

## A PROTOCOL FOR MEMBER/OFFICER RELATIONS

### 1.0 INTRODUCTION AND PRINCIPLES

- 1.1 The objectives of this Protocol are to guide Members<sup>1</sup> and officers of the Council<sup>2</sup> in their relations with one another in such a way as to ensure the smooth running of the Council and to foster good working relationships.
- 1.2 The Council has adopted Codes of conduct for both officers and Members. The Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and officers. The shared objective of these Codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.3 Members and officers must at all times observe this Protocol. This Protocol is a local extension of the Members' and Employees' Codes of Conduct. Consequently a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 1.4 This Protocol should be read in conjunction with the Members' and Employees' Codes of Conduct, the Council's Constitution and any guidance issued by the Standards and Conduct Committee and/or Monitoring Officer.
- 1.5 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that officers are protected from accusations of bias and any undue influence from Members.
- 1.6 Given the variety and complexity of relations between Members and officers of the Council, this Protocol does not seek to be comprehensive. It is hoped, however, that the framework it provides will serve as a guide to dealing with a range of circumstances.

### 2.0 THE ROLE OF MEMBERS

- 2.1 Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.
- 2.2 At all times Members should be aware that the role they are performing may impact upon the nature of their relationship with officers and the expectations that officers may have of them.

<sup>1</sup> Unless the context indicates otherwise, the terms Member and Members include non-elected i.e. co-opted Members as well as elected councillors.

<sup>2</sup> Unless the context indicates otherwise, references to the term Council include the executive, overview and scrutiny committees, and other committees and sub-committees

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- 2.3 Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.
- 2.4 Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
- 2.5 Every Member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.
- 2.6 Some Members have roles relating to their position as members of the Executive, Scrutiny Boards, Area Committees or other committees and sub-committees of the Council.
- 2.7 Members serving on Scrutiny Boards monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor local health service provision.
- 2.8 Members serving on Area Committees work to promote and improve the economic, social and environmental well-being of the Committee's area and exercise Area Functions. In addition they advise the Council in relation to local community interests and proposals affecting the committee's area.
- 2.9 Members who serve on other committees and sub-committees collectively have delegated responsibilities, e.g. deciding quasi-judicial matters which by law are excluded from the remit of the Executive.
- 2.10 Some Members may be appointed to represent the Council on local, regional or national bodies.
- 2.11 As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Members they have a duty always to act in the public interest.
- 2.12 Members are not authorised to instruct officers other than:
  - through the formal decision-making process;
  - to request the provision of consumable resources provided by the Council for Members' use<sup>4</sup>.
- 2.13 Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
- 2.14 Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration.

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<sup>4</sup> See paragraph 21 of this Protocol.

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- 2.15 Members must have due regard to the impartiality and integrity of the authority's statutory officers and its other employees, and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice.
- 2.16 Members should only become involved in commercial transactions at the formal decision making stage. When dealing with a commercial transaction Members should be aware of the requirements of the Contracts Procedure Rules and relevant guidance.

### **3.0 THE ROLE OF OFFICERS**

- 3.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.
- 3.2 Under the direction and control of the Council, 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.
- 3.3 Officers have a duty to implement decisions of the Council which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's constitution, and duly minuted.
- 3.4 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.
- 3.5 Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
- 3.6 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
- 3.7 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on officers' involvement in political activities.
- 3.8 Some officers may be appointed to local, regional or national bodies because of their particular skills and expertise. They may be appointed specifically to represent the Council or in their personal capacity.

### **4.0 THE RELATIONSHIP: GENERAL POINTS**

- 4.1 Members are elected by, and officers are servants of the public and Members and officers are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the electorate and serve only so long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to Members (individually and collectively) and to carry out the Council's work under the direction and control of the Council.

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- 4.2 The conduct of Members and officers should be such as to instil mutual confidence and trust. The key elements are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- 4.3 At the heart of the Codes, and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party. The use of more extreme forms of behaviour and emotion is rarely conducive to establishing mutual respect and is not a basis for constructive discussion.
- 4.4 Informal and collaborative two-way contact between Members and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection. Inappropriate relationships can be inferred from language/behaviour. Close personal familiarity between individual Members and Officers can damage the relationship of mutual respect and prove embarrassing to other Members and Officers. To protect both Members and officers, officers should address Members as 'Councillor XX/Lord Mayor, save where circumstances clearly indicate that a level of informality is appropriate, e.g. a one to one meeting between a Director and their respective Executive Member.
- 4.5 Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 4.6 It is not enough to avoid actual impropriety. Members 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 Member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.
- 4.7 A Member should not raise matters openly or through the media relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol and particularly in relation to any pending or ongoing complaint or disciplinary process involving the officer. This is a long-standing tradition in public service. An Officer has no means of responding to such criticisms in public. Furthermore, open criticism may prejudice the bringing of disciplinary proceedings in circumstances where this might otherwise be appropriate.
- 4.8 A Member who feels s/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an officer should:
  - avoid personal attacks on, or abuse of, the officer at all times,
  - ensure that any criticism is well founded and constructive,
  - never make a criticism in public, and
  - take up the concern with the officer privately.

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- 4.9 If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, s/he should raise the matter with the respective Director. The Director will then look into the facts and report back to the Member. If the Member continues to feel concern, then s/he should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 4.10 Challenge in a constructive and non-confrontational way is important in ensuring policies and service performance are meeting the Council's strategic objectives, especially during the Scrutiny process. Nothing in this protocol is therefore intended to stop Members holding officers to account for decisions made under delegated powers. Officers are accountable to the Council for any decision they make and may be required to report to and answer questions from a Scrutiny Board except in relation to Council functions. A Scrutiny Board may also call-in Key Decisions before they are implemented. Members may also individually request sight of delegated decision notifications, and raise queries about a decision with the decision-maker or an appropriate senior officer.
- 4.11 Where an officer feels that s/he has been the subject of a sustained or systematic challenge which is unfounded or in any other way unreasonable by a Member, s/he should raise the matter with his/her Director<sup>5</sup>, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Director, will after consultation with the complainant take appropriate action either by approaching the individual Member and/or group whip or by referring the matter to the Monitoring Officer.

## **5.0 THE RELATIONSHIP: DECISION MAKING**

- 5.1 The executive arrangements adopted by the Council provide for a scheme of delegation. The details of this scheme are set out in Part 3 of the Constitution and in separate sub delegation schemes.
- 5.2 Both Members and officers have responsibility for decision making within the scheme of delegation for both Council<sup>6</sup> and Executive<sup>7</sup> functions.
- 5.3 Members and officers will comply with the advice and guidance set out in the Protocol for the Respective Roles of Members and Officers in Decision Making<sup>8</sup>, in addition to any other relevant code or guidance, whilst involved in the decision making process.

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<sup>5</sup> "Director" is defined by footnote 1 to Article 12 of the Constitution.

<sup>6</sup> See part 3 Section 2 of the Constitution

<sup>7</sup> See part 3 Section 3 of the Constitution

<sup>8</sup> Part 5 of the Constitution

## **6.0 THE RELATIONSHIP: OFFICER SUPPORT TO MEMBERS: GENERAL POINTS**

- 6.1 Officers are responsible for day-to-day managerial and operational decisions within the Council and Members should avoid inappropriate involvement in such matters.
- 6.2 Officers will provide support to both the Executive and all Members in their respective roles.
- 6.3 The respective roles and responsibilities of Members and officers in relation to employment issues are set out in the Officer Employment Procedure Rules.
- 6.4 If participating in the appointment of officers, Members should:
  - remember that the sole criterion is merit<sup>9</sup>;
  - never canvass support for a particular candidate;
  - not take part where one of the candidates is a close friend or relative;
  - not be influenced by personal preferences; and
  - not favour a candidate by giving him/her information not available to the other candidates.
- 6.5 A Member should not sit on an appeal hearing if the appellant is a friend, a relative, or an officer with whom the Member has had a working relationship.
- 6.6 Certain statutory officers – the Chief Executive as Head of Paid Service, the Monitoring Officer and the Director of Resources as the Chief Finance Officer (S151<sup>10</sup> officer) – have specific roles. These are addressed in the Constitution. The roles need to be understood and respected by all Members.
- 6.7 The following key principles reflect the way in which the officer corps generally relates to Members:
  - all officers are employed by, and accountable to the Council as a whole;
  - they have a duty to implement the properly authorised decisions of the Council;
  - support from officers is needed for all the Council's functions including Full Council, Scrutiny Boards, the Executive, Regulatory Panels, individual Members representing their communities etc;
  - day-to-day managerial and operational decisions remain the responsibility of the Chief Executive and other officers;
  - Officers will be provided with training and development to help them support the various Member roles effectively and to understand the structures.
- 6.8 On occasion, a decision may be reached which authorises named officers to take action following consultation with a Member or Members. The Member or Members may offer his/her views or advice to the officer who must take them into account. The Member or Members must not apply inappropriate pressure on the officer. The decision remains the responsibility of the officer him/herself. It must be recognised that it is the officer, rather than the Member or Members, who takes the action and it is the officer who is accountable for it.

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<sup>9</sup> (other than in the case of political assistants where political consideration may apply)

<sup>10</sup> S151 Local Government Act 1972

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- 6.9 Finally, it must be remembered that officers are accountable to a Director. That is, officers work to the instructions of their senior officers, not individual Members. It follows that, whilst such officers will always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, Members should normally direct their requests and concerns to a senior officer, at least in the first instance.
- 6.10 Whilst officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director. Where appropriate, officers should make a Member aware of the limits of the officer's authority and explain that the matter would have to be referred to the Director.
- 6.11 Officers will do their best to give timely responses to Members' enquiries. Officers' work priorities are set and managed by senior managers. Members should avoid disrupting officers' work by imposing their own priorities.
- 6.12 Members will endeavour to give timely responses to enquiries from officers<sup>11</sup>.
- 6.13 An officer shall not discuss with a Member personal matters concerning him/herself or another individual employee. This does not prevent an officer raising on a personal basis, and in his/her own time, a matter with his/her ward Member.
- 6.14 Members and officers should respect each other's free (i.e. non-Council) time.

## **7.0 THE RELATIONSHIP: OFFICER SUPPORT TO MEMBERS AND PARTY GROUPS**

- 7.1 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 any political group, combination of groups or any individual Member of the Council.
- 7.2 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party 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.
- 7.3 The support provided by officers can take many forms. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 7.4 Certain points must, however, be clearly understood by all those participating in this type of process, Members and officers alike. In particular:

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<sup>11</sup> See further paragraph 17 in respect of correspondence.

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- Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not present at meetings or parts of meetings, when matters of party business are to be discussed;
  - party 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;
  - the presence of an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so;
  - where officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.
- 7.5 Special care needs to be exercised whenever officers are requested to provide information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Members' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, officers may not be able to give the same level of advice as they would to a Members only meeting nor give advice to such meetings.
- 7.6 Officers have the right to refuse a request to attend a party group and will normally not attend a meeting of a party group where some of those attending are not Members of the Council.
- 7.7 The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.
- 7.8 An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each.
- 7.9 An officer who is not a senior officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on his/her behalf.
- 7.10 An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.
- 7.11 No member will refer in public or at meetings of the Council to advice or information given by officers to a party group meeting.

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- 7.12 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group or to any other Members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.
- 7.13 In relation to budget proposals:
  - (a) the controlling political group shall be entitled to confidential discussions with officers regarding options and proposals. These will remain confidential until determined by the group or until published in advance of Committee/Council meetings, whichever is the earlier; and
  - (b) the opposition groups shall also be entitled to confidential discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee/Council meetings, whichever is the earlier.
- 7.14 It must not be assumed by any party 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.
- 7.15 Any particular cases of difficulty or uncertainty in this area of officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

## **8.0 OFFICER SUPPORT TO COMMITTEES AND SUB-COMMITTEES**

- 8.1 The appropriate senior officers will offer to arrange regular informal meetings with chairs of committees and sub-committees.
- 8.2 Senior officers (including the Monitoring Officer and the Chief Finance Officer) have the right to present reports and give advice to committees and sub-committees.
- 8.3 Members of a committee or sub-committee shall take decisions within the remit of that committee or sub-committee, and will not otherwise instruct officers to act.

## **9.0 OFFICER SUPPORT TO THE EXECUTIVE<sup>12</sup>**

- 9.1 It is clearly important that there should be a close working relationship between Executive Members and the officers who support and/or interact with them. 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 Members and other party groups.
- 9.2 Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an officer will be under a professional duty to submit a report. Similarly, a Director or other senior officer will always be

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<sup>12</sup> References to the term *Executive* refers to the Leader and Cabinet

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fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between an Executive Member and a Director in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

9.3 The Executive and its Members have wide ranging leadership roles. They will:

- lead the community planning process and the search for Best Value, with input and advice from Scrutiny Boards, area committees and any other persons as appropriate;
- lead the preparation of the Council's policies and budget;
- take in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Full Council; and
- be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

9.4 Executive Members will take decisions in accordance with the Constitution and will not otherwise direct officers. Senior officers will be responsible for instructing officers to implement the Executive's decisions.

9.5 Officers will make arrangements for briefing Members of the Executive about business within their remit. Senior officers and Executive Members shall agree mutually convenient methods of regular contact.

9.6 Where functions which are the responsibility of the Executive are delegated to officers or other structures outside the Executive, the Executive will nevertheless remain accountable to the Council for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out. Scrutiny Boards may call in and review the decisions of the Executive Board and officers acting under delegated authorities and report the outcome of its review to Council, the Executive Board and Officers as appropriate.

9.7 If agreed by the Leader, individual Executive Members may be allowed to formally take decisions. At present individual Executive Members<sup>13</sup> have no authority to take decisions. Where such delegation has been agreed by the Leader, individual Executive Members must satisfy themselves that they are clear what exactly they can and cannot do<sup>14</sup>.

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<sup>13</sup> Other than the Leader

<sup>14</sup> Where other individual Members can formally take decisions, the Council will put in place mechanisms/protocols which ensure that (as with the Council, its Committees and Sub-Committees, and the Executive and its Committees) an individual Executive Member seeks advice from relevant Officers before taking a decision within her or his delegated authority. This includes taking legal advice, financial advice and professional Officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is doubt about vires.

Decisions taken by individual Members of the Executive will give rise to legal and financial obligations in the same way as decisions taken collectively. Therefore, Members of the Executive would always need to be

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- 9.8 Officers work for and serve the Council as a whole. Nevertheless, as the majority of functions are the responsibility of the Executive, it is likely that in practice many officers will be working to the Executive for most of their time. The Executive must respect the political neutrality of the officers. Officers must ensure that, even when they are predominantly providing advice and assistance to the Executive, their political neutrality is not compromised.
- 9.9 In organising support for the Executive, there is a potential for tension between Directors and Executive Members with portfolios. All Members and officers need to be constantly aware of the possibility of such tensions arising and both officers and Members need to work together to avoid such tensions and conflicts existing or being perceived.
- 9.10 The administrative and clerical support available to Executive, Deputy Executive Members and Support Executive Members is set out in paragraph 6 of the Protocol for the respective Roles of Members and Officers in Decision Making.

## **10.0 THE RELATIONSHIP: OFFICER AND SCRUTINY BOARDS**

- 10.1 Scrutiny Boards have both a Scrutiny role and a Policy Development and Review role.
- 10.2 In exercising the right to call-in a decision of the Executive, Members of Scrutiny Boards must seek officer advice if they consider the decision is contrary to the Council's approved plans, policies or frameworks, or is unlawful.
- 10.3 Provisions relating to the attendance of officers at a Scrutiny Board are set out in the Scrutiny Board Procedure Rules,
- 10.4 Members should not normally expect junior officers to give evidence. All requests should be made to senior officers in the first instance.
- 10.5 When making requests for officer attendance, Scrutiny Board Members shall have regard to the workload of officers.
- 10.6 It is recognised that officers required to appear before a Scrutiny Board may often be those who have advised the Executive or another part of the Council on the matter under investigation. Any requirement for external support will be dealt with in accordance with the Scrutiny Board Procedure Rules guidance notes.
- 10.7 Officers should be prepared to justify advice given to the Council, the Executive, or other committees and sub-committees even when the advice was not accepted.
- 10.8 In giving evidence, officers must not be asked to give political views.
- 10.9 Officers should respect Members in the way they respond to Members' questions.

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aware of legal and financial liabilities (consulting the Monitoring Officer and Chief Finance Officer as appropriate) which will arise from their decisions.

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- 10.10 Scrutiny proceedings must not be used to question the capability or competence of officers. Members need to make a distinction between reviewing the policies and performance of the Council and its services, and appraising the personal performance of officers.
- 10.11 Officers and Members should be aware of the following government guidance relating to Scrutiny Boards, and specifically their scrutiny role:
  - Officers' evidence should so far as possible, be confined to questions of fact and explanation relating to policies and decisions.
  - Officers may explain: what the policies are; the justification and objectives of those policies as the Executive sees them; the extent to which those objectives may have been met and how administrative factors may have affected both the choice of policy measures and the manner of their implementation.
  - Officers may, and in many cases should, be asked to explain and justify advice they have given to Members of the Executive prior to a decision being taken and they should also be asked to explain and justify decisions they themselves have taken under delegations from the Executive.
  - As far as possible, officers should avoid being drawn into discussion of the merits of alternative policies where this is politically contentious. Any comment by officers on the Executive's policies and actions should always be consistent with the requirement for officers to be politically impartial.
- 10.12 In connection with the Scrutiny Boards Policy Development and Review role, officers may reasonably be expected to advise on the effects which would arise out of the adoption of alternative policy options. Any advice on the development of policies should be consistent with the requirement for officers to be politically impartial.
- 10.13 Scrutiny Board's questioning should be directed towards establishing the facts about what occurred in the making of decisions or implementing Council policies, and not towards the allocation of criticism or blame. A Scrutiny Board may recommend (but not require) the Chief Executive to institute a formal enquiry for this purpose.
- 10.14 The Scrutiny Board Procedure Rules set out general principles relating to all Scrutiny Board witnesses, including notification requirements. If questioning should stray substantially outside the matters that the Board had previously indicated, the Chair should consider whether an adjournment may need to be considered to enable officers to provide the required information. Questioning should not stray outside any terms of reference agreed for an Inquiry.
- 10.15 The Scrutiny Board Procedure Rules enable Scrutiny Boards to appoint Working Groups. There is a separate guidance note which provides guidance to Members and officers with regard to the activities of Scrutiny Board Working Groups.

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- 10.16 In relation to complaints brought by an individual (Members, officers, or members of the public) about decisions affecting them individually, a Scrutiny Board must not act as an alternative to normal appeals procedures, whether internal, such as the Corporate Complaints procedure, or external, such as the Local Government Ombudsman, or an appeal to a Court. A Scrutiny Board should not normally pass judgements on the merits of such a decision.
- 10.17 In respect of officer support to Scrutiny Boards, Scrutiny Board Chairs are provided with dedicated administrative and clerical support to assist them in carrying out their duties. In addition, to assist Scrutiny Boards in undertaking comprehensive independent inquiries, the Scrutiny Support Unit provides the Scrutiny Boards with professional and administrative help. The Council's Directors remain responsible for providing specialised professional advice and should advise Scrutiny Board of reasons where they would not wish to provide such services.

## **11.0 THE RELATIONSHIP, OFFICER SUPPORT TO AREA COMMITTEES**

- 11.1 Area Committees have both Executive and Council functions<sup>15</sup>. These are set out in the Terms of Reference for Area Committees.
- 11.2 The Area Committee Procedure Rules set out how meetings of Area Committees should be conducted.
- 11.3 Area Committees must make decisions following consideration of a report from the relevant Director or his/her nominee. The Area Committee is entitled to request a report in relation to any matter within their terms of reference that the Area Committee wish to consider. Such requests should always be made to the relevant Director who may nominate another officer to provide the report if appropriate.
- 11.4 Officers who present reports to Area Committees may copy the report to such of the other Area Committees as the officer thinks fit, if of the view that the report would be relevant to those Committees.
- 11.5 Area Committees may request that report authors attend meetings. When doing so they should have regard to the workload of the officer in question.
- 11.6 All questions addressed to officers attending Area Committees shall be addressed through the Chair of the Committee.
- 11.7 The Area Committee Procedure Rules provide for an Open Forum<sup>16</sup> for members of the public to make representations or ask questions on matters within the terms of reference of the Area Committee. The Chair of the Committee shall ensure that officers are only asked questions which pertain to their report.
- 11.8 Officers should respect Members in the way they respond to Members questions. If unable to provide a direct response to a question at an Area Committee meeting officers shall respond in writing to the Committee Chair as soon as they are able.

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<sup>15</sup> The Executive functions are well being functions and other Area functions which are determined by the Executive Board.

<sup>16</sup> See rules 6.24 and 6.25

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- 11.9 Where advisory or consultative forums are established by the Area Committee Members and officers shall apply this guidance equally to their involvement in those groups.
- 11.10 From time to time additional meetings are convened by Members in respect of local matters. Whilst these meetings are not always meetings of the Area Committee officers will provide appropriate support to these meetings. Members should therefore ensure that appropriate notice is given of all such meetings.
- 11.11 When convening meetings in relation to local matters care should be taken to distinguish between party group meetings and area meetings.

## **12.0 THE RELATIONSHIP, OFFICER SUPPORT TO REGULATORY PANELS<sup>17</sup>**

- 12.1 At the request of a Chair of a Regulatory Panel, a briefing shall be arranged prior to a meeting of the Panel.
- 12.2 The Chief Executive is responsible for determining the agenda for a formally convened meeting of a Regulatory Panel, in consultation with the Chair of the Panel.
- 12.3 Members and officers need to be aware of additional Codes and Protocols which may refer to their specific area, such as the Code of Practice for Councillors responsible for determining Planning applications.

## **13.0 LORD MAYOR AND OFFICERS**

- 13.1 Officers will respect the position of Lord Mayor and provide appropriate support.
- 13.2 Detailed guidance for the Lord Mayor and support staff is contained within the Guidelines for Civic Dignitaries<sup>18</sup>.

## **14.0 MEMBERS AND OFFICERS ON OUTSIDE BODIES**

- 14.1 Members and officers serving on outside bodies will treat one another professionally and with respect.
- 14.2 Members and officers should be aware of their role on any outside body to which they are appointed. In particular they should be aware of whether they are appointed:-
  - As a representative of the Council
  - As a ward Member, representing the local community
  - As a group Member, or

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<sup>17</sup> For the purposes of this Protocol only, any reference to "Regulatory Panels" includes a reference to the Licensing Committee and its sub-committees

<sup>18</sup> Copies of the Guidelines for Civic Dignitaries may be obtained from the Head of Civic and Ceremonial Support or from the Lord Mayor's secretary.

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- In their individual capacity

14.3 Where Members and officers are appointed to an outside body as a representative of the Council they should ensure that they are aware of the Council's position in relation to matters within the body's remit.

14.3.1 The appointee should seek to abide by the Council's position in relation to that matter unless their duties and responsibilities to the outside body prevent this.<sup>19</sup>

14.3.2 Should a Member and an officer both be appointed to the same body as the Council's representatives they should seek to agree their understanding of the Council's position prior to any meeting of the body.

14.4 If a Member or officer is appointed to an outside body in a capacity other than as the Council's representative they are not obliged to abide by the Council's position in respect of any matter. They should however seek to ensure that any view that they express or action they take can not be perceived as bringing the Council into disrepute.

14.4.1 If a Member and an officer have a disagreement in relation to a matter within the remit of that body, arising out of their respective roles on the body, they will treat that disagreement in a professional manner. In particular both the Member and the officer will take steps to ensure that the disagreement does not affect the nature of their relationship within their respective roles as Member and officer of the Council.

14.5 The Appointments to Outside Bodies Procedure Rules (Part 4(h) of the Constitution) make provision for support to Members appointed to external organisations.

## **15.0 SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS**

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

15.2 Detailed guidance regarding the provision of support to Members by support staff in Democratic Services is contained within the Guidelines for Democratic Services Support to Members<sup>20</sup>.

## **16.0 MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS**

16.1 Members have the ability to ask for information pursuant to their legal rights to information. Further details of these rights are set out in the Access to Information Procedure Rules.

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<sup>19</sup> For example, where the appointment is as a Director or Trustee of the outside body.

<sup>20</sup> Copies of the Guidelines For Democratic Services Support To Members may be obtained from the Director of Resources or from Group Support Managers.

## **17.0 CORRESPONDENCE**

- 17.1 Correspondence<sup>21</sup> between an individual Member and an officer should not normally be copied (by the officer) to any other Member. Where exceptionally it is necessary for an officer to copy the correspondence to another Member, the original Member will be advised before any such correspondence is copied. In other words, a system of 'silent copies' should not be employed. However, it may be appropriate in certain circumstances for Members to copy correspondence to an officer, for example to Ward colleagues.
- 17.2 Paragraph 17.1 above should not be taken to prevent the copying of correspondence where necessary as part of the background information when briefing an Executive or Deputy Executive Member in relation to the history of any matter. In addition it should be noted that the Council may have to release copies of correspondence in accordance with Freedom of Information Legislation<sup>22</sup>.
- 17.3 Official letters on behalf of the Council (as distinct from letters in response to constituent's queries) should normally be sent in the name of the appropriate officer, rather than the name of a Member. It may be appropriate in certain limited circumstances (e.g., representations to a Government Minister) for a letter to appear in the name of an Executive Member or the Leader, but this should be the exception rather than the norm.
- 17.4 Letters which create legally enforceable obligations or which give Instructions on behalf of the Council should never be sent in the name of a Member.
- 17.5 When writing in an individual capacity as a ward Member, a Member must make clear that fact.
- 17.6 Officers should respond promptly to correspondence from Members.
- 17.7 When entering into correspondence with one another both Members and officers should ensure that they maintain their recognition of and respect for each other's roles and responsibilities. As with other areas of their relationship Members and officers should conduct correspondence in a positive and constructive way and observe the same level of courtesy and respect.

## **18.0 PUBLICITY AND PRESS RELEASES**

- 18.1 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors, and non-domestic rate-payers. In recent years, all local authorities have increasingly used publicity to keep the public informed to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness

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<sup>21</sup> "Correspondence" in this context means letters, memoranda, reports, advice, briefing notes or any other documentation prepared specifically by an officer for a Member

<sup>22</sup> For details please see Access to Information Procedure Rules

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of a Council's activities is, in the words of the Government, to be welcomed. The Local Government Act 1986 prohibits political publicity – this is defined as any material which, in whole or in part, appears to be designed to affect public support for a political party. This prohibition also extends to regulated companies such as the ALMOs.

- 18.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that the Council's decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code is issued under the provisions of the Local Government Act 1986 as amended by the Local Government Act 1988 which provides for the Secretary of State to issue Codes of Recommended Practice as regards the content, style, distribution and cost of local authority publicity, and such other matters as s/he thinks appropriate. That section requires that all local authorities shall have regard to the provisions of any such Code in coming to any decision on publicity, and such other matters as s/he thinks appropriate. The main principles of the Code are:
- That publicity relating to individual Members should relate to their role as a holder of a particular position and personalisation of issues or personal image making should be avoided.
  - Publicity should be factual and designed to raise public awareness and its primary purpose must not be to persuade members of the public to hold a particular view on a matter of policy.
  - Particular care should be taken when publicity is issued immediately before an election or by-election to ensure that this could not be perceived as seeking to influence public opinion, or to promote the image of a particular candidate, or group of candidates. The Code provides 'between the time of publication of a notice of an election and polling day, publicity should not be issued which deals with controversial issues, or which reports views or policies in a way that identifies them with individual members or groups of members'.
- The Code also applies to other bodies funded by the Council, where that funding could be used for publicity, for example the ALMOs.
- 18.3 Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, officers and/or Members should initially seek advice from the Monitoring Officer. Particular care should be paid to any publicity used by the Council around the time of an election. Particular advice will be given on this by the Monitoring Officer as appropriate.
- 18.4 Contact with the media, including issuing press releases, should be carried out in accordance with any relevant protocols (for example those adopted by the Executive Board).

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- 18.5 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 party group.
- 18.6 Officers will keep relevant Members informed of media interest in the Council's activities, especially regarding strategic or contentious matters. Before responding to enquiries from the media, officers shall ensure they are authorised to do so.
- 18.7 Likewise, officers will inform the Council's Corporate Communications Team of issues likely to be of media interest, since that unit is often the media's first point of contact.
- 18.8 If a Member is contacted by, or contacts, the media on an issue, he/she should:
  - indicate in what capacity he/she is speaking (e.g. as ward Member, in a personal capacity, as an Executive Member, on behalf of the Council, or on behalf of a party group);
  - be sure of what he/she wants to say or not to say;
  - if necessary, and always when he/she would like a press release to be issued, seek assistance from the Council's Communications Team and/or relevant senior officer, except in relation to a statement which is party political in nature<sup>23</sup>;
  - consider the likely consequences for the Council of his/her statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions);
  - never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
  - consider whether to consult other relevant Members; and
  - take particular care in what he/she says in the run-up to local or national elections to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or political party activist. Council resources must never be used to affect public support for a political party.

## **19 INVOLVEMENT OF WARD COUNCILLORS**

- 19.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. More generally, officers should consider whether other policy or briefing papers, or other topics being discussed with an Executive Member, should be referred to the relevant Area Committee for consideration. Officers should seek the views of the appropriate Executive Member(s) as to with whom and when this might be done.
- 19.2 Whilst support for Members' ward work is legitimate, care should be taken if officers are asked to accompany Members to ward surgeries. In such circumstances:
  - the surgeries must be open to the general public, and

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<sup>23</sup> Any press releases issued regarding a Groups views which are issued through Group Offices must be issued in accordance with the Guidelines for Democratic Services Support to Members.

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- officers should not be requested to accompany members to surgeries held in the offices or premises of political parties.
- 19.3 Officers must never be asked to attend ward or constituency political party meetings.
- 19.4 It is acknowledged that some officers (e.g. those providing dedicated support to Executive Members) may receive and handle messages for Members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.
- 19.5 In seeking to deal with constituents' queries or concerns, Members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested time-scale, and may need to seek instructions from their managers.

## **20.0 ACCESS TO PREMISES**

- 20.1 Officers have the right to enter Council land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.
- 20.2 Members have a right of access to Council land and premises to fulfil their duties.
- 20.3 When making visits as individual Members, Members should:
- whenever practicable, notify and make advance arrangements with the appropriate manager or officer in charge;
  - comply with health and safety, security and other workplace rules;
  - not interfere with the services or activities being provided at the time of the visit;
  - if outside his/her own ward, notify the ward Members beforehand; and
  - take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

## **21.0 USE OF COUNCIL RESOURCES**

- 21.1 The Council provides all Members with services such as typing, printing and photocopying, and goods such as stationery and computer equipment, to assist them in discharging their roles as Members of the Council. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.
- 21.2 Members should ensure they understand and comply with the Council's own rules about the use of such resources, particularly:
- where facilities are provided in Members' homes at the Council's expense;

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- In relation to any locally-agreed arrangements e.g. payment for private use or photocopying; and
- regarding ICT security.

21.3 Detailed guidance regarding the use by Members of ICT equipment is contained within the Guidelines for Members using ICT Equipment<sup>24</sup>.

21.3 Members should not put pressure on staff to provide resources or support which officers are not permitted to give. Examples are:

- business which is solely to do with a political party;
- work in connection with a ward or constituency party political meeting; electioneering;
- work associated with an event attended by a Member in a capacity other than as a Member of the Council;
- private personal correspondence;
- work in connection with another body or organisation where a Member's involvement is other than as a Member of the Council; and
- support to a Member in his/her capacity as a councillor of another local authority.

## **22.0 CO-OPTED MEMBERS**

22.1 Officers should provide the same level of support to Co-opted Members of a Scrutiny Board, as they provide to other (elected) Members, for example by providing them with the same papers, briefings and training opportunities. Officers and elected Members should afford Co-opted Members the same level of respect and opportunity to contribute (so far as their role permits them to do so), as to any other Member of the Board.

## **23.0 CONCLUSION**

23.1 Mutual understanding, openness on these sorts of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Members and officers.

## **24.0 BREACHES OF THE PROTOCOL**

24.1 In relation to Members, failure to comply with the Members' Code of Conduct may lead to a complaint to the Standards and Conduct Committee, and failure to comply with the rules in relation to Disclosable Pecuniary Interests may lead to the Member committing a criminal offence.

24.2 Allegations of breaches by officers will be referred to the employee's Director for consideration of appropriate action including disciplinary investigation under the Council's Disciplinary Rules.

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<sup>24</sup> Copies of the Guidelines for Members Using ICT Equipment may be obtained from the Director of Resources, Chief ICT Officer or Group Support Managers.

## **25.0 MONITORING AND INTERPRETATION**

- 25.1 The Monitoring Officer will report to the Standards and Conduct Committee regarding any proposals for amendment to this protocol.
- 25.2 Questions on the interpretation of this protocol will be determined by the Monitoring Officer.