

ANNEX 18 - PROTOCOL FOR RELATIONSHIPS BETWEEN COUNCILLORS AND OFFICERS

1. Introduction and Principles

- 1.1 The purpose of this Protocol is to set out the respective roles and responsibilities of Councillors and officers, and to guide them in their dealings with each other in such a way as to ensure the smooth running of the Council.
- 1.2 This Protocol does not cover every situation that may arise in the relationships between Councillors and officers but aims to address the more common issues that are likely to arise and may cause difficulties and to provide guidance which may be applied more generally.
- 1.3 This Protocol seeks to reflect the principles underlying the Council's Code of Conduct for Members ("the Code of Conduct for Members") and the Code of Conduct for Employees ("the Officer Code of Conduct"). The shared objectives of these Codes is to enhance and maintain the integrity of local government, which demands very high standards of personal conduct.
- 1.4 This Protocol is subject to the other provisions of the Council's Constitution, in particular the Code of Conduct for Members, the Officer Code of Conduct, the various Standing Orders, Financial Regulations and the Schemes of Delegation to Officers, all of which will prevail over this Protocol if there is any conflict.
- 1.5 In this Protocol the expression "Councillor" includes any member of a Committee or Sub-committee of the Council, who is not an elected Councillor of the Council (a "co-opted member").
- 1.6 In this Protocol the expression "officer" includes any employee of the Council and any person working for the Council as a temporary employee, agency worker, consultant or contractor, and any employee of a company wholly owned by the Council.

2. Roles of Councillors and Officers

- 2.1 Both Councillors and officers are servants of the public and they are indispensable to one another. Their responsibilities, however, are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council in undertaking their work. Their job is to give advice to Councillors and the Council and to carry out the Council's work under the direction and control of the Council, the Executive and any committee or sub-committee of either the Executive or the Council.

- 2.2 Mutual respect between Councillors and officers is essential to good local government. Councillor/officer relationships are to be conducted in a positive and constructive way. It is important, therefore, that any dealings between Councillors and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position to seek or exert undue influence on the other party.

3. Personal Relationships

- 3.1 Councillors and officers should treat each other with respect. The Code of Conduct for Members requires Councillors to have regard to the following principles: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

- 3.2 The Officer Code of Conduct states that:

“Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors and should therefore be avoided.”

- 3.3 The interpretation of “close personal familiarity” is a matter of judgement for both Councillors and officers. The test should be, whether a disinterested third party might reasonably regard the relationship as so close and personal as to be likely to affect the ability of the Councillor or officer to carry out their respective roles properly or effectively.
- 3.4 Provided that this Protocol is observed there is no reason why there should not be an informal atmosphere between Councillors and officers outside of formal meetings and events.
- 3.5 It is important that there should be a close working relationship between Cabinet Members, the Chairman and Spokespersons of Regulatory and Scrutiny Committees or other Councillor bodies, and senior officers. Such relationships, however, should never be allowed to become so close, or appear to be so close, as to bring into question an officer’s ability to deal impartially with other Councillors and other political groups.
- 3.6 A Councillor who is closely related to an officer, and an officer who is closely related to a Councillor, must disclose this with details of the close relationship to the Chief Executive who will record the disclosure in a file kept for this purpose.
- 3.7 No Councillor or officer should allow any personal connection or relationship to affect the performance of his or her official responsibilities or the taking of any action or decision on behalf of the Council. This includes for example any family relationship, membership of the same household or any business connection. Councillors and

officers should always consider how such a relationship or connection would be likely to be regarded by anyone outside the Council, or by any other councillor or officer and avoid creating any impression of bias or unfairness.

- 3.8 Any Councillor who is present at a meeting, at which a matter is discussed which significantly affects or is likely significantly to affect that officer or the work or area of work of that officer, should declare an interest in the matter and withdraw from the meeting.
- 3.9 A Councillor may be asked for advice and support by an employee who is one of their constituents. Employees are entitled to seek such assistance in the same way as any other member of the public. If, however, a request for advice/support from an officer relates to the officer's personal circumstances as an employee, this could cause a conflict of interest to arise. A Councillor in this situation may inform the officer where advice and/or support may be obtained (e.g the HR Service, the officer's manager or a superior manager, the officer's trade union or outside agencies such as the Citizen's Advice Bureau or a solicitor). A Councillor should not "act" for or represent the officer in such circumstances and should not ask any officer or Council Service for any documents or information relating to the issue.
- 3.10 A Councillor who is concerned about his/her position in relation to a request from an officer in relation to the officer's employment with the Council should ask the Director of Law & Governance for advice.

4. Support to Councillors

- 4.1 A full list of services available to Councillors ("Councillor services") is contained on the Members Information System. It is important that Councillors use these approved methods of interacting with the Council and do not try to circumvent them in any way.

5. Officers and Political Groups

- 5.1 All officers are required to serve the Council as a whole and not any Political Group. There is now, however, statutory recognition for Political Groups and it is common practice for political groups to discuss matters of Council business before they are formally considered by the relevant Council decision making body. Officers may properly be called upon to support this process.
- 5.2 The Chief Executive, Chief Officers and other officers (with the agreement of their Chief Officer or of the Chief Executive) are available to attend meetings of Political Groups to provide relevant information and/or advice. This may apply to a meeting of a whole Political Group, to a meeting of part of a Political Group or to individual Councillors representing a Political Group. The content of such briefings must be treated as confidential and not be disclosed to any other Political Group unless required by the Council's Constitution or agreed to by the

- Political Group to which the briefing was given, unless the information is already publicly available.
- 5.3 Officers will only inform another Political Group that such a briefing has taken place if requested by the Political Group to whom the briefing has been given to do so and, in such a case, will then inform all other Political Groups that the briefing has taken place. Officers will not disclose the content of the briefing or of any advice given unless the information is already publicly available.
 - 5.4 Officer support to Political Groups must not extend beyond providing information and advice in relation to matters of Council business. Officers must not advise on party political matters. Officers must not be present, or remain present, at meetings, or parts of meetings, at which party political business is to be discussed.
 - 5.5 Political Group meetings, whilst a preliminary to Council decision making, have no power to make decisions on behalf of the Council. Conclusions reached at Political Group meetings are not Council decisions and must not be acted upon as if they were Council decisions.
 - 5.6 Where officers provide information and/or advice to a Political Group meeting, this cannot be a substitute for providing all necessary information and advice to the relevant Councillor body when the matter is considered.
 - 5.7 If officers consider that information or advice prepared by them on their own initiative would assist all Political Groups in relation to policy formulation (e.g. background to the budget), then they may indicate to all Political Groups that they would be willing to provide that information, or attend a meeting of any of the Political Groups to provide advice. Where a Political Group takes up such an offer, officers may provide such information/advice to, or attend a meeting of, that Political Group even if another Political Group or all other Political Groups does/do not take up the offer.
 - 5.8 In all dealings with Councillors, in particular when giving advice to Political Groups, officers must demonstrate political impartiality and must not suppress their professional advice in the face of political views.
 - 5.9 Officers may accompany Councillors at meetings with ministers, MPs, civil servants, business or community representatives, or other official representatives to discuss Council business, provided that such meetings are not party political in nature and subject to any guidance issued in relation to a Pre-election Restricted Period (“PERP”).
 - 5.10 Officers should not be present at, or remain present at, or give advice to a meeting of a Political Group at which persons who are not

Councillors, district or borough Councillors, or officers are present unless their attendance has been authorised in advance by the Chief Executive. Such persons will not be bound by the Code of Conduct for Members (in particular, the provisions concerning the declaration of interests and confidentiality).

- 5.11 In some situations an officer may be under a duty to submit a report on a particular matter to Councillors. A Chief Officer will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between a Councillor or a Political Group and a Chief Officer in relation to such a situation should be referred to the Chief Executive.

6. Councillor access to information

- 6.1 It is necessary for the proper running of the Council that Councillors should be fully informed on items on which they are required to make decisions or which affect their divisions. It is the duty of each Chief Officer to ensure that local Councillors are kept informed.
- 6.2 Councillors may approach any Council Department requesting information or advice reasonably required to assist them in their role as Councillors. Such approaches should normally be directed to the relevant Chief Officer unless a contact officer has been identified for the service area in question.
- 6.3 Any Councillor has the legal right to inspect any document which has been considered or is to be considered in public by the Cabinet or by a Cabinet Panel or by a Committee or Sub-Committee.
- 6.4 A Councillor's right to inspect documents considered by the Full Council, the Cabinet, Cabinet Panels or a Committee or Sub-Committee in private, and to inspect other Council documents, is more restricted.
- 6.5 A Councillor has the right to see any document and have any information which is reasonably necessary to enable the Councillor to carry out his/her duties as a Councillor properly. This is referred to as the "need to know". This includes all documents available to the public as "background documents" and all documents setting out information that is disclosable to the public under the Freedom of Information Act 2000.
- 6.6 If the Councillor is a member of the body which considered the document or which is responsible for the service area to which the document relates ("the relevant body"), the Councillor will normally have the "need to know" and the right to inspect the document without further justification.
- 6.7 A Councillor who is a Councillor for a division to which the matter specifically relates (as oppose to relating to all divisions generally) ("a

local Councillor”) will also normally (subject to 6.10 below) be regarded as having “the need to know” and entitled to inspect the document without further justification unless the document contains personal information disclosure of which is prohibited by data protection legislation.

- 6.8 A Councillor who is not a member of the relevant body or a local Councillor (or is a local Councillor but the document contains personal information disclosure of which is prohibited by data protection legislation) will be presumed not have the “need to know” without justification and will need to demonstrate why he/she has the “need to know”.
- 6.9 A dispute about whether a Councillor has the “need to know” in respect of a particular document will be referred initially to the relevant Chief Officer. If the dispute cannot be resolved by the Chief Officer, it will be referred to the Chief Executive for decision. The Director of Law & Governance will advise as necessary.
- 6.10 A Councillor’s right to see documents and have information may also be restricted in other ways. A Councillor must not knowingly seek access to a document relating to a matter in which the Councillor is personally or professionally interested, or for a purpose unrelated to the Council’s business (even if he/she would otherwise have the “need to know”) or in order to use the document against the Council in litigation or otherwise.
- 6.11 Any information provided to a Councillor must only be used by that Councillor in connection with the proper performance of the Councillor’s duties as a Councillor. Confidential information must not be disclosed without lawful authority and Councillors are subject to data protection legislation in dealing with any information provided to them.
- 6.12 When a Councillor asks for information or advice from an officer, the reply must not be copied to or subsequently made available to any other Councillor without the permission of the requesting Councillor. Where information or advice is given in writing to a number of Councillors it should be made clear who has received it. There should be no “blind copies.”
- 6.13 Nothing in 6.1 to 6.12 above is to be construed as preventing a Councillor from accessing a document which is already available to the public or disclosable under the Freedom of Information Act 2000.

7. Official Correspondence

Letters sent to third parties relating to the exercise of the Council’s functions should normally be sent out on official notepaper and signed by an officer.

8. When Things Go Wrong

- 8.1 Occasionally a relationship between a Councillor and an officer may break down or become strained. It is usually preferable to resolve this informally, but sometimes this may not be possible, and it is important for Councillors and officers to know how to pursue any complaint or grievance.
- 8.2 If a Councillor wishes to complain about the actions of an officer, he/she should raise it with the relevant Chief Officer in the first instance. If the Councillor is not satisfied with the response, he/she may take the matter up with the Chief Executive. Where the complaint relates to the Chief Executive it should be raised with the Director of Law & Governance, in his/her capacity as the Council's Monitoring Officer.
- 8.3 If an officer has a grievance about the conduct of a Councillor, he/she should take the matter up with his/her Chief Officer. If the Officer is not satisfied with the response, he/she may take the matter up with the Director of Law & Governance. These provisions do not affect an officer's right to make a formal complaint under the Code of Conduct for Members.