

# Part 5.4

## Member/ Officer Relations' Protocol

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### **1. INTRODUCTION**

- 1.1** An integral part of strengthening and improving organisational culture is developing and maintaining good governance. The fundamental principles of good corporate governance are set out in the Cadbury Report [1992] and then expanded upon in the Nolan Committee [1995]. The Chartered Institute of Public Finance and Accountability (CIPFA) in conjunction with the Society of Local Authority Chief Executives and Senior Managers (SOLACE) drew together the principles identified by Cadbury and Nolan into a single framework of good governance for use in local government and published

Corporate Governance in Local Government – A Keystone for Community Governance: Framework. This Framework has been revised from time to time so as to take into account the reforms to local government to improve local accountability and engagement. The Nolan Committee Report on Standards of Conduct in Local Government in England, Scotland and Wales, was in no doubt about the need for an effective working relationship to exist between Councillors and employees in local authorities.

**1.2** One of the principles of this Framework provides that good governance means Councillors and officers working together to achieve a common purpose with clearly defined functions and roles. In that regard, the Nolan Committee expressed the view that the following principles must be observed:

- Advice to political groups must be given in such a way as to avoid compromising an officer's political neutrality.
- Advice must be confined to Council business, not party business.
- Relationships with a particular party group should not be such as to create public suspicion that an officer favours that group above others.
- Information communicated to an officer by a party group in confidence, should not be communicated to other party groups.

**1.3** This Protocol attempts to define what should be considered a proper working relationship between the Mayor/ Councillors and officers in the London Borough of Tower Hamlets and to provide a framework within which confidence in the machinery of local government in Tower Hamlets can be maintained. The Protocol, which is a public document, forms part of the Council's Constitution. It draws on statute and common law, the statutory provisions applying to the Council's Code of Conduct for Members, the Nolan Committee Report, an earlier Tower Hamlets Protocol document and similar codes produced in other London Boroughs.

**1.4** Councillors and officers are indispensable to one another and mutual respect between both is essential for good local government. Together, they bring the critical skills, experience and knowledge required to manage an effective public sector organisation. Councillors provide a democratic mandate to the Council, whereas officers contribute the professional expertise needed to deliver the policy framework agreed by Councillors.

**1.5** Whilst collaborative working is the accepted norm for Councillors and officers, it is important to recognise and take account of their different roles. This is necessary for the day to day interaction between Councillors and officers and for the public perception of the Council – by ensuring transparency between the political role of Councillors and the professional, impartial, role of officers.

- 1.6** If the Protocol is followed then it should ensure that Councillors receive objective and impartial advice from officers and provides a shield to officers to protect them from accusations of bias and from undue influence from Councillors.
- 1.7** This Protocol is part of the Council’s ethical framework and the guidance in this protocol is intended to complement the provisions of the Members' Code of Conduct (at Part 5.1 of the Constitution) and the Employees’ Code of Conduct (at Part 5.5. of the Constitution) and must be read in conjunction with those Codes as well as any guidance issued by the Monitoring Officer.
- 1.8** A failure to abide by this Protocol by the Mayor or Councillors is likely to be a breach of the Code of Conduct for Members and which could result in a complaint being made to the Monitoring Officer. As to officers, a failure to abide by this Protocol by the Mayor or Councillors is likely to result in a disciplinary investigation.
- 1.9** Any reference to ‘Councillor’ or ‘Councillors’ in this Protocol, or any appendices or related Codes/ Protocols, means the Mayor, elected and co-opted members. This Code applies at all times when Councillors act in their capacity as Councillors (or claim to act or give the impression of acting in their capacity as a Councillor).
- 1.10** Officers and staff mean all persons employed by the Council.
- 1.11** Whilst much of this Protocol concerns the relationship between Councillors and Senior Officers, the same principles apply to all officers.
- 1.12** **A Councillor in need of advice about the application of this Protocol should contact the Monitoring Officer whereas an officer in need in need of advice about the application of this Protocol should contact their line manager in the first instance.**

## **2. GENERAL PRINCIPLES OF CONDUCT**

- 2.1** The report of the Nolan Committee “Standards of Conduct in Local Government in England, Scotland and Wales”, recommended that the former National Code of Local Government Conduct should be replaced by a statement of the “General Principles of Conduct for Local Councillors”.
- 2.2** This recommendation was given statutory force through the ethical framework contained in the Local Government Act, 2000. The “General Principles of Conduct in Local Government” were stated as follows:

- Selflessness – Councillors should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
- Honesty and Integrity – Councillors should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
- Objectivity – Councillors should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
- Accountability – Councillors should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should cooperate fully and honestly with any scrutiny appropriate to their particular office.
- Openness – Councillors should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
- Personal Judgement – Councillors may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
- Respect for Others – Councillors should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority’s statutory officers, and its other employees.
- Duty to uphold the law – Councillors should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.
- Stewardship – Councillors should do whatever they are able to do, to ensure that their authorities use their resources prudently and in accordance with the law.
- Leadership – Councillors should promote and support these principles by leadership and example, and should always act in a way that preserves public confidence.

**2.3** The Localism Act 2011 then provided for seven principles of conduct and which underpin this Protocol. These are:

- Selflessness (doing things for others rather than personal benefit),
- Integrity,
- Objectivity (not being biased),

- Accountability (being responsible),
- Openness,
- Honesty and
- Leadership.

**2.4** Officers are also bound by the Council's own Employees' Code of Conduct and, in some cases, by the codes of their professional associations.

### **3. COUNCILLORS' ROLES AND RESPONSIBILITIES**

#### **General**

**3.1** Councillors are democratically accountable to residents of their Wards and serve only so long as their term of office lasts. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. Councillors should not allow sectional interests or pressures to prevent them carrying out their duties.

**3.2** Councillors will have personal, individual and collective roles to balance. As the local elected representative they will engage with residents and groups on a wide range of different issues and take on an important community leadership role. Councillors will respond to constituents' enquiries and representations, fairly and impartially. As Representatives, Councillors will interpret and express the wishes of the electorate and seek to account for service priorities, allocation of resources and the authority's performance.

**3.3** As members of political groups or as independents, Councillors will express political values and support the policies of the group to which they belong.

**3.4** Councillors will have to decide how to relate their representative role to their political role. The Council has to constantly make choices, because of conflicts of interests and scarcity of resources. The representative role does not prevent Councillors from deciding that some individuals/ groups have the greatest need, or historically have been excluded from receiving services. Equally, because of their representative role, Councillors will often be required to consider making representations on behalf of their constituents even if they are aware that the matter has a relatively low priority under the Council's policies

**3.5** At Council/ Cabinet/ Committees/ Sub-Committees or Panels, Councillors have personal, individual and collective responsibility for the organisation and its activities. Councillors are responsible for ensuring that adequate management arrangements are in place; to develop and take decisions on the use of the Authority's physical, financial and human resources.

Councillors are also concerned with the performance, development, continuity and overall well-being of the organisation.

- 3.6** Councillors as Cabinet Members may also have executive responsibilities and powers to exercise as specified under the Council's Constitution. At Council, Councillors participate in the governance and management of the Council. They will contribute to the development of policies and strategies, including budget setting. On Committees or Sub-Committees, Councillors may be involved in scrutinising Council decisions or taking decisions on Planning or Licensing applications.
- 3.7** Councillors who are Committee chairs or portfolio holders have more specialised roles in promoting particular policies, representing the Council while at the same time working with other agencies to tackle issues such as housing, social services, schools, the environment and transport.
- 3.8** Councillors hold office by virtue of the law and must at all times operate within it. They are required by law to observe the General Principles of Conduct and the Code of Conduct for Members in their involvement in Council business and are also required to act in accordance with the Council's Constitution.
- 3.9** Ultimately, all Councillors however have the same rights and obligations in their relationship with officers and should be treated equally.

#### **Councillors and Decision Making**

- 3.10** The Council operates a directly elected Mayor and Executive model and therefore executive decisions are taken by the Mayor and non-executive decisions by Council. These decisions are then delegated so that in practice, most of the work is either given to smaller groups of Councillors or by officers.
- 3.11** Councillors are not authorised to instruct officers other than:
- through the formal decision-making process;
  - to request the provision of consumable references provided by the Council for Councillors' use;
  - where staff have been specifically allocated to give support to a Councillor or group of Councillors.
- 3.12** The Mayor and Councillors are not authorised to initiate or certify financial transactions, or to enter into contracts on behalf of the Council.
- 3.13** Councillors must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. When reaching decisions, Councillors should have regard to any advice provided by the Monitoring Officer or section 151 officer.

**3.14** Councillors must respect the impartiality of officers and do nothing to compromise it such as insisting that an officer changes his/ her professional advice.

**3.15** Councillors should avoid undermining respect for officers at Council/ Cabinet/ Committees/ Sub-Committees/ Panels or other meetings, or in a public forum. This would be damaging both to effective working relationships and to the public image of the Council. Part of the role of Councillors is to monitor the performance of the Council and its staff. Councillors have the right to criticise reports or the actions taken by officers, but they should always:-

- seek to avoid personal attacks on officers; and
- ensure that criticism is constructive and well-founded.

**3.16** Councillors have the ability to agree or reject proposals placed before them by officers, irrespective of the advice or recommendations made by officers so long as they generally act in good faith and exercise reasonableness in decision-making and specifically:-

- take into account relevant and dismiss irrelevant matters; and
- do not come to a conclusion that no reasonable authority would come to. Officers must therefore, be able to report to Councillors as they see fit and without any political pressure.

**3.17** Decisions taken by any party political group meeting are not relevant to proper consideration of an issue by the Council under its Constitution. Where issues arise as a result of discussion at a party group meeting, then any formal action which Councillors may wish to see taken by officers should be notified to the Chief Executive or other relevant Chief Officer who will advise on the appropriate action to be taken.

Pre-disposition/ Pre-determination/ Interests

**3.18** Section 25 of the Localism Act 2011 ('the 2011 Act') provides that a Councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This reflects the common law position that a Councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in light of all the information presented at the meeting. Nevertheless, a Councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Councillor was biased.



- 3.19** As to predetermination, this is a legal concept and is used in situations where a decision maker either has, or appears to have, a closed mind. That is s/he has made up his/her mind in advance of proper consideration of an issue and the merits of an application. Section 25 of the 2011 Act does not amount to the abolition of the concept of predetermination however, as no one should decide a case where they are not impartial or seen to be impartial. Critically, Councillors need to avoid any appearance of bias or of having a predetermined view before taking a decision.
- 3.20** Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Councillor makes it clear they are willing to listen to all the considerations presented at the committee before deciding on how to vote (predisposition).
- 3.21** This is of particular importance when Councillors are acting as part of a tribunal hearing applications and if a Councillor considers that s/he does have a bias or cannot be impartial then they should withdraw from being a member of the Committee/ Sub-Committee considering such applications.
- 3.22** Councillors should note that, unless they have a disclosable pecuniary interest or a significant personal interest, they will not appear to be predetermined through-
- listening or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Councillors or appropriate officers, provided they do not consist of or amount to prejudging the issue and the Councillor makes clear that they are keeping an open mind;
  - seeking information through appropriate channels; or
  - being a vehicle for the expression of opinion or speaking at the meeting as a Ward Councillor, provided the Councillor explains their actions at the start of the meeting or item and makes it clear that, having expressed the opinion or ward/ local view, they have not committed themselves to vote in accordance with those views and will make up their own mind having heard all the facts and listened to the debate.
- 3.23** In order to avoid allegations of bias it is important that Councillors are scrupulous in declaring interests at a Committee meeting and, if in doubt, should seek advice from the Monitoring Officer as to whether s/he has an interest.
- 3.24** There are three (3) categories of interests, namely:

- Disclosable pecuniary interests (DPIs);
- Other registerable interests; and
- Non registerable interests

**3.25** Chapter 7 of the 2011 Act places requirements on Councillors regarding the registration and disclosure of their pecuniary interests ('DPI') and the consequences for a Councillor taking part in consideration of an issue in the light of those interests. The definitions of DPI taken from the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 are set out in paragraph 3.4 of the Code of Conduct for Members.

**3.26** Paragraphs 3.5 to 3.8 of the Code of Conduct for Members sets out other interests that the Council has decided should also be registered. Where a Councillor has an interest which under this Code would not be a disclosable pecuniary interest but requires registration (and therefore would not generally by law prevent participation in consideration of a matter in which the Councillor has that interest) the Councillor must also consider whether a reasonable member of the public in possession of all the facts would think that their interest is so significant that it would be likely to impair the Councillor's judgement of the public interest. If so, the Councillor must withdraw and take no part in consideration of the matter nor seek to influence the outcome improperly.

**3.27** Occasions may also arise where a matter under consideration would, or would be likely to, affect the wellbeing of the Councillor, their family, friend or close associate(s) more than it would affect those in the local area generally, but which is not required to be included in the Register of Members' Interests (for example, a decision in relation to a school closure, where a Councillor has a child at the school). In such matters, Councillors must also consider whether a reasonable member of the public in possession of all the facts would think that their interest is so significant that it would be likely to impair the Councillor's judgement of the public interest. If so, the Councillor must withdraw and take no part in consideration of the matter nor seek to influence the outcome improperly.

#### Restrictions on Voting

**3.28** Councillors must declare any Council tenancy they hold, but the Secretary of State has given a general dispensation for such Councillors to speak and vote on general housing matters unless the issue to be considered relates solely to the Councillor's dwelling. However, the Secretary of State has precluded Councillors from voting on any matter concerning the rents of local authority housing if they are two months or more in rent arrears

**3.29** Section 106 of the Local Government Finance Act 1992 provides that no Councillor who is two months or more in arrears on payments for council tax is permitted to vote at any Council or Committee meeting on any decision on:

- any calculation affecting the level of council tax;
- the issue of precepts;
- any matter concerning collection, enforcement and penalties of council tax; and
- any recommendation or decision which might affect the calculation of the level of council tax whether for the year in question or a subsequent year.

**3.30** It is the responsibility of any Member to whom section 106 applies to:

- disclose the fact; and;
- not vote on any matter specified in Section 106.

### **Councillors and Legal Action by or against the Council**

**3.31** There is a whole range of circumstances where the Council as a corporate body may be involved in legal proceedings. This could be against residents or other individuals, organisations and companies, and across the whole range of service areas including housing, planning, highways, etc. Councillors have a clear role in representing residents' and general public interests. In this representative capacity, Councillors will inevitably become involved in issues where the Council is considering, or is in the process of taking legal action, or where the Council is the defendant to legal actions brought by third parties.

**3.32** Conflicts of interest will almost certainly occur when a Councillor is enquiring on behalf of an individual or body involved in legal action by or against the Council. In such cases, Councillors will be required to balance their representative role with their wider responsibilities in representing the corporate interests of the authority. For this reason, Councillors must be circumspect in any dealing with persons taking action against the Council, or against whom any legal action is being taken. Particularly, Councillors must be extremely cautious about having any dealings with professional representatives, advisers or witnesses in the case. Not only could such intervention prejudice the Council's position but the Councillor could find himself/ herself accused of an offence of Misconduct of Public Office or, Perverting the Course of Justice or an attempt or conspiracy to do so.

**3.33** It is therefore particularly important that Councillors should be sure not only to avoid any actual impropriety, but at all times avoid any occasion for suspicion or any appearance of improper conduct.

**3.34** In that regard, Councillors must not:

- attempt in any way to exercise improper influence over the legal process in which the Council is involved;

- attempt to exert improper influence on Council officers involved in the legal process or witnesses in the case;
- attempt to engage the community to exert improper influence on Council officers involved in the legal process or witnesses in the case.

**3.35** Whilst Councillors have every right to information on how any such matter is being dealt with and a duty to represent their constituents, Councillors must also realise that the response on behalf of the Council must be limited to comments on process, so as not to prejudice any.

**3.36** In respect of any ongoing or contemplated proceedings, all enquiries must be addressed to either the appropriate Divisional Director or Corporate Director. On no account is the Councillor to contact any officers involved in the proceedings to discuss or make any enquiries regarding the proceedings.

**3.37** If, however, the Councillor believes that the Council's actions or intentions are wrong, s/he should inform the chief officer concerned. It must then be for the chief officer to determine what action to take. If the Councillor remains unhappy with the action taken, then s/he should refer the matter to the Council's Monitoring Officer or to the Chief Executive.

#### **Joint Arrangements with Third Parties**

**3.38** The Council has in place procedures governing situations where the Council is represented in joint arrangements and when employees or Councillors will be involved.

**3.39** Where Councillors are likely to be in the position of having a joint influence through Council, Cabinet/ Committee/ Sub-Committee/ Panel or other forum whilst at the same time being a Subscriber, Director or other member of a company or third party with which the Council is entering into a joint arrangement, adherence to the Council's Code of Conduct alone may not be sufficient protection. The Council must satisfy the District Auditor that it has taken appropriate steps to avoid any conflict of interest arising. If a Councillor's position is such that they could be involved in the decision making process on both sides, they must declare an interest and not take part in any decision or any discussion or vote at any Council, Cabinet/ Committee/ Sub-Committee/ Panel meetings or other forum where they are present.

**3.40** The Council has also agreed that all Councillors and private companies either set up by the Council or in which the Council has any interest should be advised:

- that no Councillor should apply for or be granted any form of paid employment with such a Company; and

- that no officer should participate in any recruitment process of the company without the prior agreement of the Chief Executive.

#### **Alleged Misconduct by Councillors**

- 3.41** Any allegation of fraud or other criminal misconduct against a Councillor, where the Council is involved, will be investigated under the national or local ethical framework and may be subject to reference to the police, as appropriate. Allegations of misconduct against Councillors may also be investigated under procedures laid down by the Council's Standards Advisory Committee. Where a matter involves party discipline then this will be referred to the Leader/ Chief Whip of the party political group.

#### **Complaints against Officers**

- 3.42** Complaints about officers or Council services should be made to the Director of the service where the Councillor feels the fault lies or to the Chief Executive where it involves a Director personally. Indeed, Councillors have a duty to raise any issues where they have reason to think that fraud/ probity, corruption or malpractice of any sort is involved within the Council.

### **4. OFFICERS' ROLES AND RESPONSIBILITIES**

#### **Advice and Accountability**

- 4.1** Officers are employed by and are accountable to the Council as a whole. With the exception of Political Assistants and the Mayor's Assistant, officers work to the instructions of their senior officers, not individual Councillors.
- 4.2** Under the direction and control of the Council (including, as appropriate, the Executive, Committees, Sub-Committees or Panels), officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 4.3** Officers have a general legal duty to ensure that in advising Councillors all relevant considerations are placed before them prior to any formal decision being taken. Officers are required, in this context, to provide accurate and impartial policy advice and information and also to draw attention to the financial, legal, resource, equal opportunities and other relevant implications arising from any proposal.
- 4.4** This will in some circumstances require officers to give formal advice to Councillors in Committee or other meetings, which may be considered unpalatable, or even contrary to some declared political policy or objective. This may be necessary to ensure that Councillors can rely on having all relevant implications before them in considering a proposal and enable a "reasonable" and lawful decision to be taken.

- 4.5** Officers have a duty to implement decisions of Council, the Executive, Committees and Sub-Committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's Constitution, duly minuted and published.
- 4.6** Chief officers are responsible for deciding who, apart from themselves, in their Directorate (and in what circumstances) is responsible for giving policy advice to Councillors or dealing with Councillor's non-routine questions.
- 4.7** Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
- 4.8** Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive and be aware of the implications for Councillors, the media or other sections of the public.
- 4.9** Officers have the right not to support Councillors in any role other than that of Councillor, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on officers' involvement in political activities.
- 4.10** Some officers have specific statutory responsibilities as holders of a statutory office, such as the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer. Others are Proper Officers appointed by Council for the purposes of specific statutes. These are set out in Part 2, Article 12 and Part 3.10 of the Constitution.
- 4.11** Officers carry out various management functions required under their job descriptions. Except through formal processes, Councillors should not seek to influence management decisions, for example on staffing matters.
- 4.12** Officers within Directorates are accountable to their chief officer and chief officers, through their senior management, are responsible for the allocation and prioritising of work by their staff. Councillors should not seek to influence such decisions.

#### **Delegated Powers to Officers**

- 4.13** In order to facilitate the Council's business and ensure that it is dealt with efficiently and effectively, certain functions of the authority will be delegated to officers. Formal schemes which delegates the power to exercise functions to chief officers (and in some cases to other specified officers) are set out in the Constitution. The chief officer, in turn, delegates functions to officers within a Directorate Scheme of Delegation.
- 4.14** Officers can only exercise functions that have been delegated to them. Where a function is delegated, it is important that officers should be able to

exercise this without hindrance or involvement by Councillors. The chief, or other officer, retains responsibility for the exercise of that power and is accountable for the decision taken.

- 4.15 Officers will also carry out various management functions required under their job descriptions. Again, except through formal processes, Councillors should not seek to influence management decisions, for example on staffing matters.
- 4.16 Officers have a duty to report to their Director any attempt to exert improper influence by Councillors or other officers.

#### Pre-disposition/ Pre-determination/ Interests

- 4.17 Like Councillors, officers must consider whether s/he has a registered interest or an interest that should be registered. Where an officer has a registerable interest then the officer must also consider whether a reasonable member of the public in possession of all the facts would think that their interest is so significant that it would be likely to impair that officer's judgement of the public interest. If so, the officer must withdraw and take no part in consideration of the matter nor seek to influence the outcome improperly.
- 4.18 Occasions may also arise where a matter under consideration would, or would be likely to, affect the wellbeing of the Councillor, their family, friend or close associate(s) more than it would affect those in the local area generally, but which is not required to be registered. In such matters, officers must also consider whether a reasonable member of the public in possession of all the facts would think that their interest is so significant that it would be likely to impair the officer's judgement of the public interest. If so, the officer must withdraw and take no part in consideration of the matter nor seek to influence the outcome improperly

## **5. THE RELATIONSHIP BETWEEN COUNCILLORS AND OFFICERS**

- 5.1 "Governance" means: the process of decision-making and the process by which decisions are implemented (or not implemented). For governance to be good it needs to be participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. Bad relations between Councillors and officers is counter-productive to good governance and therefore the conduct of Councillors and officers should be such as to instil mutual trust and respect. Councillors and officers should understand and respect each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- 5.2 Informal and collaborative two-way contact between Councillors and Officers is encouraged, but personal familiarity can damage the relationship, as might

a family or business connection, as this can undermine confidence in the Council. It is accepted that some close relationships will develop, particularly when Councillors and officers work closely together. It is important that close relationships between Councillors and officers are openly declared and if any relationship might be seen as unduly influencing their work in their respective roles then they should inform the Monitoring Officer.

- 5.3** It is not enough to avoid actual impropriety however. Councillors and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Councillor should not sit on a body or participate in any decision which directly affects the Officer on a personal basis.
- 5.4** Councillors and officers should respect each other's free (i.e. non-Council) time.
- 5.5** Councillors and officers should be courteous to each other at all times even if they disagree strongly with their respective views. Councillors and officers should not shout or raise their voice in an aggressive manner.
- 5.6** Councillors and officers must not bully or harass any person. Examples of bullying or harassing behaviour include:
- spreading malicious rumours
  - unfair treatment
  - picking on someone
  - regularly undermining a competent worker
  - denying someone's training or promotion opportunities
- 5.7** Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person whom the Councillor or officer has some actual or perceived influence over. This can be contrasted with the legitimate challenges which a Councillor or officer can make in challenging policy or scrutinising performance.

## **6. OFFICERS AND PARTY POLITICAL GROUPS**

- 6.1** It must be recognised by all officers and Councillors that in discharging their duties and responsibilities officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual Councillor. Special rules apply to Political Group Assistants and the Mayor's



Assistant and those post holders are made aware of them through separate guidance.

- 6.2** There is statutory recognition for party political 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. Senior officers may properly be called upon to support and contribute to such deliberations by political groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual Councillors treat them in a fair and even-handed manner.
- 6.3** The support provided by officers can take many forms, ranging from a briefing meeting with the Mayor, a Cabinet Member/ Chair/ Spokesperson prior to a Council, Cabinet, Committee or Sub-Committee meeting to a presentation to a political group meeting. Whilst in practice such officer support is likely to be in most demand from whichever political group is in control of the Council at the time, such assistance is available to all political groups.
- 6.4** Certain points, however, must be clearly understood by all those participating in this process, Councillors and Officer alike. In particular:
- (i) Requests for officers to attend any political group meeting must be made only to the appropriate member of the Corporate Management Team. Normally only that person will attend the meeting, although in exceptional circumstances s/he may be accompanied by one or more Senior Officers.
  - (ii) Unless otherwise agreed in advance with the Chief Executive, officers will not attend political group meetings that include persons who are not Councillors. However, where the Chief Executive has authorised such attendance special care needs to be exercised by officers involved in providing information and advice to such political group meetings. Persons who are not elected Councillors 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 Councillors only meeting.
  - (iii) Officer support (whether in the form of a written report or otherwise) must not extend beyond providing information and advice in relation to matters of Council business. Officer support will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the Authority. Reports or other support will not deal with any political implications of the matter or any option, and officers will not make any recommendations to a political group. Officers (with the exception of Political Group/ Mayor's

Assistants) are not expected to be present at meetings or part of meetings when matters of party business are to be discussed.

- (iv) Political group meetings, whilst they form part of the preliminaries to Council decision making are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such.
- (v) It must not be assumed by any political group or Councillor that any Officer is supportive of any policy or strategy developed because of that officer's assistance in the formulation of that policy or strategy.
- (vi) Officers must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussion to another political group or Councillor thereof. However, Councillors should be aware that this would not prevent Officers from disclosing such information to other officers of the Council so far as is necessary to perform their duties.
- (vii) Where officers provide information and advice to a political group meeting in relation to a matter of Council business, it should be understood that the officers have a statutory duty to provide all necessary information and advice to the Mayor or Cabinet or relevant Committee/ Sub-Committee when the matter in question is considered.

**6.5** Councillors should not ask staff to assist with any personal, business or party political matters, attend surgeries or decide how case work will be dealt with. The Political Advisers/ Assistants appointed to support the Mayor or the political groups on the Council can properly deal with political business. Although Section 9 of the Local Government and Housing Act, 1989 allows the political affiliation of an individual to be taken into account in the appointment of any Political or Mayor's Assistant, they remain officers of the Council and must therefore not undertake any activity, which may be deemed unlawful. In this context, it should be realised that officer support to the political groups is in the context of their role in the discharge of Council business and although it may require liaison with political parties, at both local and national level, should not be used in promoting the views of an individual political party or undertaking campaigning or other party political business.

**6.6** Any particular cases of difficulty or uncertainty in this area of officer advice to political groups must be raised with the Chief Executive who will discuss them with the relevant Group Leader(s) or Mayor as appropriate.

## **7. THE RELATIONSHIP BETWEEN THE MAYOR/ CABINET AND OFFICERS**

**7.1** The Chief Executive, Corporate Directors and other senior officers will need to work closely with the Mayor and Cabinet members. This relationship has to function but having regard to the fact that the ultimate responsibilities of officers is to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that officers legitimately provide. The Mayor and Cabinet will seek advice from the relevant officers before taking decisions. Appropriate officers should also attend meetings of Cabinet as required.

**7.2** Part 2, Article 12.06(b) of the Constitution sets out the role of the Chief Executive and his/ her working with the Mayor.

## **8. THE RELATIONSHIP BETWEEN OVERVIEW AND SCRUTINY COMMITTEE AND OFFICERS**

**8.1** The Overview and Scrutiny Committee or the Chair acting on its behalf, may require officers to attend meetings. Councillors should not normally expect junior officers to give evidence. All requests should be made to Corporate Directors or the Chief Executive in the first instance. Other Councillors may also be required to attend and they can bring with them the appropriate Corporate and/ or Divisional Director.

**8.2** When making requests for officer attendance, Councillors must have regard to the workload of Officers.

**8.3** Officers required to appear before the Overview and Scrutiny Committee may often be those who have advised on the matter to be scrutinised and it is possible that a conflict of interest could arise. Councillors and officers together need to consider the severity of the conflict and, if appropriate, research and advice must be sought elsewhere.

**8.4** In giving evidence to the Overview and Scrutiny Committee, Councillors must not ask officers to express political views.

**8.5** Officers should respect Councillors in the way they respond to Councillors' questions.

**8.6** Councillors must not ask questions of officers in such a way which could be interpreted as harassment or bullying. Neither should Councillors ask about matters of a disciplinary nature.

**8.7** Overview and Scrutiny proceedings must not be used to question the capability or competence of officers. Councillors must recognise the distinction between scrutinising the policies and performance of the Council and its services, and appraising the personal performance of officers as this is not a scrutiny function.

## **9. THE RELATIONSHIP BETWEEN COMMITTEE CHAIRS AND OFFICERS**

- 9.1** It is clearly important that there should be a close working relationship between the Chair of the Committee/ Sub-Committee or Panel and the Corporate Director and senior officers of the Directorate(s) which reports to that body. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question, the officer's ability to deal impartially with other Councillors and other party groups.
- 9.2** Whilst the Chair will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, in some situations, a Corporate Director will be under a duty to submit a report on a particular matter. Similarly, a Corporate Director will always be fully responsible (and retains ultimate responsibility) for the contents of any report submitted in his/her name. Any issues arising between a Chair and a Corporate Director in this area should be referred to the Monitoring Officer or Chief Executive for resolution.
- 9.3** Committee Chairs are recognised as the legitimate elected spokesperson on their Committees' areas of responsibility. Where authority is delegated to officers (under appropriate Schemes of Delegations), they will often wish to consult the relevant Chair about the action which they propose to take, but the responsibility for the final decision remains with the officer who is accountable for it.
- 9.4** A resolution may be passed at meetings which authorises an officer to take action between meetings after consultation with the Chair/ Lead Member/ Portfolio Member etc. It is the officer, not the Chair etc., who takes the action and is responsible for it. The Chair of the Committee does not himself/herself have the power between meetings to make decisions.
- 9.5** Officers within a Directorate are accountable to their Corporate Director and whilst officers should always seek to assist a Chair (or indeed any Councillor), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Corporate Director.

## **10. THE RELATIONSHIP BETWEEN COUNCIL COMMITTEES AND OFFICERS**

- 10.1** Committees of the Council shall seek advice from relevant officers before taking decisions and when considering any report or matter.
- 10.2** Councillors should note that if the report is from a Partner then officers will be required to review it before any decision on implementation can be made.

## **11. WARD COUNCILLORS AND OFFICERS**

- 11.1** To enable them to carry out their ward role effectively, Councillors need to be fully informed about matters affecting their ward. Corporate Directors and senior officers must ensure that all relevant officers are aware of the requirement to keep local Councillors informed, thus allowing them to be able to contribute to the decision-making process and to develop their representative role.
- 11.2** Issues may affect a single ward but where they have a wider impact, a number of local Councillors will need to be kept informed.
- 11.3** Whenever officers organise a public meeting to consider a local issue, they should ensure that all Councillors representing the ward(s) affected should be invited to the meeting as a matter of course.
- 11.4** If a local Councillor organises a public meeting on a matter concerning some aspect of the Council's work then s/he should inform the relevant chief officer. Provided that the public meeting has not been arranged on a party political basis then an appropriate officer can be invited to attend but is not obliged to do so.
- 11.5** The Councillor can arrange for such a non-party political based meeting to be held in Council owned premises but no such meeting is to be arranged in the immediate run up to Council elections.
- 11.6** Ward Councillors must never ask officers to attend ward or constituency political party meetings.
- 11.7** Councillors should raise constituents' queries or concerns through the proper channels and not go direct to junior officers. Further in seeking to deal with constituents' queries or concerns, Councillors should not seek to jump the queue, but should respect the Council's procedures. Officers have many pressures on their time and officers may very well not be able to carry out the work required by Councillors in the requested timescale. Councillors should respect this.

## **12. COUNCILLORS' ACCESS TO INFORMATION**

### **General**

- 12.1** The following paragraphs identify the rights of Councillors and the procedures that they must comply with when applying for access to Cabinet/ Committee/ Sub-Committee papers and other documents/ information. These paragraphs take into account the following:

- Relevant legislation including the Local Government Act 1972; the Data Protection Act 1998; the Freedom of Information Act 2000; and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (SI 2012/2089)
- Local Government Transparency Code 2015
- Open and accountable local government: plain English guide
- Access to Information Procedure Rules (Part 4.2 of the Constitution)
- Relevant case law

**12.2** In principle, Councillors have the same ordinary rights of access to certain information as is enjoyed by the general public but they also have the right to access any other information (i.e. confidential or exempt) held by the Council of which they are a Councillor provided that it is reasonably necessary to enable the Councillor to properly perform their duties as a Councillor (see “Need to Know” below). This right of access of additional access may not extend to the publication of or otherwise making public such information as there may be issues of confidentiality.

**Meaning of Confidential Information**

**12.3** Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which the disclosure of which to the public is prohibited by or under any enactment or by the order of a court.

**Meaning of Exempt Information**

**12.4** Exempt information is those for the time being specified in Part I of Schedule 12A to the Local Government Act 1972, namely:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority handling the information) [Information is not exempt under this category if it is required to be registered under the Companies Act 1985, the Friendly Societies Act 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978, the Building Societies Act 1986 or the Charities Act 1993.]
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:-

- a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

**12.5** Information falling within any of the categories 1-7 of Rule 11.5 above is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

**Access to Cabinet/ Committee/ Sub-Committee Papers (including background Papers) – Forthcoming Meetings**

**12.6** The rights of Councillors can be summarised as follows:-

- (i) Councillors enjoy the same access rights as members of the public in respect of Part I Cabinet/Committee/Sub-Committee papers, but are not entitled to such papers where they have a personal interest as set out in the Code of Conduct for Members
- (ii) Councillors of the appropriate Cabinet/ Committee/ Sub-Committee will have a good reason for access to all Part II exempt information on the respective Cabinet/ Committee/ Sub-Committee agenda under the “Need to Know” principles (see below).
- (iii) Councillors of the Overview and Scrutiny Committee will have a prima facie “Need to Know” where they require access to Part II Cabinet agenda items as part of their scrutiny function provided the subject matter is within the Committee/ Sub-Committee’s terms of reference.
- (iv) All other Members who require access to confidential/ exempt Cabinet/ Committee/ Sub-Committee documentation will need to request disclosure under the Freedom of Information Act 2000 or demonstrate a “Need to Know” by complying with the principles set out below.

**Access to Other Documents/Information – “The Need to Know”**

**12.7** It is important to note that in some cases access to information to which the public is not entitled only applies where Councillors are clearly carrying out their role as elected representatives. Where a Councillor has a financial or personal interest in a matter the Councillor will only be entitled to the same access as would be the case for a private individual, i.e. to inspect the reports, minutes and background papers relating to the public part of the Cabinet/ Committee/ Sub-Committee Agenda. In these circumstances, the Councillor must make it clear that s/he is acting in his/her private capacity and not as a Councillor.

- 12.8** Under common law principles Councillors have the right to access information held by the Council where it is reasonably necessary to enable the Councillor to properly perform their duties as a Councillor. This is known as the “Need to Know”. This means that information must not be used for party political purposes.
- 12.9** The common law “Need to Know” is the prima facie right of Councillors to inspect documents of the authority which exist as Councillors are under a duty to keep themselves informed of Council business which relate to their role as elected representatives. Thus, this right applies to Councillors who do not have statutory rights to exempt or confidential information and to other documents held by the Council under local government legislation or the Freedom of Information Act 2000.
- 12.10** For example, a Councillor is likely to have a prima facie “Need to Know” where s/he has a legitimate Ward problem and needs access to the documents that are relevant to that specific problem. Also, for example, a Cabinet Member whose Portfolio covers the matter in question and s/he needs to be aware of what is occurring for the purpose of his/ her Cabinet position.
- 12.11** Access to information on the basis of a ‘Need to Know’ does not exist where the Councillor is considered to be “fishing” for information or seeks access for an ulterior/improper purpose (e.g. for a private purpose). Case law has established that mere idle curiosity as to what is in the documentation will not be sufficient.
- 12.12** It should be noted that some material (for example if commercial sensitive) may be redacted from information that is disclosed, if this does not affect the ability of a Councillor to exercise his/her role as an elected representative.
- 12.13** There will also be a range of documents which, because of their nature are either not accessible by Councillors (such as the personal records of an individual) or are accessible only by the political group forming the administration and not by the Councillors of other political groups. An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft Committee reports, the premature disclosure of which might be against the Council’s and the public interest.
- 12.14** Whilst the term “Council document” is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Councillor of one political 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 political group.

#### **Use of Council Information – Confidentiality**



- 12.15** Procedural Rules and specific local procedures (e.g. on contracts) require Councillors and Officers to maintain confidentiality in certain circumstances. Officers are bound by their contracts of employment and any breach of confidentiality will almost certainly lead to disciplinary action. Officers must distinguish between assisting an elected representative in the course of the Councillor's Council business and dealing with the same person as a client or customer, e.g. a Housing Benefit claimant. In the latter case, Officers will treat the Councillor with the same degree of helpfulness, courtesy and confidentiality as would be afforded to any other member of the public in the same situation, and interpret the relevant rules and procedures as they would for any other client or customer.
- 12.16** Equally, any Council information provided to a Councillor on the basis of a 'Need to Know' must only be used by the Councillor for the purpose for which it was provided, i.e. in connection with the proper performance of the Councillor's duties as an elected representative of the Council. Confidential or exempt information provided to Councillors may be discussed in Part II Committee meetings or in private meetings of appropriate Councillors and Officers. However, it should not be discussed with, or released to, any other persons. Any information that is provided should be clearly marked as confidential before it is released to Councillors.
- 12.17** In cases where a Councillor discloses information given to him/her in confidence by anyone, or information acquired by the Councillor which s/he believes, or ought reasonably to be aware, is of a confidential nature then that Councillor may find themselves the subject of a complaint to the Standards Advisory Committee that they have contravened the Code of Conduct for Members.
- 12.18** Similarly, the unauthorised disclosure of confidential or exempt information is regarded by the authority as a serious disciplinary offence for Officers. This includes an unauthorised disclosure to a Councillor.
- 12.19** Any request from a Councillor for information will be treated in confidence by Officers and will not be made known to any other Councillor or political group. Officers are also under a duty not to relate any information disclosed privately by a Councillor(s) (e.g. during Part II discussions at Committee, etc., informal briefings, private conversations or Group meetings) to another Councillor, Officer or person not already privy to that information.
- 12.20** The duty of Officers to observe a Councillor's confidence however will not apply if the information disclosed relates to something which could severely damage the Council or which is illegal or constitutes maladministration. In this event the matter will be referred to the appropriate Chief Officer and/or Monitoring Officer and Chief Executive for further investigation and action as appropriate.

### **Procedure for requests for Information by Councillors**

- 12.21** A Councillor is also free to approach any Council Department to provide him/her with such information, explanation and advice about the Department's functions as s/he may reasonably need in order to assist him/her in discharging his/her role as a Councillor or acting for and on behalf of the Council as an appointed representative to another body. This can range from a request for general information or documentation about some aspect of the Department's activities, to a request for specific information on behalf of a constituent.
- 12.22** The following procedure should be adhered to when requesting documentation/ information:-
- (i) Initially the request should be made to the Chief Officer or Divisional Director for the Department concerned.
  - (ii) If access is denied or the Chief Officer/ Divisional Director is in doubt, the matter must be referred to the Corporate Director, Governance for determination.
- 12.23** Any requests for information made by Political Group Assistants on behalf of Councillors of their Group should be treated in exactly the same way as if those Councillors had made the request themselves. The Political Group Assistants, when making such requests should clearly indicate on which Councillors' behalf they are acting.

## **13. MEMBERS' SERVICES AND THE USE OF COUNCIL FACILITIES**

### **Members' Services and Members' Enquiries**

- 13.1** The Council operates a Member's Enquiries system which is for the Mayor and Councillors to use for routine requests for information and advice. Requests should be made in accordance with the guidance given in this Protocol. Matters which are not routine or involve policy should be directed initially to the relevant Corporate Director or Divisional Director or any officer nominated by them.
- 13.2** Both Mayor's Office secretarial staff and the Councillors' Support Team provide assistance to Councillors in their role as Council Members. Staff in these sections may, therefore, be used, as appropriate, to help with work such as casework, meetings and correspondence to do with Council matters. Full details of the service offered are contained in the Members' Services Guide.
- 13.3** A computerised monitoring system has been developed to monitor the receipt and progress of Members enquiries. Members' enquiries can be received by phone, fax, tape, e-mail, in writing or by personal visit.

- 13.4** Members' enquiries are registered on the computer system and sent with an automatic covering sheet to the appropriate Service Head for answers to be prepared and sent back direct to the Councillor or via the issuing officer. Provided that the response given to the Councillor is not confidential, an additional copy can be supplied to the Councillor for onward posting to the client by the Councillor or this can be forwarded from the issuing officer to the client on behalf of the Councillor. Alternatively, the reply from the department can be sent direct to the enquirer with a copy to the Councillor unless it contains confidential or restricted information.
- 13.5** The maximum turn round time expected for Members' enquiries is ten (10) working days and officers will chase outstanding enquiries exceeding this period.
- 13.6** A regular printout of the enquiry records can be supplied to individual Councillor on request.
- 13.7** The Mayor's Office and Councillor Support Team staff will assist with booking venues for, and publishing details of, Councillor' surgeries. Councillors' surgeries should normally be held within a Councillor's own ward, but Councillor may arrange a surgery in premises outside their ward if this is necessary to provide suitable surgery facilities for their own constituents. Councillor must not ask Council officers to assist with any personal, business or party political matters; attend surgeries; or decide how case work will be dealt with. The Political Advisers/ Assistants appointed to support the political groups on the Council can properly deal with political business. Although Section 9 of the Local Government and Housing Act, 1989 allows the political affiliation of an individual to be taken into account in the appointment of any Political Adviser/ Assistant, they remain officers of the Council and must therefore not undertake any activity, which may be deemed unlawful. In this context, it should be realised that officer support to the political groups is in the context of their role in the discharge of Council business and although it may require liaison with political parties, at both local and national level, should not be used in promoting the views of an individual political party or undertaking campaigning or other party political business.

#### **Council Facilities**

- 13.8** Councillors must use any Council facilities that are provided in their role as a Councillor strictly for that purpose and no other. For example, Councillors must not use rooms in the Town Hall or other buildings or any of the Council's paper, computers, photocopiers, or printers for any personal, business related or party political matter, nor, for example, on behalf of any community groups of which the Councillor is a member, unless formal approval has been given by the appropriate chief officer.

**13.9** The Council can only provide legal representation to an individual Councillor where the action is taking place in the name of the Council and the individual deserves the protection of the Council. All such matters should be raised with the Chief Executive in the first instance.

**Political Party Workers**

**13.10** Councillors are often assisted by political party workers. There is no objection to this, but no non-elected party worker has any entitlement to:

- information to which a Councillor has access in their role as Mayor or Councillor;
- use Council facilities provided for the use of Councillors.

The principles which apply to use of facilities provided for Councillors (and the officers employed to assist them) apply equally to all Council property and facilities and all Council employees.

**14. RECRUITMENT, APPOINTMENT AND OTHER STAFFING MATTERS**

**14.1** A Councillor will not seek support for any prospective employee of the Council nor provide references in support of applications for employment by the Council.

**14.2** Anyone who may be involved in the selection or appointment process for a post with the Council shall immediately declare any relationship to a candidate as soon as it becomes known to him/her to the Divisional Director, Human Resources and Workforce Development who shall record the declaration and determine whether or not that person may take any further part in the selection/ appointment process for that post.

**14.3** If a Councillor is called upon to take part in selecting and appointing an officer, with the exception of the appointment of assistants to political groups or Mayor's assistant, the only question s/he should consider is which candidate would best serve the whole Council. A Councillor should not let his/her political or personal preferences influence their judgement.

**14.4** Inevitably there will be occasions when Council services are being reorganised or restructured. In such situations Councillors may be asked to comment on, discuss or approve proposals prepared by officers. In these circumstances, Councillors should consider such proposals in relation to the best interests of the Council and should not allow personal views on individual officers affected by the proposals to influence their judgement. Similarly, Councillors should not seek to influence (other than as provided for by human resources procedures), decisions related to redundancy, redeployment or the promotion of individual officers.

- 14.5** The involvement of Councillors in staff disciplinary and grievance matters is defined in the Council's human resources procedures. Outside of the prescribed roles, a Councillor should not seek to influence or otherwise involve themselves in such matters or related staffing investigations. Where a staff disciplinary or grievance matter has a direct bearing on a ward matter or a matter raised with a Councillor by a constituent, then the Councillor may be informed that action is being taken but will not have a right to know the details. Councillors should not seek to discuss such matters with investigating officers but should direct any enquiries to the Divisional Director, Human Resources and Workforce Development.
- 14.6** If, in the course of performing their duties, Councillors receive allegations of misconduct by an officer, these should be referred with any supporting information to the appropriate Divisional Director. If the complaint relates to a senior officer then it should be referred to the officer's line manager. If the Councillor feels unable to raise the matter in this way then they can raise it with the appropriate chief officer. If the foregoing has been followed and the Councillor still has concerns or if s/he feels the matter is very serious, then the Councillor may contact the Divisional Director, Human Resources and Workforce Development or the Chief Executive.
- 14.7** Officers are entitled to reasonable privacy and respect for their private lives and Councillors should not seek or request personal information about individual officers. Such a request could be seen as threatening, particularly by junior officers. Similarly Councillors should not seek to contact officers outside of working hours or at home, unless by prior agreement with the relevant officer or under an existing provision or arrangement related to the officer's employment with the Council. If a Councillor has reasonable grounds for believing matters related to an officer's personal life have a bearing on their employment with the Council, then the Councillor should report these concerns to the relevant Chief Officer. Officers must show similar respect for the private lives of Councillors.
- 14.8** The Council has legal obligations in relation to equal opportunities both as an employer and as a public body. Councillors are required to comply with these legal obligations and to adhere to the Council's equal opportunities policy in their dealings with staff. Similarly, if a Councillor believes they have been subjected to unlawful discrimination or treated by officers in a manner that contravenes the Council's equal opportunities policy then this should be reported to the Divisional Director, Human Resources and Workforce Development.

#### **Negotiations with Staff**

- 14.9** Councillor level negotiations with staff will normally be carried out through the Joint Consultative Advisory Group (JCAG), which meets to deal with corporate industrial relations matters. At the JCAG, Councillors should act in the role of employer. Councillors who are officials or employees of a trade

union represented in the Council must not, under law, serve on bodies which have a responsibility for negotiating with trades unions. The same restriction applies to a Councillor employed by another local authority.

- 14.10** In the interests of openness and objectivity, Councillors should avoid entering into negotiations on staffing matters with the trades unions during private and informal meetings. For the avoidance of doubt, this does not prohibit Councillors from having private and informal meetings with trades unions generally.
- 14.11** Neither should Councillors disclose confidential information to the trade union side in the course of any consultations or negotiations. This principle applies to all matters relating to staff in which staff representatives are involved, including disciplinary, grievance and recruitment matters.
- 14.12** Occasions may arise where officers try to involve Councillors in day-to-day staff/ management issues. Councillors should strongly discourage such approaches. Officers should be advised to pursue matters with their management, involving his/her trade union where appropriate, through the established procedures for resolving grievances. Officers must not raise matters concerning their employment with individual Councillors; to do so may result in disciplinary action being taken.

#### **Personal Relationships**

- 14.13** In order not to risk damaging the external view of the Council and creating the suspicion of improper conduct, however unfounded, it is important that Councillor and staff working relationships are correct and business like. Personal friendships between Councillors and staff, for example, could call into question the way Council business appears to be conducted. It is important that Councillors, in their dealings on a personal level with the Council and its staff, do nothing, which would suggest that they are seeking, or might accept, preferential treatment for themselves, relatives and friends and any firm or body with whom the Councillor is connected.
- 14.14** Councillors should, therefore, declare to your party whip any relationship with an officer, which might be seen as influencing their work as a Councillor. This includes any family, business or sexual relationships. Officers, too, have a duty to declare any such relationship to their manager.
- 14.15** Councillors should not sit on the Council Committee responsible for the department for which an officer does significant work to whom they are:
- married;
  - the partner;
  - otherwise closely related such as sisters, brothers, parents and grand-parents; or

- where a Councillor's relationship with an officer would jeopardise the work of the Council.

## **15. COUNCILLORS AND OFFICERS AND THE MEDIA**

- 15.1** It is crucial that information provided by the Council to the media is factually correct and, wherever possible, is designed positively to promote the Council's policies and activities. Therefore all formal relations with the media must be conducted in accordance with the Council's agreed procedures and the law on local authority publicity.
- 15.2** Officers will keep relevant Councillors informed of media interest in the Council's activities especially regarding strategic and contentious matters. Likewise, officers will inform the Communications Team of issues likely to be of media interest, or if they are planning to approach the media, since that Team is often the media's first point of contact.
- 15.3** Press releases or statements made by Officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a political group. It is for Councillors to comment on political issues and justify policy decisions. In that regard, the Mayor or appropriate Cabinet Member should take the lead on relevant service issues in respect of Executive matters and the Chair of relevant Committees in relation to Council functions
- 15.4** Officers are not allowed to have contact with the media (other than for advertising purposes) on any Council issue unless this has been cleared through the Council's Communications service.
- 15.5** Councillors have freedom to contact and discuss issues with the media but should have regard to their conduct relating to breaches of confidentiality and the need to represent the Council's best interests. It is also crucial that Councillors stress to reporters, when giving a personal view on an issue, that these views may not reflect Council policy. If a Councillor is making a statement which is party political in nature, the statement should not be issued under the Council's name.
- 15.6** In cases where Councillors are asked to give an immediate reaction to a journalist, if Councillors are not sure if their information is up to date and correct then the Councillor may wish to consider firstly contacting the Communications Service to discuss.
- 15.7** Where Councillors are giving statements to the media they should consider the likely consequences for the Council of his/ her statement (e.g. commitment to a particular course of action, allegations of jumping to conclusions or pre-determining an issue).

**EXPECTATIONS**

1. Officers can expect from Councillors:

- political leadership and direction;
- respect, dignity and courtesy;
- an understanding of and support for respective roles, workload and pressures;
- not to be subjected to bullying;
- not to be harassed or placed undue pressure;
- not to use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly;
- to comply with the Code of Conduct for Members.

2. Councillors can expect Officers to:

- be helpful and respectful to Councillors;
- maintain confidentiality;
- perform their duties effectively, efficiently and with political neutrality;
- behave in a professional and courteous manner;
- avoid personal close familiarity with Councillors and not to use their relationship with Councillors to advance their personal interests or to influence decisions improperly;
- report to their Director any time that a Councillors asks or pressurises the Officer to deal with a matter outside of Council procedure or policy;
- demonstrate an understanding of and support for respective roles, workload and pressures;
- comply with the Employees' Code of Conduct.