



Extraordinary Meeting of the

# STANDARDS COMMITTEE

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Tuesday, 21 February 2006 at 7.00 p.m.

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## A G E N D A

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### VENUE

Committee Room C1, 1st Floor, Town Hall, Mulberry Place, 5 Clove  
Crescent, London, E14 2BG

Members:	Deputies (if any):
Chair: Mr Patrick O'Connor Vice-Chair:(none)	
Mr Satnam Bains Ms Suzette Barry Councillor Betheline Chattopadhyay Sister Christine Frost Mr Muhammad Habibur Rahman Councillor Marian Williams	(none)
<b>[Note: The quorum for this body is 3 Members, of whom one must be an independent Member].</b>	

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact: Tim Hogan, Democratic Services, Tel: 020 7364 4850, E-mail: [tim.hogan@towerhamlets.gov.uk](mailto:tim.hogan@towerhamlets.gov.uk)

**LONDON BOROUGH OF TOWER HAMLETS**  
**EXTRAORDINARY STANDARDS COMMITTEE**

**Tuesday, 21 February 2006**

**7.00 p.m.**

**1. APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

**2. DECLARATIONS OF INTEREST**

To note any declarations of interest made by Members, including those restricting Members from voting on the questions detailed in Section 106 of the Local Government Finance Act, 1992.

**Note from the Chief Executive**

In accordance with the Council's Code of Conduct, Members must declare any **personal interests** they have in any item on the agenda or as they arise during the course of the meeting. Members must orally indicate to which item their interest relates. If a Member has a personal interest he/she must also consider whether or not that interest is a **prejudicial personal interest** and take the necessary action. When considering whether or not they have a declarable interest, Members should consult pages 181 to 184 of the Council's Constitution. Please note that all Members present at a Committee meeting (in whatever capacity) are required to declare any personal or prejudicial interests.

A **personal interest** is, generally, one that would affect a Member (either directly or through a connection with a relevant person or organisation) more than other people in London, in respect of the item of business under consideration at the meeting. If a member of the public, knowing all the relevant facts, would view a Member's personal interest in the item under consideration as so substantial that it would appear likely to prejudice the Member's judgement of the public interest, then the Member has a **prejudicial personal interest**.

**Consequences:**

- If a Member has a **personal interest**: he/she must declare the interest but can stay, speak and vote.
- If the Member has **prejudicial personal interest**: he/she must declare the interest, cannot speak or vote on the item and must leave the room.

When declaring an interest, Members are requested to specify the nature of the interest, the particular agenda item to which the interest relates and to also specify whether the interest is of a personal or personal and prejudicial nature. This procedure is designed to assist the public's understanding of the meeting and is also designed to enable a full entry to be made in the Statutory Register of Interests which is kept by the Head of Democratic Renewal and Engagement on behalf of the Monitoring Officer.

	<b>PAGE NUMBER</b>	<b>WARD(S) AFFECTED</b>
<b>3. MINUTES</b>	1 - 4	
<b>4. STANDARDS COMMITTEE - ROLE AND FUNCTION</b>	5 - 6	All Wards

**5. REPORTS FOR CONSIDERATION**

**5.1 MEMBERS' CODE OF CONDUCT**

**7 - 10**

**All Wards**

**(N.B. APPENDIX 1 TO FOLLOW)**

**6. ANY OTHER BUSINESS WHICH THE CHAIR  
CONSIDERS URGENT**

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**LONDON BOROUGH OF TOWER HAMLETS**

**MINUTES OF THE STANDARDS COMMITTEE**

**HELD AT 7.00 P.M. ON TUESDAY, 17 JANUARY 2006**

**COMMITTEE ROOM C1, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5  
CLOVE CRESCENT, LONDON, E14 2BG**

**Members Present:**

Mr Satnam Bains (Chair)

Ms Suzette Barry (Independent Member)  
Councillor Betheline Chattopadhyay  
Sister Christine Frost (Independent Member)  
Councillor Marian Williams

(none)

**Other Councillors Present:**

(none)

**Officers Present:**

Isabella Freeman	– (Assistant Chief Executive [Legal])
Mark Norman	– Former Monitoring Officer
Steve Wiggett	– Member Learning and Development Officer
Alan Ingram	– (Democratic Services)

**1. APOLOGIES FOR ABSENCE**

Apologies were submitted on behalf of Mr. Patrick O'Connor, Chair of the Committee. In his absence, it was:-

**RESOLVED**

That Mr. Satnam Bains be appointed Chair for this meeting of the Standards Committee.

**2. DECLARATIONS OF INTEREST**

No declarations of interest were made.

**3. MINUTES**

**RESOLVED**

That the Section One Minutes of the meeting of the Standards Committee held on 24<sup>th</sup> November, 2005 be confirmed as a correct record of the proceedings and the Chair be authorised to sign them accordingly.

#### **4. STANDARDS COMMITTEE - ROLE AND FUNCTION**

Noted.

#### **5. REPORTS FOR CONSIDERATION**

##### **5.1 MEMBERS' TIMESHEETS AND ATTENDANCE AT COMMITTEES/PANELS**

Mr. Norman presented the report in the absence of Peter Sass, who had left the service of the Council, and indicated that he would convey any concerns raised by Members to the new Interim Head of Democratic Renewal and Engagement, Tim Revell. He also introduced Isabella Freeman, the newly appointed Assistant Chief Executive (Legal Services) and Monitoring Officer.

Mr. Norman added that updated information had been tabled giving further details of Members' monthly diary returns and attendances at Scrutiny working groups/panels. He indicated that submission of returns was improving, which reflected the efforts of the political groups and the influence of this Committee.

Members raised queries on the following matters, to which Mr. Norman responded:

- Two Members seemed to have completed diary sheets for a six month period all at once, instead of on a monthly basis. This cast doubt on the accuracy of the information provided due to possible errors in recollection.
- Members should be strongly encouraged to fill in their monthly timesheets to give a more complete picture of the hours they spent on a range of activities.
- Non-attendance details were not included on records for scrutiny working groups/panels.
- Attendances at Local Area Partnership (LAP) meetings tended to be varied, with particular concerns raised about apparently low attendances at LAP 4 and LAP 7. In addition, there were instances where Members from other localities attended LAP meetings which were not in their Wards, which had implications for local people accessing their own local Councillors.

After further discussion of the report, it was:-

#### **RESOLVED**

That the Interim Head of Democratic Renewal and Engagement be asked to address the following areas of concern:

- (i) The tendency of some Members to complete their diary sheet returns in batches, rather than monthly (Appendix 2 of the report) and particularly two Members who seemed to have submitted six months' worth of forms at one time.
- (ii) Review the quality of information provided in Members' timesheets (Appendix 1 of the report) to ensure Councillors are giving details of their time spent in undertaking the range of activities shown on the form. This should be reviewed for the next meeting of the Committee to be held on 11<sup>th</sup> April, 2006.
- (iii) Appendix 3 of the report should be amended to include information regarding non-attendance, as well as attendance, at scrutiny working groups/panels and LAP meetings.
- (iv) Particular attention should be given to determine whether there may be reasons for the apparently fewer Members attending LAP 4 and LAP 7 meetings.

## **5.2 ANALYSIS OF MEMBERS' ETHICAL STANDARDS SELF-ASSESSMENT QUESTIONNAIRE RESPONSES OCTOBER 2005**

Mr. Wiggett introduced the report, which provided an analysis of the findings of the Ethical Standards Self-Assessment Questionnaire exercise completed by all Members during September and October 2005.

He explained that the purpose of the information which had been obtained was to ensure that, after the local elections in May 2006, all Members would have access to appropriate training on ethical issues and other mandatory subjects. There was to be an ongoing programme of seminars throughout the year and the Members' intranet would be put to better use.

Mr. Wiggett replied to questions on matters of detail put by Members regarding: availability of training to existing, as well as new, Councillors; the number of Members who had attended training courses on declarations of interest; and the mandatory nature of ethical training.

### **RESOLVED**

That the report be noted.

## **6. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT**

With the agreement of the Chair, Mr. Ingram stated that an extraordinary meeting of the Committee was required to consider the Members' Code of Conduct and the suggested date was 21<sup>st</sup> February, 2006. Mr. Norman added that the Council's Constitution was currently under review and this would affect the Members' Code, which consequently required input from the Standards Committee. The Constitution had to be put before Council on 1<sup>st</sup>

March, meaning that an extraordinary meeting of the Committee was required before then.

All present (with the exception of Councillor Williams) indicated that they could attend a meeting on the suggested date.

**RESOLVED**

That an extraordinary meeting of the Standards Committee be convened on Tuesday, 21<sup>st</sup> February, 2006 at 7.00 p.m.

The Chair then thanked all for their attendance and declared the meeting closed.

The meeting ended at 7.35 p.m.

Chair, Mr Satnam Bains  
Standards Committee



## AGENDA ITEM 4

### LONDON BOROUGH OF TOWER HAMLETS

#### STANDARDS COMMITTEE – ROLES AND FUNCTIONS

The Standards Committee has the following roles and functions.

- (a) promoting and maintaining high standards of conduct by Councillors, co-opted Members, church, other faith and parent governor representatives;
- (b) assisting the Councillors, co-opted Members and church, other faith and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training (or arranging to train) Councillors, co-opted Members and church, other faith and governor representatives on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to Councillors, co-opted Members, church, other faith and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- (g) dealing with any reports from a case tribunal or interim case tribunal and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer;
- (h) advising the Council on other Codes and Protocols forming the Authority's ethical framework;
- (i) to consider arrangements for the appointment of Independent Members to the Committee;
- (j) ensuring the Authority operates within a robust corporate governance framework; and
- (k) to consider any report referred to it by the Cabinet or any other Committee where there are implications for ethical standards and report back as appropriate.

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# Agenda Item 5.1

Committee: <b>STANDARDS COMMITTEE</b>	Date: <b>21 February 2006</b>	Classification: <b>UNRESTRICTED</b>	Report No.	Agenda Item No. <b>5.1</b>
Report Of: <b>Assistant Chief Executive (Legal Services)</b>		Title: <b>Revisions to the Council's Constitution</b>		
Originating Officer: <b>Isabella Freeman</b>		Wards Affected: <b>All</b>		

## 1. SUMMARY

- 1.1 The Standards Committee is responsible for advising the full Council on the Codes and Protocols contained in Part 5 of the Constitution. The Committee is therefore required to consider and comment on the proposed revisions to Part 5 of the Constitution as detailed in this report prior to their submission to full Council on 1 March 2006.

## 2. RECOMMENDATIONS

- 2.1 That Members recommend to full Council the inclusion of the additional wording set out in paragraph 4.1 of this report for inclusion in section 4 of the Code of Conduct for Members.
- 2.2 That Members recommend to full Council the inclusion of a new section 6 in the Licensing Code of Conduct as set out in paragraph 4.2 of this report.
- 2.3 That Members recommend to full Council the adoption of the revised Member/Officer Protocol as detailed in paragraphs 4.3 and 4.4 of this report and attached as Appendix A.

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LOCAL GOVERNMENT ACT 2000 (SECTION 97)  
LIST OF "BACKGROUND PAPERS" USED IN THE PREPARATION OF THIS REPORT

Brief description of "background paper"

Tick if copy  
supplied for register

If not supplied, name  
and telephone number  
of holder

Constitution 2006 file

Isabella Freeman 020 7364 4800

### **3. BACKGROUND**

- 3.1 Guidance issued by the Office of the Deputy Prime Minister (ODPM) recommends that Council Constitutions be reviewed on a regular basis. On 1 March 2006, full Council will be asked to agree proposals for revising the current Constitution to accord with legislative changes and best practice.
- 3.2 This Committee is responsible for advising full Council on the proposed revisions to the Codes and Protocols contained in Part 5 of the Constitution detailed below.
- 3.3 Members will also wish to note that it is proposed to amend Article 9 of the Constitution (which relates to the Standards Committee) and the Council Procedure Rules (Part 4.1) so that the Independent Chair of this Committee may address full Council on any report referred to Council by this Committee which has implications for ethical governance. This accords with best practice as recommended by the Standards Board for England.

### **4. PROPOSED REVISIONS TO PART 5 OF THE CONSTITUTION**

- 4.1 The Code of Conduct for Members is at Part 5.1 of the Constitution. Section 4 of the Code relates to the definition and declaration of interests by Members. It is proposed to insert the following additional wording at the beginning of section 4:

- *All Members present at a meeting in whatever capacity are required to declare any personal or prejudicial interest they may have as defined below:*

This is a minor revision which accords with current practice and judicial case law.

- 4.2 The Licensing Code of Conduct is at Part 5.3 of the Constitution. It is proposed to add an additional section 6 to the Code relating to record keeping worded as follows:

#### **6. RECORD KEEPING**

- 6.1 *In order that licensing procedures are undertaken properly and that any complaints can be fully investigated, record keeping will be complete and accurate. Every licensing application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings, significant telephone conversations and any declarations of interests by Members.*

- 6.2 *The same principles of good record keeping will be observed in relation to all enforcement and licensing matters.*

*Monitoring of record keeping will be undertaken regularly by the Head of Trading Standards and Environmental Health (Commercial) and the Team Leader (Licensing) in the Environment and Culture Directorate.*

This is a minor addition to accord with best practice.

- 4.3 The Member/Officer Protocol is at Part 5.4 to the Constitution. It is necessary to make immediate revisions to section 9 of the current Protocol which deals with Members' Access to Information. This is primarily because of legislative changes introduced by the Government which were only laid before Parliament on 26 January 2006 and which come into effect on 1 March 2006. The legislative changes are designed to align the requirements of access to information and freedom of information legislation. The proposed revisions to the current Protocol are shown as tracked changes to section 9 and in a new Appendix 1 to the Protocol, as set out in Appendix A to this report.
- 4.4 At this stage revisions are also being proposed which accord with ODPM guidance, to reinforce section 6 of the Protocol (relating to Officers and Political Groups) and section 11 (relating to Employments Issues). These proposed revisions are also shown as tracked changes in appendix A to this report. A more comprehensive review of the Protocol will be undertaken later this year to ensure that the Protocol meets best practice in all areas.

## **5. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 5.1 There are no financial implications arising out of this report.

## **6. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)**

- 6.1 This report incorporates relevant legal comments.

## **7. RISK MANAGEMENT IMPLICATIONS**

- 7.1 Member and officer training that has been undertaken to date (and completion of the Members' ethical standards self assessment last year) has raised awareness across the Authority in relation to ethical governance issues. Further training will be offered following the local government elections in May 2006, to ensure that existing and any new Members and officers are aware of their obligations and responsibilities under the Constitution and in relation to ethical governance.

**8. EQUALITIES CONSIDERATIONS**

- 8.1 High standards of ethical conduct and open transparent governance arrangements underpin compliance with the Council's policies and procedures relating to equalities.

**9. ANTI POVERTY IMPLICATIONS**

- 9.1 There are no specific anti-poverty implications arising out of this report.

**10. SAGE IMPLICATIONS**

- 10.1 This report has no immediate implications for the Council's policy of strategic action for a greener environment.

## 5.4 Member/Officer Protocol

### CONTENTS

Section	Subject
1	Introduction - The Respective Roles of Members and Officers
2	General Principles of Conduct
3	The Statutory Framework
4	Members' Roles and Responsibilities
5	Officers' Roles and Responsibilities
6	Officers and Party Political Groups
7	Members' and Officers' Interests
8	Members and dealings with the Council
9	Members' Access to Information
10	Members' Services and the Use of Council Facilities
11	Recruitment, Appointment and Other Staffing Matters
12	Members and Officers and the Media
13	Gifts and Hospitality

#### 1. INTRODUCTION - THE RESPECTIVE ROLES OF MEMBERS AND OFFICERS

\*\*\*\*\*

*"No Local Authority can function properly without a good relationship between its Councillors and its Officers." (The third report of the Nolan Committee on Standards in Public Life "Standards of Conduct in Local Government in England, Scotland and Wales).*

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- 1.1** 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 Members and employees in local authorities. The report stated: -

*"142. There have been a number of attempts to define the proper working relationship between Officers and Members. The present national code states, rightly, that 'mutual respect between Councillors and Officers is essential to good local government' (paragraph 24). It defines the boundary between them as follows: 'Both*

*Councillors and Officers are servants of the public, and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only as long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, their Committees, and Sub-Committees.'* (paragraph 23).

143. *This passage illustrates the limitations of the present national code. In practice, the simple split of policy (Councillors) and implementation (Officers) is neither always accurate nor illuminating. It is clear that there exist enormous variations in local government in the way the relationship works, both broadly and in detail, and that these relationships cannot be summarised in a code designed to apply nation-wide. In our draft principles we have therefore included a simple statement of the need for Councillors to respect the position of Officers and treat them with courtesy: it goes without saying that the same is true for Officers and their attitude to Councillors.*

144. *Some authorities have drawn up statements of their own defining how the relationship should work. This is a useful step, particularly in authorities where there has been some trouble in the past. We believe that all authorities should consider introducing such statements, tailored to reflect their traditions and practices."*

The advice of the Department for the Environment, Local Government and the Regions on new constitutional arrangements is also that a protocol such as this should be established.

**1.2** In recommending that all local authorities should draw up such protocol documents, 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 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, advice from the Local Ombudsman, an earlier Tower Hamlets Protocol document and similar codes produced in other London Boroughs.

**1.4** The guidance in this protocol is intended to complement the provisions of the Members' Code of Conduct which contains statutory provisions and should be considered as authoritative in all instances.

## **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 has now been given statutory force through the new ethical framework contained in the Local Government Act, 2000. The "General Principles of Conduct in Local Government" are as follows:

- Selflessness – Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
- Honesty and Integrity – Members 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 – Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
- Accountability – Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.
- Openness – Members 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 – Members 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 – Members 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 – Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.
- Stewardship – Members should do whatever they are able to do, to ensure that their authorities use their resources prudently and in accordance with the law.
- Leadership – Members should promote and support these principles by leadership and example, and should always act in a way that preserves public confidence.

### **3. THE STATUTORY FRAMEWORK**

#### **Decision-making and Members' responsibilities**

- 3.1** Under the Local Government Act, 1972, all functions of the authority are vested in the Council. This Act and the subsequent Local Government Act, 2000, authorise the Council, subject to certain statutory restrictions, to arrange for its functions to be delegated in various ways to an elected Mayor, Leader and Cabinet (acting jointly or separately), Committee or Sub-Committee, or officer of the authority. This is achieved, in practice, through the Council's Constitution, Schemes of Delegation and Financial Regulations.
- 3.2** 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 (notably the majority group), then any formal action which they 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.
- 3.3** Any arrangements and "decisions" by Members or officers which are made outside of the formal decision making processes do not bind the Council in law and cannot do so until a lawful decision is taken.

#### **Reasonableness**

- 3.4** Members have final responsibility for decisions of the Council. When taking part in the Council's decision-making processes, you should:
- have regard to relevant advice provided by any officer of the authority;
  - take into consideration everything you regard as relevant;
  - disregard anything which is not relevant, or which you are advised is not relevant;
  - ensure that the correct procedures are followed; and
  - give reasons for those decisions in accordance with the Council's Constitution or any statutory requirement.

## **Fiduciary Duty**

- 3.5** In law, a fiduciary is someone who occupies a position of such power and confidence over the property of another that the law *requires* him or her to act solely in the interests of the person s/he represents. This is in contrast with an ordinary business relationship, in which each party is free to seek purely personal benefits from his or her transactions with the other. So for example, a guardian, a trustee or an executor are all fiduciaries.
- 3.6** As a Member controlling the Council's assets and finances, you are in a position of trust. You have a fiduciary duty to act in the interests of the people of Tower Hamlets and ensure that expenditure decisions are prudent and lawful.
- 3.7** Decisions taken outside of the above principles, not in accordance with the Constitution or against the advice of officers, resulting in financial loss against the Council, may have legal implications for the Council or the Councillor concerned.

## **Fairness**

- 3.8** When you are a member of any Panel/Committee or other Forum, or as a Council appointee on an outside body, considering the case of individuals, you should act fairly at all times. This means:
- you must not have any personal interest in the case; and
  - you must listen to what is said on behalf of the individual before reaching your decision.

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

### **General**

- 4.1** It is usual to look at the role of Council Members in three main ways: -
- As Politicians - in this capacity, you will normally belong to a political group represented on the Council and will express political values and support the policies of the group to which you belong.

- As Representatives - in this capacity Members interpret and express the wishes of the electorate and seek to account for service priorities, allocation of resources and the authority's performance.
- As Council/Cabinet/Panel or Committee Members - in this capacity, Members have personal, individual and collective responsibility for the organisation and its activities. You 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, and to concern yourselves with the performance, development, continuity and overall well-being of the organisation. Cabinet/Lead Members will also have executive responsibilities and powers to exercise as specified under the Council's Constitution.

**4.2** Members are elected representatives of the local community and their responsibility is to the council tax payers and recipients of services across the borough, not only to their particular ward. Members have duties to the whole community, including the people who did not vote for them. Members should not allow sectional interests or pressures to prevent them carrying out their duties as Councillors.

**4.3** In reality, Members have to decide how to relate their representative role to their political role. The Council has constantly to make choices, because of conflicts of interests and scarcity of resources. The representative role does not prevent Members from deciding that some individuals/groups have the greatest need, or historically have been excluded from receiving services. Equally, because of their representative role, Members 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.

**4.4** Members 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 Members' Code of Conduct in their involvement in Council business and are also required to act in accordance with the Council's Constitution.

**4.5** Members must not allow the impression to be created that they are using their position to promote a private or personal interest (i.e. family and friends, or an interest arising from

membership of clubs, societies, freemasons, trade unions, and voluntary bodies), and should disclose such interests in a matter arising at any Council, Cabinet or Panel/Committee meeting, unless it is insignificant or common to the public as a whole, as described below.

### **Members and Legal Action by the Council**

- 4.6** 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. Members of the Council have a clear role in representing residents' and general public interests. In this representative capacity they inevitably become involved in issues where the Council is considering, or is in the process of taking legal action. The Council will also be defendant to legal actions brought by third parties and similar consideration will apply here as well.
- 4.7** Conflicts of interest may occur where a Member is enquiring on behalf of an individual or body involved in legal action by or against the Council. In such cases, Members need to balance their representative role with their wider responsibilities as Councillors in representing the corporate interests of the authority. For this reason, Members should be circumspect in any dealing with persons taking action against the Council, or against whom any legal action is being taken. Particularly, Members should be very cautious about having any dealings with professional representatives, advisers or witnesses in the case. Any such intervention could well prejudice the Council's position. Members should, therefore, be sure not only to avoid any actual impropriety, but at all times avoid any occasion for suspicion or any appearance of improper conduct.
- 4.8** Members have every right to information on how any such matter is being dealt with and a duty to represent their constituents, but they clearly must not attempt in any way to exercise improper influence over the legal process in which the Council is involved, or over the enforcement of any Court judgement. Similarly, they should not put themselves in a position where it might appear that improper influence is being exerted. Where legal proceedings have been started or are contemplated, all enquiries must be addressed to the relevant chief officer. Members must also realise that the

response on behalf of the Council must be limited to comments on process, so as not to prejudice any proceedings.

- 4.9** If the Member believes the Council's actions or intentions to be 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 Member remains unhappy with the action taken, then he or she may refer the matter to the Council's Head of Paid Service or Monitoring Officer.

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

- 4.10** The Council has introduced procedures governing situations where the authority is represented in joint arrangements and when employees or Members will be involved.

- 4.11** Where Members are likely to be in the position of having a joint influence through Council, Cabinet/Panel/Committee/Sub-Committee 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 Member's position is such that they could be involved in the decision making process on both sides, they should declare an interest and not take part in any discussion or vote at any Council, Cabinet, Panel/Committee meetings where they are present.

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

- that no Member of the Council 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 Head of Paid Service.

### **Alleged Misconduct by Members**

- 4.13** Allegation of fraud or criminal misconduct against Members, 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 Members may also be investigated under procedures laid down by the national Standards Board for England or the Council's Standards Committee, as appropriate. Where a matter involves party discipline then this will be referred to the Leader/Chief Whip of the party political group.

## **5. OFFICERS' ROLE AND RESPONSIBILITIES**

### **Accountability and Advice**

- 5.1** Staff are accountable to their chief officer for their day-to-day work and their contractual duties as specified in their job description. Apart from Political Assistants, staff are appointed to serve the Council as a whole and not any political group.
- 5.2** Officers are required to manage Council services in accordance with the policy and instructions given formally by Cabinet/Panels/Committees. The Council is also required to appoint certain "Proper Officers" who have statutory duties and responsibilities, eg. the Head of Paid Service, the Chief Financial Officer and Monitoring Officer.
- 5.3** Officers have a general legal duty to ensure that in advising Members 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.
- 5.4** This will in some circumstances require officers to give formal advice to Members in Committee, which may be considered unpalatable, or even contrary to some declared political policy or objective. This may be necessary to ensure that Members can rely on having all relevant implications before them in considering a proposal and enable a "reasonable" and lawful decision to be taken. Members then have the ability to agree or reject proposals placed before them, irrespective of the advice or recommendations made by officers - as long as generally they 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 Members as they see fit and without any political pressure.

- 5.5** Decisions taken outside the principles set out above may be challengeable in the courts, by the District Auditor, local residents, or other interested parties.
- 5.6** Chief officers are responsible for deciding who, apart from themselves, in their Directorate (and in what circumstances) is responsible for giving policy advice to Members or dealing with Members non-routine questions.

### **Delegated Powers to Officers**

- 5.7** 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 are approved under the Council's Constitution, which delegates the power to exercise functions to chief officers (and in some cases to other specified officers). Where a function is delegated to a chief or other officer it is important that they should be able to exercise this without hindrance or involvement by Members. The chief, or other officer, retains responsibility for the exercise of that power and is accountable for the decision taken.
- 5.8** Officers will also carry out various management functions required under their job descriptions. Again, except through formal processes, Members should not seek to influence management decisions, for example on staffing matters.
- 5.9** Officers have a duty to report to their Director any attempt to exert improper influence.

### **Officers' Performance**

- 5.10** Part of the role of Members is to monitor the performance of the Council and its staff. Members 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.
- 5.11** You should avoid undermining respect for officers at meetings, or in any public forum. This would be damaging

both to effective working relationships and to the public image of the Council. In general, staff are unable to defend themselves against criticism in a public forum.

- 5.12** Complaints about officers or Council services should be made to the Director of the service where you feel the fault lies, or to the Chief Executive where it involves a Director personally. Indeed, Members have a duty to raise any issues they have reason to think might involve fraud or corruption of any sort. Officers too have a duty to raise matters of concern with their Director, or through the Council's Whistle Blowing Procedure or other suitable channel.

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

- 6.1 It must be recognised by all officers and Members that in discharging their duties and responsibilities officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual Member of the Council. Special rules apply to Political Group Assistants and those post holders have been 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 Members, 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 Leader of the Council, a Lead 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, Members and Officer alike. In particular:

- (a) 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.
- (b) Unless otherwise agreed in advance with the Chief Executive, Officers will not attend political group meetings that include persons who are not Members of the Council. 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 Members will not be bound by the Code of Conduct for Members (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Members only meeting.
- (c) 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 Assistants) are not expected to be present at meetings or part of meetings when matters of party business are to be discussed.
- (d) 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.

- (e) It must not be assumed by any political group or Member 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.
  - (f) 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 Member thereof. However, Members 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.
  - (h) 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 Cabinet or relevant Committee/Sub-Committee when the matter in question is considered.
- 6.5 Members 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 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.
- 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).

## **7. PERSONAL INTERESTS - DECLARING INTERESTS**

## **Registration of Interests**

- 7.1** The law and the Members' Code of Conduct make specific provision about the registration of financial and other interests by Members. These requirements must be strictly observed and changes to the information must be notified to the Monitoring Officer within 28 days of such a change taking place. Members will, from time to time, be asked to complete updated declaration forms and must respond to these requests as soon as possible. Copies of declarations will be published on the authority's web site as well as being kept in register form for public inspection.

## **Personal and Prejudicial Interests**

- 7.2** Similarly, the law and the Code of Conduct lay down specific requirements in relation to the declaration of personal and prejudicial interests and these must also be strictly observed. These include special rules relating to Lead Members exercising delegated powers and Members of Scrutiny Committees/Panels reviewing decisions of other bodies of which that Councillor is a member. If you are in any doubt about the need to declare an interest, then seek advice from the Monitoring Officer.

## **Section 106, Local Government Finance Act, 1992**

- 7.3** Section 106 of the Local Government Finance Act, 1992 provides that no Member of the Council 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 community charge; 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.

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 who are Tenants**

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

## **Officers**

- 7.5** Council officers who are members of management committees in receipt of Council funding, whether as a private citizen or as a result of their position with the Council, should declare a personal interest at meetings when issues of finance are being discussed.
- 7.6** Council officers must not use their position in the Council to seek advantage for any group of which they are members of the management committee, or otherwise active participants.

## **8. MEMBERS AND DEALINGS WITH THE COUNCIL**

- 8.1** The Council has a scheme, agreed by the former Policy and Resources Committee on 25th May, 1994 whereby Members should declare in writing to the Council's Monitoring Officer, certain types of individual dealings they have with the Council as consumers of services. This includes applications for planning permission, Housing or Council Tax Benefit, applications for house renovation or improvement grants, school places for Members' children, etc. as well as applications for Council accommodation, transfers, nominations to Housing Association or Mobility Schemes or in seeking repairs to premises.
- 8.2** Exceptions to the procedure are requests for Social Services assistance, and use of services which are available on a "turn up and use" basis such as libraries and sports facilities, as well as Council services provided to all residents such as refuse collection and street cleansing.
- 8.3** This procedure enables allegations of favouritism to be dealt with efficiently and rebuffed at an early stage, to the benefit of individual Members and the Council as a whole. These

declarations are additional to the statutory declarations of interest required to be made by Members, as detailed in the Code of Conduct, which may affect their relationship with the Council.

## **9. MEMBERS' ACCESS TO INFORMATION**

9.1 The following paragraphs identify the rights of Members 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: -

( i ) Local Government Acts 1972-2000 (particularly Schedule 12A)

( ii ) D.o.E. Circular 6/86

( iii ) Relevant case law

( iv ) Access to Information Procedure Rules (Part 4.2 of the Constitution)

(v) Freedom of Information legislation

9.2 It is important to note that in some cases such access only applies where Members are clearly carrying out their role as elected representatives. Where a Member has a financial or personal and prejudicial interest in a matter the Member 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 Member must make it clear that s/he is acting in his/her private capacity and not as a Member of the Council.

### Confidential/Exempt Information

9.3 Members of the Council have the same rights as the public in seeking and obtaining Cabinet/Committee/Sub-Committee papers and other documents/information under Freedom of Information legislation. This will generally comprise reports and background papers which appear in Part I of Cabinet/Committee/Sub-Committee Agendas.

- 9.4 However, this is not the case in relation to confidential and exempt information.

Confidential information is: -

- ( i ) Information furnished to the Council by a Government Department on terms which forbid the disclosure of the information to the public, and
  - ( ii ) Information which may not be disclosed by or under any enactment or by a Court Order.
- 9.5 Exempt information is information to which the public may be excluded but do not have to be. The categories of exempt information are set out in Schedule 12A to the Local Government Act 1972 and are attached as Appendix 1 to this Protocol. There may be some occasions when information may fall within one or more of the categories, but it is nevertheless in the public interest to disclose it under Freedom of Information legislation, without infringing personal rights or damaging the Council's position. If there is doubt in relation to individual items then they should be kept confidential until the Cabinet/Committee/Sub-Committee has taken a view as to whether they should be treated as exempt or not.

Requests by Members – Procedures

- 9.6 A Member 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 Member of the Council 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.
- 9.7 The following procedure should be adhered to when requesting documentation/information: -
- ( i ) Initially, the Chief Officer or Service Head for the Department concerned should be approached.



- ( ii ) If access is denied or the Chief Officer/Service Head is in doubt, the matter must be referred to the Assistant Chief Executive or the Assistant Chief Executive (Legal Services) for determination.

9.8 Any requests for information made by Political Group Assistants on behalf of Members of their Group should be treated in exactly the same way as if those Members had made the request themselves. The Political Group Assistants, when making such requests should clearly indicate on which Member's behalf they are acting.

#### Access to Cabinet/Committee/Sub-Committee Papers (including Background Papers) – Forthcoming Meetings

The rights of Members can be summarised as follows: -

- ( i ) They generally 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 and prejudicial interest as set out in the Code of Conduct for Members
- ( ii ) Members of the appropriate Cabinet/Committee/Sub-Committees will have a good reason for access to all Part II exempt information on the Cabinet/Committee/Sub-Committee agenda under the "Need to Know" principles set out in Paragraph (e) below.
- ( iii ) Members of the Scrutiny & Overview 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 in Paragraph (e) below.

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

The common law “Need to Know” is the prima facie right of Members to inspect documents of the authority which exist because Members are under a duty to keep themselves informed of Council business which relates to their role as elected representatives. Thus, this right applies to Members 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.

A Member 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.

Access to information on the basis of a ‘Need to Know’ does not exist where the Member 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.

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 Member to exercise his/her role as an elected representative.

There will also be a range of documents which, because of their nature are either not accessible by Members (such as the personal records of an individual) or are accessible only by the political group forming the administration and not by the Members 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.

Whilst the term “Council document” is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Member of one 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

Procedural Rules and specific local procedures (e.g. on contracts) require Members 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 Member'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 Member 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.

Equally, any Council information provided to a Member on the basis of a 'Need to Know must' only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as an elected representative of the Council. Confidential or exempt information provided to Members may be discussed in Part II Committee meetings or in private meetings of appropriate Members 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 Members.

Members abusing this trust may find themselves the subject of a complaint to the Standards Board of England as it is a contravention of the Code of Conduct for Members (paragraph 3.3.2) which states: -

*A Member must not:-*

- (a) Disclose information given to him in confidence by anyone, or information acquired which they believe is of a confidential nature, without the consent of a person authorised to give it, or unless required by law to do so.*

If a complaint is upheld sanctions may be imposed on the Member which include suspension from Office. Similarly, the unauthorised disclosure of confidential or exempt information is regarded by the authority as a serious disciplinary offence for Officers.

Any request from a Member for information will be treated in confidence by Officers and will not be made known to any other Member or political group. Officers are also under a duty not to relate any information disclosed privately by a Member(s) (e.g. during Part II discussions at Committee, etc., informal briefings, private conversations or Group meetings) to another Member, Officer or person not already privy to that information.

However, the duty of Officers to observe a Member's confidence 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.

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

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

- 10.1** All officers will respond positively to requests for information and advice from Members which should be made in accordance with the guidance given in this Protocol. Similarly, officers will deal speedily and politely with enquiries from Members relating to Council business and services provided to residents and the general public. Members may make routine enquiries of any appropriate officer but matters which are not routine or involve policy, should be directed initially to the relevant Head of Service or any officer nominated by them.

- 10.2** Both Cabinet Office secretarial staff and the Members' Services Section 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.
- 10.3** 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.
- 10.4** 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 Member or via the issuing officer. An additional copy can be supplied to the Member for onward posting to the client by the Member 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 Member unless it contains confidential or restricted information.
- 10.5** The maximum turn around time expected for Members enquiries is ten working days and officers will chase outstanding enquiries exceeding this period.
- 10.6** A regular printout of the enquiry records can be supplied to individual Members on request.
- 10.7** Members 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 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**

- 10.8** You must use any Council facilities provided for you in your role as Member strictly for that purpose and no other. For example, you 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 you are a member, unless formal approval has been given by the appropriate chief officer.
- 10.9** 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**

- 10.10** 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 Members have access in their role as Councillors;*
- *use Council facilities provided for the use of Councillors.*

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

## **11. Recruitment, Appointment and Other Staffing Matters**

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

- 11.2** 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 Service Head, Human Resources 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.

- 11.3 If a Member is called upon to take part in selecting and appointing an Officer, with the exception of the appointment of assistants to political groups, the only question s/he should consider is which candidate would best serve the whole Council. A Member should not let his/her political or personal preferences influence their judgement.
- 11.4. Inevitably there will be occasions when Council services are being reorganised or restructured. In such situations Members may be asked to comment on, discuss or approve proposals prepared by Officers. In these circumstances, Members 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, Members 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.
- 11.5 The involvement of Members in staff disciplinary and grievance matters is defined in the Council's human resources procedures. Outside of the prescribed roles, a Member 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 Member by a constituent, then the Member may be informed that action is being taken but will not have a right to know the details. Members should not seek to discuss such matters with investigating Officers but should direct any enquiries to the Service Head, Human Resources.
- 11.6 If, in the course of performing their duties, Members receive allegations of misconduct by an Officer, these should be referred with any supporting information to the appropriate Service Head. If the complaint relates to a Senior Officer then it should be referred to the Officer's line manager. If the Member 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 Member still has concerns or if s/he feels the matter is very serious, then the Member may contact the Service Head, Human Resources or the Chief Executive.

11.7 Officers are entitled to reasonable privacy and respect for their private lives and Members should not seek or request personal information about individual Officers. Such a request could be seen as threatening, particularly by junior Officers. Similarly Members 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 Member has reasonable grounds for believing matters related to an Officer's personal life have a bearing on their employment with the Council, then the Member should report these concerns to the relevant Chief Officer. Officers must show similar respect for the private lives of Members.

11.8 The Council has legal obligations in relation to equal opportunities both as an employer and as a public body. Members 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 Member 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 Service Head, Human Resources.

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### **Negotiations with Staff**

11.9 Member level negotiations with staff will normally be carried out through the Joint Consultative Committee structure, which meets to deal with corporate industrial relations matters. At the JCC, Members 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.

11.10 In the interests of openness and objectivity, Members should not negotiate with the trades unions during private and informal meetings. Neither should they 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.

**11.11** Occasions may arise where employees try to involve Members in day-to-day staff/management issues. Members should strongly discourage such approaches. Employees should be advised to pursue matters with their management, involving his/her trade union where appropriate, through the established procedures for resolving grievances. Employees must not raise matters concerning their employment with individual Members of the Council, to do so may result in disciplinary action being taken.

### **Personal Relationships**

**11.12** 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 Member and staff working relationships are correct and business like. Personal friendships between Members and staff, for example, could call into question the way Council business appears to be conducted. It is important that Members, 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 Member is connected.

11.13 You should, therefore, declare to your party whip any relationship with an officer, which might be seen as influencing your work as a Member. This includes any family, business or sexual relationships. Officers, too, have a duty to declare any such relationship to their manager.

11.14 Members should not sit on the Council Committee responsible for the department for which an employee does significant work to whom they are:

- married;
- the partner;
- otherwise closely related such as sisters, brothers, parents and grand parents; or
- where a Member's relationship with an officer would jeopardise the work of the Council.

## **12. MEMBERS AND OFFICERS AND THE MEDIA**

- 12.1** 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. As a general rule, officers' comments on behalf of the Council will deal with service and management issues and agreed Council policy and decisions. Members will comment on political issues and justify policy decisions.
- 12.2** 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 Media and Public Relations service.
- 12.3** Members 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. The Leader or appropriate Lead Member should take the lead on relevant service issues. Other Members should therefore consider restricting their contact to issues that either affect them personally, relate to an outside body that they represent on behalf of the Council or ward matters. It is also crucial that Members stress to reporters, when giving a personal view on an issue, that these views may not reflect Council policy.
- 12.4** It is advisable for Members not to give an immediate reaction to a journalist unless they are sure their information is up to date and correct. If there is any doubt, Members should contact the Media and Public Relations office, which will check the situation and deal with the reporter directly when requested.

## **13. ACCEPTING GIFTS AND HOSPITALITY**

- 13.1** The Members' Code of Conduct advises treating "... with extreme caution any offer or gift, favour or hospitality that is made to you personally. The person or organisation making the offer, may be doing or seeking to do, business with the Council, or may be applying to the Council for planning permission or some other kind of decision". The Employees' Code of Conduct contains similar provisions.
- 13.2** Members need to decide personally how to respond to invitations of hospitality or any offer of a gift given to them in their position as a Councillor. However, whether accepting the

offer or not, the Member must report to the Council's Monitoring Officer any gift or hospitality which a member of the public might regard as intended to influence the Member's discharge of responsibilities.

- 13.3** Additionally, there is a statutory requirement under the Code of Conduct, for the receipt of any gift or hospitality over the value of £25 to be notified in writing to the Monitoring Officer. Members should consider whether to pass any gifts received to the Council for disposal, as appropriate. The Head of Democratic Renewal and Engagement, on behalf of the Monitoring Officer, maintains a register of gifts and hospitality accepted by Members which is available for public inspection.

**LOCAL GOVERNMENT ACT 1972, SCHEDULE 12, PART 1  
(EXEMPTED INFORMATION)**

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.

In relation to the Standards Committee or any sub committee of the Standards Committee the following additional categories apply:

- a) information which is subject to any obligation of confidentiality

- b) information which relates in any way to matters concerning national security
- c) the deliberations of a Standards Committee or sub committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

