

## Standards Committee

22 March 2018



## Protocol on Member / Officer Relations

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### Report of Helen Lynch, Head of Legal & Democratic Services and Monitoring Officer.

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#### Purpose of the Report

- 1 To invite members to consider a revised protocol on Member and Officer Relations.

#### Background

- 2 The protocol on Member/Officer relations is included in Part 5 of the Constitution. There is no statutory requirement for the Council to have such a protocol, however, it is considered good practice to do so. Such a protocol is beneficial as it sets out the respective expectations of Members and Officers. Whilst experienced Councillors and Officers may understand and appreciate the different roles that they have, newly elected Members and recently appointed employees may find it helpful to have the notes explained. Understanding what is, and is not, expected of each other can assist in maintaining and improving excellent Member/Officer working relationships.
- 3 It is some time since the existing Protocol (attached at Appendix 2) on Member/Officer Relations was adopted and reviewed. It is lengthy and repetitive in a number of areas. Therefore the protocol has been reviewed as part of the annual review of the Council's Constitution.

#### Changes to the Protocol

- 4 A revised draft of the protocol has been prepared which is attached at Appendix 3. It has been re-written to remove duplication and ensure it is written in plain English. Whilst the protocol is significantly shorter, the revised draft does not seek to add or remove any principles from the existing Protocol.

#### Recommendations and reasons

- 5 Members are requested to:
  - (a) Consider the revised draft Member / Officer Protocol and provide any comments / further amendments; and
  - (b) Recommend to Council that the revised Protocol is adopted as part of the Annual Review of the Constitution.

**Background papers**

None

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## **Appendix 1: Implications**

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**Finance** – There are no finance implications associated with this report.

**Staffing** – There are no finance implications associated with this report.

**Risk** – There is no direct risk to the organisation as a result of the contents of this report.

**Equality and Diversity / Public Sector Equality Duty** – There are no public sector equality duty implications in relation to this report.

**Accommodation**– None

**Crime and Disorder**– Not applicable.

**Human Rights**– Not applicable.

**Consultation**– The draft protocol will be shared with the Political Group Leaders prior to it being presented to Council as part of the wider review of the Annual Constitution. This will provide them with an opportunity to consider and comment on the report. .

**Procurement**– Not applicable.

**Disability Issues**– Not applicable.

**Legal Implications**– There are no specific legal implications arising from this report. As explained at paragraph 2 refers, there is no statutory requirement for Councils to adopt a Protocol on Member Officer Relations but it is good practice to do so. In recent years a number of local authorities, where there have been significant governance failings, have been criticised for not having a Protocol in place. The authority already has a protocol in place but this would benefit the updates/provisions proposed.

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## **Appendix 2: Existing Protocol**

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## **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 (e.g. 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 or 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.
- 8.2 Further information to build on this guidance is attached as an Appendix.

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## Appendix A: 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 COSMB 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
- 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 B.

#### **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 Notice of Key Decisions
  - Cabinet proposals referred back by the COSMB 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 Notice of Key Decisions 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 Corporate Overview and Scrutiny Management Board (COSMB) 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 (Head of Legal and Democratic Services) 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 COSMB and Scrutiny Committees and Officers**

- 7.1 The primary role of the Chair and Members of the COSMB 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 COSMB and Scrutiny Committees.
- 7.3 The Scrutiny Manager will be the Principal Advisor to the COSMB. 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 COSMB meeting at which the called-in item or items are to be discussed.
- 7.4 The Chair and Members of the COSMB 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 COSMB 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 COSMB 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 five 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 COSMB or Scrutiny Committee meetings by invitation or by responding in writing. Invitations should be issued in writing from the Chair of the relevant COSMB 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
- Issues 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 B: 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 C: 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 attach, 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 (as amended) 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 (as amended) 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) (as amended), but (subject to this) any such facility should be made available on a fair and equal basis.

## Appendix D: 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:
  - (a) Pass on without delay any request. (They will usually say FOI or they will not be normal daily constituency work.)
  - (b) 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)
  - (c) The elected members of a local council are likely to have three different roles
    - (i) As a member of the council, for example, as a member of a committee.
    - (ii) As a representative of residents of their ward,
    - (iii) As a political party representative.

The FOIA has a different effect depending on their role.

- (d) Individual councillors are not authorities for the purposes of the FOIA. However, depending on their role, the information can be accessible.
- (e) 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.
  - (i) 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.
  - (ii) 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.
- (f) 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.
- (g) 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 **03000-268-035**

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## **Appendix 3: Revised Draft Protocol**

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# **Protocol on Member Officer Relations**

## **1. Status of this Protocol**

- 1.1 This Protocol seeks to offer guidance on some of the issues which most commonly arise in relation to the relationships between Members and Officers.
- 1.2 The Protocol is partly a statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty. In particular, it covers the behaviour that is expected between Members and Officers.
- 1.3 The Protocol gives guidance only but it may be taken into account if there is a complaint about a Member or an Officer. Members must observe the Members' Code of Conduct. Any complaints received in relation to alleged breaches of the Code of Conduct will be considered initially by the Monitoring Officer. Officers are also obliged to comply with the Code of Conduct for Employees. Any complaints received about Officers behaviour or conduct will be considered by the relevant managers.

## **2. Roles of Members and Officers**

Officers and Members both serve the public but they have different roles. Officers are employees of the Council and are politically neutral. Their role is to advise Members and implement the policies of the Council to the best of their abilities. Members are office holders and will often belong to a political party. They are obliged to exercise their own judgement in respect of matters before them but may also legitimately pursue party political objectives. Employees are answerable to the Chief Executive, not to individual Members (whatever office they hold), but there should be good communication between senior officers and Members with special responsibility for their area of work.

## **3. Expectations**

### *3.1 What Members can expect from Officers:*

- (a) A commitment to the authority as a whole, not to any political group;
- (b) A working partnership;
- (c) An understanding of and support for respective roles, workloads and pressures;
- (d) Timely responses to enquiries and complaints;

- (e) Professional advice, not influenced by political views or preference;
- (f) Regular up-to-date information on matters that can be reasonably considered appropriate and relevant to the Member's needs, having regard to any individual responsibilities that they have and positions that they hold;
- (g) Awareness and sensitivity to the political environment;
- (h) Respect and courtesy;
- (i) Training and development in order to carry out their roles effectively;
- (j) Not to have personal issues raised with them by Officers outside the agreed procedures;
- (k) Officers should not try to persuade individual Members to make a decision in their personal favour or raise things to do with their employment with individual Members. Nor should they approach individual Members with allegations about other Officers. They should use the Council's grievance, confidential reporting and disciplinary procedures instead; and
- (l) Compliance with the Employee Code of Conduct.

### 3.2 *What Officers can expect from Members:*

- (a) A working partnership;
- (b) An understanding of and support for respective roles, workloads and pressures;
- (c) Political policy direction and leadership;
- (d) Respect and courtesy;
- (e) Members should generally restrict their discussion on strategic or significant issues to more senior officers (that is the Chief Executive, Corporate Directors or Heads of Service); Members should raise all queries on operational matters initially with Corporate Directors or Heads of Service who will ensure that Members receive a timely response.
- (f) Members are encouraged to use regular briefings and/or normally make appointments before visiting Officers in order to try to avoid frequent unscheduled interruptions;

- (g) Members should not pressure Officers to work outside their normal hours or to do anything they are not allowed to do or that is not part of their normal work;
- (h) Not to be subject to bullying, harassment or intimidation. Members should have regard to the seniority and experience of Officers in determining what constitutes a reasonable request. Members with special responsibilities should be particularly aware of this;
- (i) Members should not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly;
- (j) Members should not make detrimental remarks about individual Officers during meetings, in public or to the media; and
- (k) Members should at all times comply with the Member Code of Conduct.

#### **4. Limitations on behaviour**

The distinct roles of Members and Officers necessarily impose limitations upon behaviour. By way of illustration and not as an exclusive list:

- (a) Personal relationships between individual Members and Officers can confuse the separate roles and get in the way of the proper discharge of the authority's functions. In this situation, others may feel that a particular Member or Officer may be treated more Favourably.
- (b) Personal relationships should be avoided. Where they do exist the officer concerned must notify his or her manager.
- (c) 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;
- (d) Relationships with particular individuals or party groups should not be such as to create public suspicion that an employee Favours that Member or group above others.

#### **5. Politeness and respect**

- 5.1 Members and Officers should show each other politeness and respect. Members have the right to challenge Officers' reports or actions, but they should avoid personal and/or public attacks; and ensure their criticism is fair and constructive.
- 5.2 Officers should not publicly criticise Council decisions even if they do not personally agree with those decisions.

## **6. Complaints about Members or Officers**

- 6.1 If an Officer feels a Member is not treating them with politeness and respect, they should consider talking to the Member directly. If they do not feel able to do this, or talking to the Member does not help, they should talk to their Head of Service or Corporate Director immediately. The Head of Service or Corporate Director will talk to the Member or the Leader of their political group and/or other senior officers as appropriate. The Officer will be told the outcome. Officers may also make a complaint alleging a breach of the Members' Code of Conduct.
- 6.2 If a Member feels an Officer is not treating them with politeness and respect, they should consider talking to the Officer directly. If they do not feel able to do this or talking to the Officer does not help, they should talk to the Officer's Head of Service or Corporate Director immediately. If the problem continues the Head of Service or Director will consider whether to use the Council's disciplinary procedures.

## **7. Members' enquiries**

- 7.1 Officers should answer Members' enquiries, in whatever form, within five working days. If that is not possible, they should send a holding reply. Where a Senior Officer considers that the enquiry received is inappropriate, the Member should be advised of this and the reason or reasons why the enquiry is considered to be inappropriate. Members should contact a more senior officer in the event that a response is not received within this time. The Chief Executive may be asked to resolve any issues arising from unreasonable delays in responding to Members' enquiries.

### *Casework*

- 7.2 Where a Member is making an enquiry of Officers as part of their ward casework, Officers will normally assume that they have the implicit consent of an individual to disclose personal information about them to the Member but only where:

- ) the Member represents the ward in which the individual lives;
- ) the Member makes it clear that they are representing the individual in any request for their personal information to the local authority; and
- ) the information is necessary to respond to the individual's complaint.

In all other cases Officers may need to seek the explicit consent of the individual to share their personal data with the Member in order to comply with the Data Protection Act 1998.

- 7.3 Personal information about third parties (i.e. individuals who have not sought the Member's assistance) may only be shared with a Member where the law permits this. See also paragraphs 8.1.3 and 8.1.4 below.

## **8. Information and advice**

### *8.1 Requests for written information*

- 8.1.1 Members should be provided with adequate information about services or functions on which they may be called upon to make decisions or to scrutinise the decisions of others, or which affect their constituents. This information will normally be made routinely available by Officers in the form of reports, departmental plans etc.. Members are encouraged to make use of existing sources of information wherever possible.
- 8.1.2 Written information supplied to a Member regarding the implications of current Council policies or containing statistical information about Council services may be copied to the relevant Cabinet Member.
- 8.1.3 The Leader of the Council or Leader of any other political group may request the Chief Executive or the relevant Corporate Director, or other designated Officer to prepare reports on matters relating to the authority for consideration by the group. Such requests must be reasonable and should not seek confidential information in relation for instance to casework or personal details of applicants for services.
- 8.1.4 Wherever possible, such requests will be met. However, if the Officer considers that the cost of providing the information, or the nature of the request is unreasonable or inappropriate, the request will be referred to the Chief Executive for determination, where necessary in consultation with the Leaders of the political groups. Requests will also only be met where they comply with data protection or other legal requirements.
- 8.1.5 Officer reports to political groups should be limited to a statement of relevant facts, identification of options and the merits and demerits of such options for the authority. Reports should not deal with any political implications of the matter.

### *8.2 Briefings*

- 8.2.1 In order for them to discharge their responsibilities Cabinet Members will be briefed by senior officers (Corporate Directors or Heads of Service) on service issues, proposals and policy development either on an ad hoc or a regular basis, in accordance with the requirements of the Member involved.
- 8.2.2 The other political party groups may also have nominated Shadow Portfolio Holders and, if those leads so request, the relevant senior officers will make themselves available to meet with them to brief them on service issues. The other political party groups should be aware that at times the amount of information that officers can share with them may be limited due to issues of confidentiality.

8.2.3 The content of these informal briefing sessions shall remain confidential as between Officers and the political group concerned.

### 8.3 *News items*

When an event or development occurs in the city which has or will have a significant impact on the Council or city residents, the Chief Executive will ensure that the Leaders of all political groups are informed as soon as possible.

### 8.4 *Ward Members*

8.4.1 Senior officers should ensure that Ward Members are given information relevant to their ward where appropriate. As well as letting Ward Members know when there has been a significant incident in their ward, Ward Members should be notified about the following types of issue:

- ) Public consultation events affecting their wards;
- ) Proposed changes to services sited within their wards;
- ) Applications and proposals in their wards

8.4.2 Ward Members should be invited by Officers to public events, such as openings, festivals etc., in their wards regardless of political affiliation.

8.4.3 If Officers organise a public meeting about a specific ward issue, all the Ward Members should be invited and given as much notice as possible.

8.4.4 If Officers undertake consultation about specific ward issues they should consult the Members for that ward at the start of the consultation.

8.4.5 Ward Members should be told in advance about anything which particularly affects their ward and which is potentially controversial.

### 8.5 *Officer attendance at Group Meetings*

8.5.1 The Leader of the Council or Leader of any other political group may ask the Chief Executive or Corporate Director to give or arrange a private briefing for the party group on a matter of relevance to the Council.

8.5.2 Any briefings offered to or requested by a party group will be offered to the other party groups.

8.5.3 While Officers may attend political group meetings at which individuals who are not elected Members may be present, Members need to understand that those Officers' ability to share confidential information with the Group may be limited. In particular Officers will not be able to share personal information with third parties present if to do so would cause the Council to breach the Data Protection Act 1998.

- 8.5.4 Officers must not attend regional and/or constituency party political meetings.
- 8.5.5 Decisions at group meetings are not Council or Cabinet decisions and party groups do not have any delegated authority to make formally binding decisions.

#### 8.6 *Advice for Members with special responsibilities*

- 8.6.1 The Chairman, Cabinet Members and Committee Chairs can ask the Chief Executive, Corporate Directors and Heads of Service for extra background information and advice on different courses of action.
- 8.6.2 Although these Members have additional responsibilities and different relationships because of their more frequent contact with Officers, these Members must still respect the impartiality of Officers. This includes not asking them to undertake work of a party political nature, or to do anything which would prejudice that impartiality.
- 8.6.3 The Leaders of minority political groups can ask the Chief Executive, Corporate Directors or Heads of Service for background information or more details about items coming to the next meeting of a Committee or Cabinet. The appropriate Chair or Cabinet Member will be entitled to receive the same information.
- 8.6.4 Party group Leaders can ask for advice on presenting their budget in a correct and accurate form. This will be given in confidence.

### **9. Members' briefings on agendas and reports**

#### 9.1 *Briefings on agendas*

The Chief Executive, Corporate Directors and Heads of Service will give briefings on full Council, Cabinet and Committee agendas to the Leader and Deputy Leader and Committee Chairs as appropriate.

#### 9.2 *Consultation on agendas*

The Leader will be consulted on agendas for the Cabinet. Committee Chairs will be consulted on agendas for their Committees.

#### 9.3 *Requests for reports*

- 9.3.1 Instructions for reports to come to Cabinet or Committees can only come from the Leader, Cabinet, a Cabinet Member in respect of the Cabinet and a Committee or a Committee Chair in respect of Committees. Cabinet Members may ask for reports to come to their Cabinet Member meetings.

9.3.2 Whilst Cabinet Members have political responsibility for drawing up proposals for consideration or for the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a professional duty to submit a report. Similarly, senior officers will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. Any issues arising between a Cabinet Member and a senior officer in this respect should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

## **10. Support services to Members and Political Groups**

Support services should only be used for Council business. They should never be used for private purposes, for party political or campaigning activity.

## **11. Correspondence**

### *11.1 Between Members and Officers*

If emails or letters between Officers and Members are copied to someone else, they should say so. Blind copies should not be sent. Members should not forward information received from an Officer to a constituent or member of the public if that information is expressed to be private or confidential.

### *11.2 Letters on behalf of the Council*

Letters on behalf of the Council will normally be sent by Officers rather than Members. The Leader or Committee Chairs may write some letters on behalf of the Council, for example representations to government ministers. Members must never send letters that create obligations or give instructions on behalf of the Council.

## **12. The Council as an Employer**

The Council as a whole employs its Officers. The appointment and dismissal of Officers and any disciplinary or grievance proceedings will be carried out in accordance with the Officer Employment Procedure Rules and any other agreed policies and procedures.

## **13. Responsibility for this Code**

The Monitoring Officer has overall responsibility for this Protocol and will periodically review its operation.