

PROTOCOL ON MEMBER/OFFICER RELATIONS

1	Introduction
1.1	The Council's Constitution provides for the adoption of a protocol on member/officer relations.
1.2	Given the variety and complexity of member and officer relations, this protocol does not seek to cover everything or to be prescriptive in its application. General guidance is offered on some of the issues which most commonly arise or cause concern. It is hoped, therefore, that the approach which this protocol adopts, will serve as a guide to dealing with other issues that may arise from time to time.
1.3	This protocol seeks to encourage best practice and to promote greater clarity and certainty between the various relationships. If any member is unsure about any matter, they should contact the relevant Chief Officer and/or the Monitoring Officer for appropriate advice and assistance. If there is any disagreement in the interpretation of this protocol, the opinion of the Monitoring Officer will prevail, in accordance with the Council's Constitution.
1.4	The Joint Standards Committee and the Monitoring Officer may issue general guidance on the Members' Code of Conduct. Members and officers should, therefore, keep abreast of such issues and respect each other and not do anything to bring the Council, their offices or professions into disrepute.
2	Principles underlying Member-Officer Relations
2.1	The relationship between members and officers generally is characterised by mutual trust, respect and courtesy. These are essential for good local government and serve to enhance local democracy. Member and officer relations are based upon the principles set out in this protocol.
2.2	Members must respect an officer's professional opinion on any Council business matter. They should not do anything that compromises, or which is likely to compromise the Council's position on any matter or the impartiality of officers or those who work for, or on behalf of the Council. In particular, members will be in breach of the Members' Code of Conduct if they instruct any officer to change their professional advice or take any action which the officer considers to be unlawful or illegal or which could amount to maladministration or breach any relevant Codes of Conduct (including professional codes of conduct).

2.3	Officers, being employees of the Council, must always act in the best interests of the Council as a whole, and must give wholly impartial advice. Officer support to Political Groups must not extend beyond providing information and advice in relation to Council business (not Party politics/business). It is good practice for party political discussions and decision-making to take place in the absence of officers, in order to avoid any suspicion of impropriety or misunderstanding.
Legal Issues	
2.4	Members of the Council do not, as elected members, have any special immunity from civil or criminal wrongs that they may commit against fellow members, officers or members of the public. Members must abide by the Council's adopted Members' Code of Conduct and ensure they do not, for example, defame another person. During the course of their normal duties for the Council, members only have a qualified (not absolute) protection against prosecution or civil action.
2.5	Any member of the public (including officers) can complain to the Council's Monitoring Officer about an alleged breach of the Members' Code of Conduct and can bring private civil litigation proceedings against an elected member. The appointed External Auditor can also take legal action against an individual member and the Council, as a whole, for any breaches of the law.
2.6	The Council's Media and Communications Team are responsible for co-ordinating the relations with the press and other media organisations on behalf of the Council. It is important, therefore, that all official communication relating to the Council (but not party political or private matters) is dealt with by this team, so as to ensure the proactive, effective and efficient management of the Council's public image, relations and interface.
3	Employer/employee issues
3.1	Any dealings between members and officers should continue to be conducted with mutual trust, respect and courtesy, and neither party should seek to take an unfair advantage of their position. In particular, members should recognise and pay due regard to their role as an employer in their dealings with officers and avoid placing the Council at risk of formal employment challenge.
3.2	Members must, in particular, guard against generating a perception that they are putting inappropriate pressure on officers. Both members and officers must ensure that all communications between them (including written communications) are not likely to cause any embarrassment, lead to the breakdown of mutual trust, respect and courtesy in member/officer relations nor likely to bring the Council into disrepute.

3.3	In seeking advice and support, members should have due regard to the seniority of the officer with whom they are dealing and recognise that, whilst those officers owe an overriding duty to the Council as a whole, such duties are first expressed to their respective line managers and Chief Officers and not to any individual member. For this reason, members should not give direct instructions to staff, unless they are duly authorised to do so by the Council's Constitution, i.e. members with individual decision making powers. If so authorised, instructions should, under normal circumstances, still be given to the relevant Chief Officer or head of section and not to a more junior officer.	
Equalities Issues		
3.4	The Council has statutory duties with regard to equality issues and in accordance with the Members' Code of Conduct; members must also promote equality by not discriminating against others. Members and officers are bound by the provisions of the Human Rights Act 1998 which prohibit discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status, including disability, age or sexual orientation.	
Officer Conduct or Capability Issues		
3.5	Members should not raise matters relating to the conduct or capability of an officer (or of officers, collectively) at meetings held in public or in the presence of the media, as officers have no means of responding to the same in public. If any member considers that they have not been treated with the proper mutual trust, respect or courtesy or has any concern about the conduct or capability of an officer, they should raise the matter, in private, with the relevant Chief Officer. Any concerns with regard to a Chief Officer should be discussed, in private, with the Chief Executive.	
Monitoring Officer and Chief Finance Officer Issues		
3.6	Members are required to consult with the Monitoring Officer and the Chief Finance Officer over any issues of legality, maladministration, financial impropriety or probity or where they have any doubt as to whether particular decisions are or were likely to be contrary to the Council's Budget and Policy Framework or the law. Inappropriate or late consultation will not satisfy the need to consult those officers at the relevant time.	
4	Overview and Scrutiny Committee	
4.1	The Council's Overview and Scrutiny Committee will seek the advice of:-	
	(a)	the Monitoring Officer, where they are concerned about the legality of a decision of the Executive or the record of a decision taken; or

	(b)	the Monitoring Officer and other relevant Chief officers, where they consider a decision of the Executive might be contrary to the Council's policy framework.
4.2	The Overview and Scrutiny Committee or sub-committee may require the Chief Executive and/or any senior officer to attend before it to explain in relation to matters within their remit. The appropriate "senior officer" shall be identified following consultation by the chairman of that committee with the Chief Executive.	
4.3	When officers give evidence before the Overview and Scrutiny Committee, questions will be confined, so far as is possible, to questions of fact and explanation of any professional opinion relating to policies and decisions. Officers must respond to questions from members in an open, constructive and helpful manner and must not mislead or be economical with the truth.	
4.4	Where they consider it appropriate, the Chair of the Overview and Scrutiny Committee may ask a Chief Officer to explain any advice given by them to members of the Executive and explain any decision the Chief Officer may have taken in exercise of delegated powers. For the avoidance of doubt, any matter containing exempt or confidential information must be dealt with in private.	
Unacceptable or Inappropriate Behaviour		
4.5	The Chair of the Overview and Scrutiny Committee shall ensure that members of the Executive and officers are not questioned (whether through the nature, tone or language used), in such a manner as could be considered by a reasonable person to be hostile, offensive, derogatory, harassing, bullying, victimising, discriminatory or otherwise unacceptable or inappropriate behaviour by a member. Unacceptable or inappropriate behaviour by a member may also constitute a breach of the Members' Code of Conduct.	
4.6	The Chair of the Overview and Scrutiny Committee may refer to the Chief Executive any unacceptable or inappropriate behaviour on the part of an officer when giving evidence before the committee.	
5	Use of Council resources	
5.1	The only basis on which the Council can lawfully provide support services to members (e.g. computers, stationery, typing, printing, photo-copying, transport, etc.) is to assist them in the effective and efficient discharge of their duties and role as members of the Council. Such support services must, therefore be only used for Council business (see per paragraph 5 of the Members' Code of Conduct). The same should never be used for or in connection with party political or campaigning activities or for private purposes. Accordingly, a member requiring use of Council facilities should not request an officer to provide such services.	

6	Access to Information and the Need to Know
6.1	Section 100F of the Local Government Act 1972 was introduced to give members rights in addition to those already enjoyed at common law. Section 100F makes it clear that any document which is in the possession or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council, or a committee or a sub-committee of the Council, subject to confidentiality provisions, will be open to inspection by a member of the Council. These provisions are incorporated within the Constitution, primarily in the Access to Information Procedure Rules.
6.2	In all cases, however, if there appears to be confidential/ exempt information, by virtue of the other parts of the 1972 Act, there is still the discretion for the relevant proper officer to withhold the confidential/exempt information.
6.3	It is also a matter of fact as to whether or not the information is "in the possession or under the control of" the Council. The key issue to be determined is whether or not the information belongs to the Council or to another person. If it belongs to another person, officers will only release any confidential information after an appropriate consent to release such information has been obtained from the relevant person.
6.4	Officers will not, therefore, "hand over" their files to a member, without the officer being clear about the reasonableness of the request and the officer's ability to share the information in the file with a member. If any officer is unsure about a request for information, they must discuss the same with their Chief Officer and/or the Monitoring Officer.