code of Conduct.
- 1.2 Within this context, it is important to recognise the differing roles of certain officers:-
- The Chief Executive, Assistant Chief Executive and Corporate Directors form the Corporate Management Team, which provides a formal interface between members and officers and has a leading role in relation to policy co-ordination and performance management.
  - Heads of Service are directly responsible for the day to day delivery of services within the Council's established policy and decision-making framework.
  - Officers within services themselves are primarily accountable to their Service Heads and when assisting members should always do so within the parameters of whatever authority they have been given by their Service Head.

## 2. Members' expectations of officers

- 2.1 Members can expect from Officers:
- (a) A commitment to the authority as whole, and not to any political group.
  - (b) A working partnership.
  - (c) An understanding of and support for respective roles, workloads and pressures.
  - (d) Reasonable and timely response to enquiries and complaints.
  - (e) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of Officers.
  - (f) As envisaged by, amongst other things, the Council's Concordat for Communications and Consultation with Members regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold.
  - (g) Awareness of and sensitivity to the political environment.

- (h) Respect, dignity and courtesy and not acting in a discriminatory way through behaviour or speech.
- (i) Relevant training and development in order to carry out their role effectively.
- (j) Integrity, mutual support and appropriate confidentiality
- (k) That employees will not use their relationship with members to advance their personal interests or to influence decisions improperly.
- (l) That officers will at all times comply with the relevant Code of Conduct.
- (m) Support for the role of members as the local representatives of the Council, within the parameters of support approved by the authority.
- (n) That Officers will promote equality of opportunity in all Council matters.

### 3. **Officers' Expectations**

#### 3.1 Officers can expect from Members:

- (a) A working partnership.
- (b) An understanding of and support for respective roles, workloads and pressures.
- (c) Political leadership and direction.
- (d) Respect, dignity and courtesy and not acting in a discriminatory way through behaviour or speech..
- (e) Integrity, mutual support and appropriate confidentiality.
- (f) Not to be subject to bullying or harassment or to be put under undue pressure. Members should have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between members and officers, and the potential vulnerability of officers, particularly at junior levels.
- (g) That members will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly.
- (h) That members will at all times comply with the Council's Members' Code of Conduct.
- (i) That members will promote equality of opportunity in all Council matters.

#### **4. Limitations Upon Behaviour**

- 4.1 The distinct roles of Members and Officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:-
- (a) Close personal, as opposed to working, relationships between councillors and officers can confuse these separate roles and detrimentally affect the proper discharge of the authority's functions, not least by creating the perception in others that a particular member or officer may be securing advantageous treatment.
  - (b) The need to maintain the separate roles means that there are limits to the matters on which members may seek the advice of officers, both in relation to personal matters and party political issues.
  - (c) Relationships with a particular individual or party groups should not be such as to create public suspicion that an employee favours that member or group above others. The issue of officer attendance and advice to political groups is specifically covered in further guidance in Appendix D.

#### **5. The Chairman, Vice-chairman and Officers of the Council**

- 5.1 The Council have recently approved a protocol for the Chair and Vice-chair which is the core content for this part of the guidance.

#### **6. Leader/Cabinet Members and Officers**

- 6.1 The Leader is elected annually by the full Council, along with the other members of the Cabinet. The Leader's principal role is to chair the Cabinet; agree the business to be considered by the Cabinet and to take particular responsibility for issues which transcend the individual responsibilities of the members of Cabinet and are of considerable corporate significance, such as budget preparation, preparation of the Medium Term Financial Plan and Council Plan and Partnership working with other local public, private and voluntary bodies.
- 6.2 The role of a Deputy Leader is to support the Leader of the Council and, in the Leader's absence or where the Leader is unable to act, to act as Cabinet Chair and to take particular responsibility for relevant issues which would normally be dealt with by the Leader.
- 6.3 The roles of the other Members of the Cabinet are to represent and consult individually with Officers regarding their respective areas of responsibility
- 6.4 As a result of their additional responsibilities as members of the executive, the working relationships between Cabinet members and officers as employees may be different from, and more complex than those of members without such responsibilities and this is recognised in the expectations they are entitled to have. However the following guidance is designed to ensure that the Leader and Cabinet members nevertheless work to a set of ground rules designed to maintain high standards of conduct, public accountability and mutual respect

between councillors and officers, and a clear understanding of the executive and scrutiny functions within the Council's new decision-making structures.

- 6.5 The Leader and Cabinet Members, along with all other Councillors, must observe the Code of Conduct for Members. This covers personal conduct, public duty and private interests, acceptance of gifts and hospitality, use of Council facilities, and the basic principles of working relationships between councillors and officers.
- 6.6 Subject to this overarching principle, and the overall context of the primacy of Council, the Leader and other Cabinet members, in Cabinet, represent the executive body of the authority, with responsibility for taking executive decisions and for making recommendations on matters beyond their executive powers to the full Council.
- 6.7 In addition to the standard agenda items, the business of Cabinet will comprise:-
- reports from the Corporate Management Team
  - reports from the Head of Paid Service, Monitoring Officer or the Chief Finance Officer
  - reports from scrutiny committees referred to Cabinet
  - proposals for its Forward Plans
  - Cabinet proposals referred back by the OSMB following the exercise of call-in
  - Cabinet proposals referred back by the Council which fall to the Cabinet to determine
  - proposals referred to it by the Council, which fall to the Council to determine.
- 6.8 Non-Cabinet members can raise items that they may wish to see discussed by the Cabinet either through officers or the relevant member of Cabinet, who will consider the request and, if considered appropriate, request officers to prepare a report.
- 6.9 Scrutiny committee reports/recommendations will be placed on the agenda of a Cabinet meeting in accordance with the Scrutiny Committee Procedure Rules and the Cabinet Procedure Rules.
- 6.10 The Access to Information Procedure Rules regulate decision-making by the Cabinet and the taking of key decisions by an officer or under executive joint arrangements.
- 6.11 Forward Plans will be prepared by the Head of Legal and Democratic Services, on behalf of the Leader on a monthly basis, in accordance with the provisions of the Access to Information Procedure Rules.

- 6.12 As Cabinet decisions are made collectively, the principal interface between the Cabinet and the officer structure will be through meetings of the Cabinet together with the Chief Executive, Assistant Chief Executive, Corporate Directors, as the Corporate Management Team. Prior to publication of Cabinet papers an informal briefing meeting will be held between Cabinet Members and the Corporate Management Team to determine the agenda for the forthcoming Cabinet meeting. This Agenda meeting will be programmed into the Cabinet timetable. Reports for formal Cabinet meetings will be published in accordance with the Access to Information Procedure Rules, the Local Member Consultative Charter and this guidance. Formal Cabinet meetings will be serviced by the Corporate Management Team, together with any other necessary Officers, in particular the Head of Legal and Democratic Services and the nominated Democratic Services Officer(s).
- 6.13 The Chief Executive will be the principal advisor to the Cabinet. Individual Cabinet members with functional responsibilities will also have principal advisors in accordance with those functional responsibilities. These advisors will be drawn from the Corporate Management Team. The Chief Executive (with the support of the rest of the Corporate Management Team) will act as Principal Advisor to the Leader and/or Deputy Leader.
- 6.14 In undertaking the roles inherent in the Council's new political management system, Cabinet members, CMT and other officers should respect the following protocols:
- (a) As "visible" and accountable elected representatives, with defined responsibilities, Cabinet members need to be properly briefed on all significant aspects of the work of the one or more services that operate within their remit. Corporate Directors of Services, as principal advisors, should ensure a proper information flow so as to ensure that Cabinet members with functional responsibilities can effectively undertake their role.
  - (b) Good communications can best be achieved through planned and programmed meetings and briefing arrangements. On the basis that Corporate Directors should be ensuring that the information needs of Cabinet members are met, Cabinet members should in turn seek to avoid making requests for unanticipated briefings, or detailed information-gathering exercises, which can unbalance planned service workloads.
  - (c) Cabinet Members should channel requests for information, advice and other support via the Corporate Director of Service or via such arrangements as are agreed and established with the Corporate Director (eg Director's PA, specific heads of service on specific issues or otherwise). Cabinet members should not normally approach other staff direct with requests for information (except in cases of urgency) or seek to commission work from individual staff, as this can create conflict with day to day line management accountabilities.
  - (d) While Cabinet members will wish to work with Corporate Directors and senior managers in the development of policies and programmes, they



should recognise that there are categories of officer-level meetings, both inside and outside the Council where attendance by a Cabinet members (or other councillor) may not be appropriate.

- (e) Cabinet members (and other councillors) have collective responsibility to the Council for the conduct of employment policy and the Council acts as the employing body for all Council staff. Employment policies, having been set by the Council, are implemented via Corporate Directors. Cabinet Members should avoid becoming over-involved in issues of individual performance of officers, or individual cases of eg grievance, disciplinary action or harassment. Cabinet members have can, however, to bring to the notice of relevant Corporate Directors any instances within their area of responsibility, where they have evidence that there are problems of inefficiency or ineffectiveness and to be kept informed of what course of action is being pursued in such circumstances.
- (f) Under the Council's system of decision-making, Cabinet members are expected to justify and account for any proposals relevant to their portfolio to the Council and to the Overview and Scrutiny Management Board (OSMB) and Scrutiny Committees as appropriate, When fulfilling this responsibility, Cabinet members should take appropriate advice from relevant Corporate Directors, and Corporate Directors should ensure that full and proper professional, legal and financial advice is provided to Cabinet members. Scrutiny Procedure Rules require the attendance of the relevant portfolio holder at any meeting dealing with a scrutiny call-in.
- (g) When new policies and proposals are brought forward, Cabinet Members may wish to discuss with Corporate Directors, and via Corporate Directors with senior officers preparing reports, the content of such reports and the framing of recommendations. While Cabinet members may wish to make suggestions on content and drafting, to achieve clarity of presentation, simplify jargon, or better explain issues, they should not attempt to edit out or override any content of a report which Corporate Directors or senior officers feel it is important to put before the Council. This is especially relevant to matters of a professional or technical nature, and the Corporate Management Team or statutory officers must be able to retain a right to report direct to the Council and all committees where they consider it necessary.
- (h) A number of officers exercise statutory functions or have individual responsibilities. Cabinet Members should not attempt to interfere with these roles. These include the functions of Proper Officer (eg witnessing and receipt of declarations of acceptance of office; and signature of summons to a Council meeting etc); Monitoring Officer (eg maintaining the Council's Constitution; ensuring lawfulness and fairness of decision-making and supporting the Standards Committee) and Chief Finance Officer (e.g. ensuring financial prudence of decision-making; administering the authority's financial affairs and giving financial advice).

- 6.15 Where reports are called in for scrutiny, Cabinet members (if asked to do so) should attend to answer questions. Cabinet members should normally be sufficiently briefed to answer the majority of questions themselves, and to be able to provide justification for the recommendations in a report. On more technical or professional issues, however, Cabinet members may wish to call on Corporate Directors or specialist officers to answer questions and explain the basis for recommendations.
- 6.16 The same principles should apply where Cabinet members wish to discuss issues relating to their portfolios with individual councillors or groups of Councillors. Cabinet members should also always ensure, in accordance with the Concordat for Consultation and Communication with Members, that they consult on issues affecting individual wards. Cabinet members should also make themselves available for discussion with Leaders/Spokespersons of other political groups in respect of forthcoming Cabinet business. On request the Chief Executive and members of the Corporate Management Team will be available to discuss forthcoming agenda items for Cabinet with Leaders/Spokespersons of political groups.
- 6.17 Notwithstanding the above, it should be recognised that the following principles are paramount:-
- (a) Chief Officers are employed to serve the whole Council and remain ultimately accountable to the whole Council.
  - (b) All Officers are required to be politically neutral and for senior officers this is enforced through the political restrictions of the Local Government and Housing Act 1989. All officers are required to abide by the Council's Code of Conduct for Employees. The impartiality of Officers must therefore be respected and they must not be asked to undertake work of a party political nature.
  - (c) Chief Officers have individual responsibilities as defined in their job descriptions. In some cases these will include professional or technical responsibilities of a statutory nature (eg regulatory functions, Proper Officer functions).
  - (d) Chief Officers with professional responsibilities may also have a duty to observe codes and standards set by outside professional bodies (eg accountancy, law, structural engineering). There may be occasions on which these require to be treated as over-ruling the views of Cabinet members or Council policy decisions (and should such circumstances arise Chief Officers will need to report the position via the decision-making process).
  - (e) Certain Officers eg Head of Paid Service (Chief Executive), Monitoring Officer (Director of Law and Democracy) and Chief Finance Officer (Section 151 Officer or Corporate Director of Resources) have other responsibilities, which in law have primacy over and above their obligations to the Council and individual members, and members must therefore respect these obligations, not obstruct those officers in the discharge of their duties and must not victimise them for fulfilling their responsibilities.

- (f) The Chief Executive and the Corporate Management Team have a collective responsibility to advise the Council on its priorities, allocation of resources and forward programmes.
- (g) Officers should conduct themselves with integrity, impartiality and honesty. They should give honest and impartial advice to the Leader and Cabinet Members without fear or favour, and make all information relevant to a decision available to them. They should not deceive or knowingly mislead Cabinet Members, other Councillors or the public, or withhold information that may be relevant to a decision.

## **7. Chairs and Members of OSMB and Scrutiny Committees and Officers**

- 7.1 The primary role of the Chair and Members of the OSMB and Scrutiny Committees is to scrutinise the decisions of Cabinet.
- 7.2 This scrutiny process will operate on the basis of a call-in procedure. This will be regulated in accordance with the provisions of the Procedure Rules for Scrutiny as will the attendance of Cabinet members, Senior Officers, or other parties at meetings of the OSMB and Scrutiny Committees.
- 7.3 The Scrutiny Manager will be the Principal Advisor to the OSMB. She or he will meet with Chair and Vice-Chair to discuss any items which may have been called-in and will arrange in liaison with the nominated Scrutiny and Democratic Services Officers, if required, for the attendance of any Cabinet Members, Senior Officers or other parties at the proposed OSMB meeting at which the called-in item or items are to be discussed.
- 7.4 The Chair and Members of the OSMB along with all other councillors must observe the Code of Conduct for Members.
- 7.5 Over and above these requirements, the Chair and Members of the Committee have responsibility for ensuring the scrutiny process operates fairly and openly. In particular, they will have responsibility for ensuring that Members of the Cabinet and officers are not questioned (whether through the nature, tone or language used), in such a manner as could be considered by a reasonable person to be hostile, offensive, derogatory, harassing, bullying, victimising, discriminatory or otherwise unacceptable or inappropriate behaviour by a Member. Equally, it has to be recognised that OSMB and Scrutiny Committees have no jurisdiction to deal with matters, which are of a disciplinary nature for the relevant Political Group (in respect of members) or the relevant Chief Officer/Chief Executive (in respect of officers).
- 7.6 The Chair and Members of the Committee should expect executive Councillors and Officers to be as open as legally possible with the Committee. In a public forum information should not however be disclosed where it is categorised as exempt under the Access to Information Procedure Rules. The Chair and Members of the Committee will still need to demonstrate the same need to know in respect of access to information as other Councillors.
- 7.7 The Chair of the Committee should keep separate his/her role as chair and as constituency Councillor, and should seek to ensure that no conflicts of interest

arise. He/she should not seek to use his/her position to influence events unduly.

- 7.8 In accordance with the Code of Conduct, Members must not use Council resources for party political purposes. They must uphold the political impartiality of the officer body, and not ask officers to act in any way which would conflict with the Employee Code of Conduct, this Protocol, any other part of the Constitution or National Conditions of Service.
- 7.9 Officers are required to assist the OSMB in the delivery of its role. The Chair and Members of the Committee, as with all councillors undertaking scrutiny, will however have to be aware of the resource consequences of any proposals. In some instances requests for research in pursuit of scrutiny may have to be refused on grounds of expense or time. In any event information currently under confidential review by the Cabinet will not normally be available on request to Councillors undertaking scrutiny.
- 7.10 The Council's six Scrutiny Committees will each perform a policy and performance review role in connection with their respective areas of remit and terms of reference.
- 7.11 All of the Scrutiny Committees may call on the Leader, the Deputy Leader, other Cabinet Members and Senior Officers to answer questions on decisions made by the Cabinet and by delegated Officer decision respectively either by attending OSMB or Scrutiny Committee meetings by invitation or by responding in writing. Invitations should be issued in writing from the Chair of the relevant OSMB or Scrutiny Committee and should indicate the subject matter which is to be addressed. Seven working days notice must be provided wherever practicable.
- 7.12 Each Scrutiny Committee will have a Scrutiny Officer and a designated Democratic Services Officer to support its operation. Other officers should also assist the work of the Committees in order that they can fulfill their role and responsibilities.

## **8. Chairs and Members of Other Committees and Officers**

- 8.1 Whilst it is clearly important that there should be a close working relationship between the Chairperson and/or Vice-Chairperson of a Committee and a Corporate Director and other Officers of any Service which reports to that Committee, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially and fairly with other members and other party groups.
- 8.2 Whilst the Chairperson and/or Vice-Chairperson of a Committee 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 a Corporate Director will be under a duty to submit a report on a particular matter. Any issues arising between a Chairperson and/or Vice-Chairperson and a Corporate Director in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

- 8.3 In relation to action between meetings, it is important to remember that the Council's Constitution only allows for decisions (relating to the discharge of any of the Council's functions) to be taken by the Committee or an Officer. In the latter case such decisions may need to be taken in consultation with a Chairperson and Vice-Chairperson or some other Member of the Council. The Constitution does not allow for such decisions to be taken by a Chairperson or indeed by any other single Member.
- 8.4 Chairs and members of licensing and planning committees should be mindful of the fact that they are exercising a quasi-judicial function, in which they apply the relevant law, take advice from officers and to which party whips do not apply. The paragraphs of the Code of Conduct relating to personal and prejudicial interests are highly significant to this role. Members of planning committees should also adhere to the Code of Practice on Planning contained in the Constitution. Members should be scrupulously careful to avoid actions or statements that could support a claim that they have approached the matter from a standpoint of prejudice or bias.

## 9. Ward Members and Officers

- 9.1 Although all Members have a primary, overall responsibility and accountability to the Council as a whole, they also have a wider duty to represent their constituents and local communities.
- 9.2 Ward Councillors should aim to ensure that the Council is aware of the views and interests of those people who elect them. They may take a lead role in developing local networks of organisations and individuals, providing local interpretations of the Sustainable Community Strategy and the Council Plan and they may promote local democratic engagement. The White Paper, Modern Local Government; In Touch with the People, described this role as follows:-

*“each Councillor will become a people's champion of their local community, defending the public interest in the Council. .... They will bring their constituents' views, concerns and grievances to the Council through the Council's structure.”*

- 9.3 A community Member's "champion role" has a number of key elements. The following are some of the principal ones:-

**Signposting** – community Members know how the system works and who to contact. They are well placed to advice local people about local issues and can point people in the right direction;

**Monitoring** – community Members can help local people to make progress by overseeing and intervening on their behalf;

**Advocacy** – community Members have the necessary status, skills and ability to tackle failure. When things go wrong or break down, as elected representatives, they are well placed to intervene and to seek redress on behalf of local people; and

**Representing** – community Members can spot emerging issues and trends. They will know when a series of individual issues indicates that there is a real failure in the system that needs to be taken up by the Council itself and they can feed views into the local authority.

- 9.4 Whichever of these roles Ward Councillors perform, they need to be properly supported if they are to be effective.
- 9.5 Members Services and individual Democratic Services Officers will support Ward Councillors by (amongst other things) providing information and documentation (subject to guidance regarding access to information and Council documents); undertaking research about local issues; putting them in contact with individuals and groups in their Wards and adjoining Wards; arranging Ward Surgeries and local meetings on their behalf; arranging informal meetings with Officers and other Members; highlighting issues of local interest ensuring access to Council meetings, agendas, minutes and facilities ; maintaining the Members' Resource Centre; liaising with ICT to co-ordinate a support service in connection with computers and new technology at Members' homes.
- 9.6 All officers should ensure that the Council's Concordat for Communication and Consultation with Members is followed at all times.
- 9.7 All officers and, where appropriate, Members of the Cabinet should consult with Ward Members on issues which relate to their Ward. Such issues may typically include:-
  - changes in service delivery
  - planning applications and proposals
  - regeneration initiatives
- 9.8 All officers should identify any issues which may have implications for more than one Ward and consult with all the Ward Members who may be affected.
- 9.9 All officers should always try to ensure, so far as it is reasonably practicable to do so, that Members have a realistic timescale in which to respond to consultation on matters affecting or relating to their Ward or constituents. Where, however, urgent action is required to address a particular issue which, for instance, does not realistically allow time for Ward Members to consult their constituents, officers should inform the Members concerned as soon as possible of any actions taken.
- 9.10 All officers acting within the remit of their delegated powers should ensure that they identify at an early stage any issues which should be drawn to the attention of Ward members or which should form part of a prior consultation exercise with them.
- 9.11 Whenever a public meeting is organised by or on behalf of 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. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise.

## **10. Consultation with Members**

### General Provisions

- 10.1 Decisions made by officers under delegated powers fall into two principal categories, namely:
- Decisions delegated to officers in consultation with Cabinet Members (which may or may not be key decisions)
  - Other Decisions delegated to officers (which are not required to be taken in consultation with Cabinet Members) and which may or may not be key decisions
- 10.2 Officers to whom decisions have been delegated have a duty to ensure that effective consultation takes place. Consultation between officers and Members will be undertaken within the terms of the Concordat, the Authority's Consultation Strategy and the approved Protocol on Member/Officer Relations.
- 10.3 Every effort will be made to ensure that Members have a realistic time scale to respond to consultation and, where appropriate and reasonably practicable, this time scale will be sufficient to enable Members to consult with their constituents. Members will be informed of any time restrictions which may apply relating to the process of consultation, particularly where urgent action is needed in the Council's and/or the public interest.
- 10.4 When preparing reports to Cabinet and/or Committees, officers will include details of any consultation undertaken with and any comments received from Members
- 10.5 Some officer delegated decisions will be Key Decisions (as defined in the Constitution) and will be subject to the requirements of the regulations relating to such decisions, (eg requirements relating to recording and publicising decisions) and to the call in provisions outlined in the Constitution.

### Decisions by Officers in Consultation with Cabinet Members

- 10.6 Officers to whom decision making powers have been delegated, subject to consultation with Cabinet Members, (as detailed in the Constitution), will ensure that such consultation takes place.

### Other Decisions delegated to Officers

- 10.7 Officers acting within the remit of their delegated powers will ensure that they identify, at an early stage, issues upon which Members should be consulted. These will include:
- issues of interest to Cabinet Members
  - issues of interest to Ward Members

- issues of general interest to all Members

10.8 Officers will ensure that appropriate consultation takes place.

#### Consultation with Cabinet Members

10.9 Officers will ensure that appropriate consultation is undertaken with Cabinet Members on issues relating to their thematic areas.

#### Issues for Consultation with Ward Members

- a) Members will be consulted on all issues which impact upon their ward. Such issues may typically include:
  - Ward specific changes to service delivery
  - Planning applications and proposals
  - Regeneration initiatives
  - Programmed maintenance of street lights, carriageways and/or footpaths
  - Roadwork improvements schemes
- b) Officers will identify issues which may have cross boundary implications and will consult with Members accordingly.
- c) Members will be notified of consultation proposed in their Ward before the consultation commences and is in the public domain.

#### Issues for wider consultation with Members

- a) There are a number of issues upon which Members will need to be consulted in order to fulfil their roles as Community Leaders. These may typically include:-
  - Issues relating to changes in service delivery
  - Issued relating to access to services
  - Charges and concessions
  - Issues relating to community resources
  - Determination of grant aid to the voluntary sector
- b) Officers will ensure that appropriate consultation takes place with Members.



## Appendix D: Further Guidance on Officers Attending Political Groups

### KEY MESSAGES

- Group meetings are not decision-making bodies and must not be misinterpreted as such
- Support should be given to Groups on a fair and proportionate basis.
- Requests for attendance at group meetings must be made through the members of the Corporate Management Team

### 1. Officers and Party Groups

- 1.1 There is 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. Party Groups therefore have an important part to play in the development of policy and the political management of the Authority. In view of this it is in the interests of the Authority to support the effective operation of political groups insofar as Council business is concerned and senior officers with the consent of the chief executive may therefore properly be called upon to support and contribute to deliberations by such groups.
- 1.2 The support provided by Officers can take many forms, ranging from a briefing meeting with a Chairperson or Spokesperson prior to a Cabinet or Committee meeting, to a presentation to a full party group meeting. 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.
- 1.3 Certain points must however be clearly understood by all those participating in this type of process. Members and Officers alike, given the particular risks it can pose in terms of the impartiality of Officers. In particular:-
  - a. Political Group meetings, whilst they are an important part in the preliminaries to the decision-making process, are not formal decision-making bodies of the Council and, as such, are not empowered, even under the new constitutional arrangements, 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 Members and Officer understand and interpret such decisions accordingly.
  - b. Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of *Council* business and, where a report is presented, should be limited to a statement of material facts and identification of options and the merits

and demerits of such options for the Council. Officers must not be involved in advising on matters of party business or political implications. They should remain politically neutral. The observance of this distinction will be assisted if Officers are only expected to be present and remain in attendance at Group meetings when matters of Council business are being discussed.

- c. 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 to the relevant Council meeting when the matter in question is considered formally.
- 1.4 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 will not be bound by the Code of Conduct for Members (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.
  - 1.5 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the contents of any such discussions to another party group.
  - 1.6 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 then discuss them with the relevant Group Leader(s).
  - 1.7 All Members should appreciate that the only basis on which the Council can lawfully provide support services (eg personal computers, stationery, typing, printing, photocopying, transport etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in order to support Members in connection with any party political or campaigning activity or for Members private purposes. In particular, Members should not personalize the stationery they receive from the Council by adding political logos or referring to themselves as a specific political party member or representative. Members should also not ask Officers to provide support services other than those which are to be used for Council business purposes.
  - 1.8 All Members should comply with the provisions of the Protocols relating to the use of Personal Computers and other facilities and services.

## Appendix E: Further Guidance on Press and PR

### KEY MESSAGES

- A local authority shall not publish any material which, in whole or in part appears to be designed to affect support for a political party.
- The names of non-executive members, and a short quote from them, may be included in press releases relating to a ward –specific issue in their ward or, in the case of Group Leaders, to a Council/County-wide issue. This may only occur where the members concerned are speaking on behalf of the Council or in support of Council policy.
- Special rules apply during election periods.

### 1. Publicity Material and Press Releases

1.1 The guiding principles as to the publication of publicity material and the issuing of press releases by local authority staff are to be found in the Local Government Act 1986 and the related Code of Conduct or Code of Recommended Practice on Local Authority Publicity as revised by the Secretary of State on 2nd April, 2001. For practical purposes the LGIU publication *The Right Side of the Law* is adopted.

1.2 The following is an extract from the 1986 Act:

*“A local authority shall not publish any material which, in whole or in part, appears to be designed to affect support for a political party.*

*In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and in particular the following matters;*

- *whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another;*
- *where material is part of a campaign the effect which the campaign appears to be designed to achieve.”*

1.3 A copy of the Code of Conduct or Code of Recommended Practice on Publicity is reproduced below.

1.4 The Council is not therefore permitted to fund the publication of publicity material and/or the production of press releases which are party political. To assist in defining this the following checklist can be used:

- party political logos should not be used

- party political names should not be used except where they are necessary in describing a position
  - publicity should not be used to publicise individual Councillors unless they are acting on behalf of or representing the Council.
- 1.5 The names of non-executive members, and a short quote from them, may be included in press releases relating to a ward –specific issue in their ward or, in the case of Group Leaders, to a Council/County-wide issue. This may only occur where the members concerned are speaking on behalf of the Council or in support of Council policy.
- 1.6 If these rules are respected there is no reason whatsoever as to why effective publications and other material cannot be produced and issued without contravening the law. Such material can be written by paid officers and printed by the local authority.
- 1.7 Any publication or press release which breaches any of the above will be deemed political and will need to be funded by the political party and Officers will not be able to participate.
- 1.8 Members acting as spokespersons for the Council, when responding to the press and media and making public statements on behalf of the Council should liaise with the authority’s Communications Team on the form and content of any response or statement.

## **2. Code of Conduct – Publicity**

### Background

- 2.1 The following code has been issued by the Secretaries of State for the Environment, Scotland and Wales in pursuance of their powers under Section 4(1) of the Local Government Act 1986. The Code was drawn up following consultations with interested parties in Local Government required by Section 4(4) of the 1986 Act. It has been approved by a resolution of each House of Parliament. Local Authorities are required by Section 4(1) of the 1986 Act, as amended by Section 27 of the Local Government Act 1988 to have regard to the Code in coming to any decision on publicity.

### Introduction

- 2.2 Local Authorities are accountable to their electorate. Local accountability requires local understanding. This will be promoted by local authorities explaining their objectives and policies to their electors and ratepayers. In recent years authorities have increasingly used publicity to keep the public informed and to encourage greater participation. Local authorities also need to tell the public about the services which they provide. Increasingly, local authorities see the task of making the public aware of the services available as an essential part of providing all kinds of services. Good, effective publicity, aimed at improved public awareness of a Council’s activities, is to be welcomed. This Code is not intended to discourage such publicity.
- 2.3 Publicity is, however, a sensitive matter in any political environment, because of the impact which it can have. Expenditure on publicity by some local

authorities is 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 purpose of the Code is to set out such principles. It reflects the conventions which should apply to all publicity at public expense and which traditionally have applied in both central and local government.

- 2.4 The principles set out below recognise the political nature of local government. They take account of the fact that some local authority publicity will deal with issues that are controversial because of particular local circumstances, or because of a difference of view between political parties locally or nationally. The principles do not prohibit the publication of information on politically sensitive or controversial issues, not stifle public debate. They set out the matters a local authority should consider, to safeguard both the proper use of public funds and those members of the public at whom publicity is directed. They apply to all publicity, but some aspects will be especially relevant to publicity which deals with controversial or sensitive issues. The underlying objective of the Code is to ensure the proper use of public funds for publicity.

#### Scope of the Code

- 2.5 The Code is not concerned with the interpretation of Section 2 of the Local Government Act 1986. (That section provides that a local authority shall not publish (or assist others to publish) material which, in whole or in part, appears to be designed to affect public support for a political party). The Code is concerned with all the other publicity which a local authority may publish. In particular, it highlights factors which should be borne in mind about decisions on publicity which deals with matters or issues which are, politically or otherwise, controversial, but which are not prohibited by Section 2.
- 2.6 Section 6 of the 1986 Act defines publicity as “any communication, in whatever form, addressed to the public at large or to a section of the public”. The Code will therefore be relevant across the whole range of local authorities’ work. It covers all decisions by a local authority on publicity and most public relations activities, such as paid advertising and leaflet campaigns, and local authority sponsorship of exhibitions and conferences, as well as assistance to others to issue publicity. The Code has no relevance to the methods which a local authority may use to make its views known where these do not involve publicity in the sense of the 1986 Act.
- 2.7 The Code does not affect the ability of local authorities to assist charities and voluntary organisations which need to issue publicity as part of their work, but it requires local authorities, in giving such assistance, to consider the principles on which the Code is based and to apply them accordingly.
- 2.8 By virtue of Section 6(6) of the 1986 Act, nothing in the Code is to be construed as applying to any decision by a local authority in the discharge of their duties under the Local Government (Access to Information) Act 1985.

### **3. Code of Recommended Practice**

#### Subject Matter

- 3.1 Local Authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in Section 111, 142, 144 and 145 of the Local Government Act 1972, Sections 69, 88 and 90 of the Local Government (Scotland) Act 1973 and Section 15 and 16 of the Local Government and Planning (Scotland) Act 1982, but there are several others.
- 3.2 Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. For example, Section 142 (1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them or by other local authorities; and Section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.
- 3.3 This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.
- 3.4 In considering the subject areas in which publicity is to be issued, the following matters will be important:
- (i) the publicity should be relevant to the functions of the authority
  - (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority.

#### Costs

- 3.5 Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.
- 3.6 For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.
- 3.7 To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.
- 3.8 Local authorities should therefore always have in mind the extent to which expert advice is needed for publicity.
- 3.9 In some cases publicity may justify its costs by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as compared with other uses to which the resources could be put.

- 3.10 In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant;
- (i) whether the publicity is statutorily required or is discretionary
  - (ii) where it is statutorily required, the purpose to be served by the publicity
  - (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity

### Content and Style

- 3.11 Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the Council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.
- 3.12 Any publicity describing the Council's policies and aims should be as objective as possible, concentrating on facts and explanations or both.
- 3.13 Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative and accurate. It should aim to set out the reasons for the Council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.
- 3.14 Publicity relating to the provision of a service should concentrate on providing factual information about the service.
- 3.15 In some cases promotional publicity may be appropriate – for example about the local authority's sports and leisure facilities or about tourist attractions.
- 3.16 Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the Council is unavoidable, particularly given the importance of wide consultation whenever material issues arise. Such publicity should be handled with particular care. Issues must be presented clearly, fairly and as simply as possible, although Councils should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.
- 3.17 Publicity should not attack, nor appear to undermine, generally accepted moral standards.
- 3.18 Publicity campaigns by local authorities are appropriate in some circumstances: for example, as part of consultation processes where local views are sought, or to promote the effective and efficient use of local services and facilities, or to attract tourists or investment. Publicity campaigns

may also be an appropriate means of influencing public behaviour or attitudes on such matters as health, safety, crime prevention or equal opportunities.

- 3.19 Legitimate concern is, however, caused by the use of public resources for some forms of campaigns which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority's policies in relation to that function and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.

#### Dissemination

- 3.20 The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs to allow local people to have a real and informed say about issues that affect them; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.
- 3.21 Information and publicity produced by the Council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.
- 3.22 Where material is distributed on matters closely affecting vulnerable sections of the community – for example, the elderly – particular care should be taken to ensure that it is unambiguous, readily intelligible and unlikely to cause needless concern to those reading, seeing or listening to it.
- 3.23 Local authority newspapers, leaflets, other publicity distributed unsolicited from house to house and information on websites are able to reach far wider audiences than publicity available on application to the Council. Councils should give particular attention to the use of electronic and other new media communications systems. However, Councils should ensure that they do not rely solely on such mechanisms and that they do not exclude those without access or easy access to such systems.
- 3.24 Such publicity should be targeted as appropriate for its purposes, taking particular care with material touching on politically controversial issues.
- 3.25 Local Authority newspapers or information bulletins are a special case. They are often a cost-effective means of disseminating information or facilitating consultation and can provide a means for local people to participate in debate on decisions the Council is to take. The advantage of using websites and other information technology for consultations should also be considered. Inevitably, such publications will touch on controversial issues and where they do, they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11 – 19 of the Code.



- 3.26 Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations, and making use of electronic communications systems.

### Advertising

- 3.27 Advertising, especially on billboards or on television and radio is a highly intrusive medium. It can also be expensive. It may, however, provide a cost-effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities on promoting the social, economic and environmental well-being of the area.
- 3.28 The primary criterion for decisions on whether to use advertising should be cost-effectiveness.
- 3.29 Advertisements are not normally likely to be appropriate as a means of explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments and markets views and opinions.
- 3.30 Advertising in media which cover an area significantly wider than that of the authority is not likely to be an appropriate means of conveying information about a local authority's policies as opposed to attracting people to the authority's area or to use its facilities.
- 3.31 The attribution of advertising material, leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.
- 3.32 It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation. Such support should be given openly through the normal grant arrangements. However, the condition attached to a grant may require the provision of publicity, including publicity for the work of the authority.
- 3.33 Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.
- 3.34 Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

### Recruitment Advertising

- 3.35 Local authorities have respected in their employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority employees are expected to serve the authority as a whole whatever its composition from time to time.

- 3.36 The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local authority employees.
- 3.37 Advertisements for employees should not be placed in party political publications.

#### Individual Councillors

- 3.38 Publicity about individual Councillors may include the contact details, the positions they hold in the Council (for example, member of the Cabinet or Chair of the Scrutiny Committee), and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual Councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided.
- 3.39 Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual Councillor which are relevant to her/his position and responsibilities within the Council, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals.

#### Elections, Referenda and Petitions

- 3.40 The period between the notice of an 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.
- 3.41 The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000 (which apply under the Local Government Act 2000 to County Councils, District Councils and London Borough Councils) prohibit an authority from incurring any expenditure to:-
- publish material which appears to be designed to influence local people in deciding whether or not to sign a petition requesting a referendum on proposals for an elected mayor;
  - assist anyone else in publishing such material; or

- influence or assist others to influence local people in deciding whether or not to sign a petition
- 3.42 Publicity in these circumstances should, therefore, be restricted to the publication of factual details which are presented fairly about the petition proposition and to explaining the Council's existing arrangements. Local authorities should not mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view in relation to petitions generally or on a specific proposal.
- 3.43 County Councils, District Councils and London Borough Councils should ensure that any publicity about a referendum under Part II of the Local Government Act 2000 either prior to or during the referendum period is factually accurate and objective. The referendum period means the period beginning with the date on which proposals under Part II of the 2000 Act are being sent to the Secretary of State and ending with the date of the referendum. The publicity should not be capable of being perceived as seeking to influence public support for, or opposition to, the referendum proposals and should not associate support for, or opposition to, the proposals with any individual or group. Local authorities must conform with any specific restrictions on publicity activities which are required by Regulations under Section 45 of the 2000 Act.

#### Assistance to Others for Publicity

- 3.44 The principles set out above apply to decisions on publicity issued by local authorities. They should also be taken into account by local authorities in decisions on assistance to others to issue publicity. In all such decisions local authorities should, to the extent appropriate:
- (a) incorporate the relevant principles of the Code in published guidance for applicants for grants;
  - (b) make the observance of that guidance a condition of the grant or other assistance;
  - (c) undertake monitoring to ensure that the guidance is observed.
- 3.45 It is appropriate for local authorities to help charities and voluntary organisations by arranging for pamphlets or other material produced and paid for by the organisation to be available for collection by the public in public libraries and other suitable locations. Such material should not offend against any legal provision (authorities may be able to draw on their powers of well-being in section 2 of the Local Government Act 2000), but (subject to this) any such facility should be made available on a fair and equal basis.

## Appendix F: Further Guidance on Access to Information

### KEY MESSAGES

- Members are free to approach any Council service to provide them with information, explanation and advice (about that service's functions) as they might reasonably need to assist them in their role as members of the Council subject to the guidance here and the provisions of the Constitution.
- The 'need to know' principle is described in this guidance – there is no 'roving commission' and mere curiosity is not enough.
- Draft documents or documents which do not relate to business to be considered by or transacted at a Council, Cabinet or Committee meeting are not covered by the need to know principle.
- A member of one party group does not have a 'need to know' and therefore right to inspect a document which forms the internal workings of another party group.
- Members should not prepare responses to FOI requests personally – any requests that appear to be FOI requests should be passed as soon as possible to the FOI team.
- The degree to which member's personally held information e.g. emails is disclosable under FOI depends on the role that the member holds.
- Contact details and further advice are contained within this guidance.

### 1. Members' Access to Information and the Council Documents

- 1.1 Subject to the guidance below, members are free to approach any Council Service to provide them with such information, explanation and advice (about that Service's functions) as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the relevant Corporate Director, Head of Service or another nominated Senior Officer of the Service concerned although this should not in any way prevent appropriate information gathering from taking place by means of contact with Ward, Estate or "Patch" Officers, in the usual way. A member may also, on application to the Head of Legal and Democratic Services inspect any document which has been considered by the Council and be supplied with a copy of such document.
- 1.2 As regards the legal rights of members to inspect Council documents, these are covered partly by statute and partly by common law.
- 1.3 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Cabinet in public or Committee meeting. This right applies irrespective of whether the member is a member of the Cabinet or Committee concerned and extends not only to reports which are to be submitted to the

meeting, but also to any relevant background papers. This right does not however apply to documents relating to certain items which may appear on the “Not for Publication” part of the agenda for meetings. The items in question are those which contain exempt information relating to eg any individual; the financial or business affairs of any particular person (including the authority holding the information); any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. A member should also not knowingly inspect and/or call for a copy of any document relating to a matter in which he/she is professionally interested or in which he/she has directly or indirectly any personal, prejudicial interest. In addition, the Head of Legal and Democratic Services or any solicitor to the Council may decline to allow inspection of any document which is , or in the event of legal proceedings, would be protected by privilege arising from the relationship of Solicitor and Client.

- 1.4 The common law right of members is much broader and is based on the principle that any Member has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the “need to know” principle.
- 1.5 In some circumstances (eg a Committee Member wishing to inspect non-personal or non-confidential documents relating to the functions of that Committee) a Member’s “need to know” will normally be presumed. In other circumstances (eg a Member wishing to inspect Council documents which contain personal or confidential information about third parties, such as Council Tenants) there will be a presumption against disclosure and a Member will be expected to justify the request in specific terms in order to make their “need to know” clear. In certain cases, additional guidance regarding the circumstances when inspection may or may not be allowed may also have been approved by the Council.
- 1.6 Whilst the exercise of this common law right principally depends therefore upon the Member’s ability to demonstrate that he/she has the necessary “need to know” and that there are no legitimate reasons for non-disclosure, 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”. The “need” is so that Members can perform their roles as Councillors. It can be limited by conflict of interest, confidentiality and practicality. The question as to whether a “need to know” has been reasonably and satisfactorily established must initially be determined by the particular Corporate Director of Service whose Service holds the document in question (with advice from the Head of Democratic Services). In the event of dispute, the question falls to be determined by the relevant Council body eg a Committee in connection with whose functions the document is held.
- 1.7 As a general requirement, where a request to inspect or copy Council documents is likely to involve the significant use of resources, approval to the use of those resources should be requested by following the need to know determination procedure specified in the preceding paragraph.

- 1.8 Whilst the term “Council document” is very broad and, prima facie, includes for example any document produced with Council resources, it does not cover draft documents or documents which do not relate to business to be considered by or transacted at a Council, Cabinet or Committee meeting. It is also 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.
- 1.9 Further and more detailed advice relevant to particular circumstances regarding Members’ right to inspect Council documents may be obtained from the Head of Legal and Democratic Services.
- 1.10 Finally any Council information provided to a Member 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. Members necessarily acquire much information that has not yet been made public and is still confidential. It is betrayal of trust and the Code of Conduct to breach such confidences. Members should never therefore disclose or use confidential information for the personal advantage of themselves or of anyone known to them, or to the disadvantage or the discredit of the Council or anyone else.
- 1.11 The Freedom of Information Act 2000 has brought additional rights, responsibilities and safeguards regarding confidential information. The Act became fully operational in January, 2005 insofar as the public right of access provisions are concerned. A “Publication Scheme” has also been produced by the Council, and this can be accessed on the Council’s website at ADD LINK. Some practical FOI Tips (for members receiving potential FOI requests) are:
1. Pass on without delay any request. (They will usually say FOI or they will not be normal daily constituency work.)
  2. The council has **20 working days** to respond with information or explain, as fully as possible, why it is not going to do so. (Delays can lead to complaints to the Information Commissioner’s Office)
  3. The elected members of a local council are likely to have three different roles
    - a. •As a member of the council, for example, as a member of a committee.
    - b. As a representative of residents of their ward,
    - c. As a political party representative.

The FOIA has a different effect depending on their role.
  4. Individual councillors are not authorities for the purposes of the FOIA. However, depending on their role, the information can be accessible.
  5. Does this mean anything a member does can be disclosed? No. It will depend on whether they hold it for their role as an elected member or on behalf of the Council.
    - a. If held for their role as an elected member, then it is not likely to be disclosed. What does this cover? This will cover such things as correspondence with residents in their ward. Or, emails discussing

council business with other members. Campaigning for their party would be considered as part of their role as an elected member.

- b. If their role is on behalf of the Council their correspondence or information may be disclosable. What does this mean? For example, being a cabinet member or having executive responsibility for a service area. It would cover things such as representing the authority on a regional forum.
6. What would be covered? Information received, created or held by a councillor on behalf of the local authority will be covered. For example, where a councillor is acting in an executive role as part of a council cabinet. Or, if the information created or received by a councillor but held on a local authority's computer system or at its premises will only be covered if it is held for the authority's own business.
7. As Councillors are not subject to FOI, they do not need to respond to requests. However, the Council (as an organisation subject to the Act) has to respond. Therefore, the Council Officers will prepare any responses to FOI requests that are directed at Members.

If you receive a request, what do you do? Send it to the information management team. They can be contacted by email at [Foi@durham.gov.uk](mailto:Foi@durham.gov.uk)

If you prefer to post it to them, their address is

Information Management Team

Room 4/10

Assistant Chief Executive's Office

Durham County Council

County Hall

Durham

DH1 5UF

If you want to discuss any Freedom of Information issues or related issues, you can telephone them on **0191-383-3815**

## Appendix G: Action Plan

Issue	Action	By whom	Date
<b>1 Provide more detailed guidance to support member/officer working arrangements.</b>	Produce further guidance on the following:  1.1 Officer Support Provided to Members According to their Role  1.2 Officers Attending Political Groups  1.3 Press and PR  1.4 Access to Information	Lorraine O'Donnell /Colette Longbottom	Draft May 2010
<b>2. Improve ways in which members' get information.</b>	2.1 Raise awareness of revised methods of receiving information in line with the guidance developed under action 1 above.  2.2 A forward work programme (looking a year ahead) is co-ordinated by the Head of Policy and Communications to align with the Cabinet schedule and avoiding excessive demands on members' time;  2.3 Develop a monthly Member Update newsletter to ensure services information that are relevant to members are communicated appropriately.  2.4 Ensure that members' seminars continue to include the content of staff roadshows so that members are aware of key messages from CMT;  2.5 Encourage better use of opposition briefings in line with example content in Appendix C.  2.6 Review the potential for increased use of emails to keep all members involved in issues of interest to local people e.g. daily updates on winter maintenance.	Roger Goodes  Roger Goodes  Roger Goodes  Roger Goodes  CMT/Leaders of Groups  All Heads of Service	May-July 2010  June 2010  April 2010  June 2010  May 2010  June 2010
<b>3. Improve members' ability to raise issues and gain resolution.</b>	3.1 Clarify and raise awareness of the expected turnaround times for responses to members' issues.  3.2 Publish revised officer structures, clarifying the main contacts for members for specific functions – paper copies and on-line.	Roger Goodes  Roger Goodes	May 2010  April 2010



	<p>3.3 Review how members can use customer services and how response times and response quality is monitored.</p> <p>3.4 Ensure that contacts database on the intranet is up-to-date and complete;</p> <p>3.5 Promote detailed services that each member can expect according to his/her role as shown by the example outlined in Appendix C.</p>	<p>Roger Goodes</p> <p>Roger Goodes</p> <p>All Heads of Service</p>	<p>August 2010</p> <p>April 2010</p> <p>June 2010</p>
<b>4. Improve press and communications.</b>	<p>4.1 Promote detailed understanding of the Council's legal responsibilities regarding press and communications as set out in example Appendix E;</p> <p>4.2 Ensure that AAP co-ordinators and the media relations team understand and act in accordance with the fact that the Council provides the majority of resources to AAPs.</p>	<p>Roger Goodes</p> <p>Roger Goodes/ Gordon Elliott</p>	<p>May 2010</p> <p>May 2010</p>
<b>5. Improve diary and meeting management.</b>	<p>5.1 Ensure that the meetings schedule is proactively co-ordinated by Democratic Services to prevent clashes and reduce the number of changes to dates and/or venues of meetings;</p> <p>5.2 Review the content of the Members' diary to ensure that it reflects good practice e.g. on containing appropriate contact details etc.</p>	<p>Colette Longbottom</p> <p>Colette Longbottom</p>	<p>April 2010</p> <p>April 2010</p>
<b>6. Improve ICT for members.</b>	<p>6.1 Review the current members protocol</p> <p>6.2 Assess the needs of members for ICT provision</p> <p>6.3 Develop options for ICT provision to members to meet the needs identified above</p> <p>6.4 Implement ICT solutions</p> <p>6.5 Review the members' satisfaction with their ICT service including the identification of key performance measures;</p> <p>6.2 Ensure regular reporting to members on the agreed performance measures of the ICT service</p>	<p>Phil Jackman</p> <p>Phil Jackman</p> <p>Phil Jackman</p> <p>Phil Jackman</p> <p>Phil Jackman</p> <p>Phil Jackman</p>	<p>Sept 2010</p> <p>Sept 2010</p> <p>Sept 2010</p> <p>April 2011</p> <p>June 2010</p> <p>June 2010</p>

<b>7. Ensure members are consulted on the improvements of this plan.</b>	7.1 Agenda this report at CWG.	Lorraine O'Donnell	May 2010
	7.2 Ensure content of report is discussed at members' seminar.	Lorraine O'Donnell	June 2010
	7.3 Report progress to CWG.	Lorraine O'Donnell	Nov 2010