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## PROTOCOL FOR RELATIONSHIPS WITHIN THE COUNCIL

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### 1.0 INTRODUCTION

- 1.1 Mutual trust and respect between Members and Officers is at the heart of a Council's good governance. They are essential if the partnership necessary for the effective running of a local authority is to succeed.
- 1.2 This Protocol addresses the need for a written guide to the basic elements of the relationship between Members and Officers. It is a protocol designed:
- to promote trust, openness, fairness and honesty by establishing some ground rules;
  - to define roles so as:
    - to clarify responsibilities,
    - to avoid conflict, and
    - to prevent duplication or omission;
  - to secure compliance with the law, codes of conduct and the Council's own practices; and
  - to lay down procedures for dealing with concerns by Members or Officers.

### 2.0 DEFINITIONS

- 2.1 Unless the context indicates otherwise, references to the term *Council* includes the Executive, Overview and Scrutiny Committees, and other Committees and Sub-Committees.
- 2.2 Unless the context indicates otherwise, the terms *Member* and *Members* include non-elected (i.e. co-opted) Members as well as elected Councillors.
- 2.3 *Officers* means all persons employed by the Council, or employed by another Council for the purpose of providing a service to this Council.
- 2.4 *Senior Officer* means Chief Officer, Deputy Chief Officer, Director and Heads of Service.

- 2.5 *Designated Finance Officer* means the Officer exercising the duties prescribed by law for the financial administration of the Council and is the Chief Finance Officer, Head of Financial Services and Section 151 Officer.
- 2.6 *Monitoring Officer* means the Officer appointed to and exercising his/her role under the Local Government and Housing Act 1989 and is the Solicitor to the Council and Head of Legal Services.

### **3.0 PRINCIPLES**

- 3.1 Members and Officers must at all times observe this Protocol.
- 3.2 This Protocol has been approved by the Council and the Joint Governance Committee will monitor its operation.
- 3.3 Members and Officers must always respect the roles and duties of each other. They must be courteous in all their dealings, and not seek to take unfair advantage by virtue of their position. They must maintain a professional working relationship at all times.
- 3.4 Whilst Members and Officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as 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 of the Head of Paid Service.
- 3.5 Officers are bound by the Council's own Code of Conduct for Officers distributed to all staff on the commencement of their employment and, in some cases, by the codes of their professional associations.
- 3.6 Elected Members are bound by the Council's Code of Conduct for Members.
- 3.7 Breaches of this Protocol by a Member may result in a complaint to the Monitoring Officer if it appears that the Members' Code of Conduct has also been breached. Breaches of this Protocol by an Officer may lead to disciplinary action, as may a breach of the Officer Code of Conduct.

### **4.0 THE ROLE OF MEMBERS**

- 4.1 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.
- 4.2 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.

- 4.3 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;
  - where staff have been specifically allocated to give support to a Member or group of Members.
- 4.4 Members may not initiate or certify financial transactions, or enter into a contract in writing or orally on behalf of the Council, or direct any Officer to do so. Letters which may commit the Council to any action should not be sent in the name of any Member without having first checked the position with an appropriate Officer from Legal Services. Members should not give any assurances to any person outside the Council or make any public statement which may be interpreted as making a formal commitment on any matter where a formal decision has yet to be made.
- 4.5 No Member should meet with a developer or contractor concerning negotiations for the disposal of land or the terms of a contract outside the formal meeting processes of the Council unless a Council Officer is present and a note is made of the content of the discussion at the meeting. Such meetings might occasionally take place on an initial exploratory basis, but should not continue beyond that. Officers should then pursue any negotiations arising. The Chief Officer would keep the Member(s) informed and report formally to Member meetings where appropriate for information or decision.
- 4.6 Members must not take actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation to take into account, when reaching decisions, any advice provided by the Monitoring Officer or the designated Finance Officer.
- 4.7 Members' roles on the employment of staff are limited to:
- the appointment of specified senior posts as set out in the Officer Employment Procedure Rules;
  - determining Human Resources policies and conditions of employment; and
  - hearing and determining specific appeals as set out in the Officer Employment Procedure Rules.
- 4.8 Members must respect the impartiality of Officers and do nothing to compromise it, e.g. by insisting that an Officer change his/her professional advice.
- 4.9 An Executive Member wanting to make a decision about a matter in his or her portfolio should ensure that other Members and Senior Officers who need to know of the matter are informed, particularly on issues of joint

responsibility or mutual interest, and in appropriate cases to brief the whole Executive.

## **5.0 THE ROLE OF OFFICERS**

- 5.1 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.
- 5.2 Under the direction and control of the Council (including, as appropriate, the Executive, Committees and Sub-Committees), 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.
- 5.3 Officers have a duty to implement decisions of the Council, the Executive, Committees and Sub-Committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's Constitution, and duly recorded.
- 5.4 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.
- 5.5 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.
- 5.6 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.
- 5.7 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 applying to certain Officers holding politically restricted posts.
- 5.8 Senior Officers shall agree mutually convenient times for regular contact with Executive Members and Shadow Executive Members.

## **6.0 THE RELATIONSHIP BETWEEN MEMBERS AND OFFICERS**

- 6.1 The conduct of Members and Officers should be such as to inspire mutual confidence and trust.
- 6.2 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.

- 6.3 There must be no bullying and/or intimidating behaviour between Members and Officers.
- 6.4 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.
- 6.5 Any Members and Officers who form a close personal relationship, either a Member with an Officer, a Member with a Member, or an Officer with another Officer, shall inform their Head of Service of any such relationship since it might be seen as unduly influencing their work in their respective roles.
- 6.6 If a Member or Officer becomes aware of an inappropriate relationship that may or does affect their work and/or the reputation of the Council, they should bring this to the attention of their Head of Service and Monitoring Officer.
- 6.7 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.
- 6.8 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 direct their requests and concerns to a Senior Officer, or an Officer that the Senior Officer has confirmed beforehand may be approached directly. Chief Officers shall ensure that Members are adequately informed of such arrangements.
- 6.9 Officers will do their best to give timely responses to Members' enquiries. However, Officers should not have unreasonable requests placed on them. Their work priorities are set and managed by Senior Managers. Members may discuss and give their views upon work priorities with Senior Officers.
- 6.10 Members will endeavour to give timely responses to enquiries from Officers.
- 6.11 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.
- 6.12 Members and Officers should respect each other's free (i.e. non-Council) time.

- 6.13 Members and Officers must comply with and promote the Council's policies on equality and diversity.

## **7.0 PARTY GROUPS AND OFFICERS**

- 7.1 Officers' support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.
- 7.2 Party group meetings, as opposed to meetings of a body such as the Executive that may consist only of members of one political party, are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings have no status as formal Council decisions.
- 7.3 In their dealings with party groups, Officers must treat each group in a fair and even-handed manner. In particular, if a briefing is offered to one party then it should be offered to all party groups.
- 7.4 Members must not do anything which compromises or is likely to compromise Officers' impartiality.
- 7.5 At party group meetings where some of those present are not Members of the Council, care must be taken not to divulge confidential information relating to Council business. Persons who are not Members are not bound by the Members' Code of Conduct. They do not have the same rights to Council information as Members.

## **8.0 MEMBERS' ACCESS TO DOCUMENTS AND INFORMATION**

- 8.1 This part of the Protocol should be read in conjunction with the Access to Information Procedure Rules in Part 4 of the Council's Constitution.
- 8.2 Members may request Senior Officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as Members. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:
- it is in the public domain, and
  - it is not barred from being given, by any legislative restriction, including the Data Protection Act.

- 8.3 A Member should obtain advice from the Monitoring Officer in circumstances where he/she wishes to have access to documents or information:
- where to do so is likely to be in breach of the Data Protection Act, or
  - Where the subject matter is one in which he/she has a personal or disclosable pecuniary interest as defined in the Members' Code of Conduct.
- 8.4 Information given to a Member must only be used for the purpose for which it was requested.
- 8.5 Members and Officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.
- 8.6 When requested to do so, Officers will keep confidential from other Members advice requested by a Member.
- 8.7 Members and Officers must not prevent another person from gaining access to information to which that person is entitled by law.

## **9.0 INTERPRETATION, COMPLAINTS AND ALLEGATIONS OF BREACHES**

- 9.1 This part of the Protocol should be read in conjunction with the Council's Anti-fraud, Corruption and Whistleblowing Policy Statement and Code of Conduct.
- 9.2 Members or Officers with questions about the implementation or interpretation or any part of this Protocol should seek the guidance of the Monitoring Officer or in his/her absence the Chief Executive.
- 9.3 A Member who is unhappy about the actions taken by, or conduct 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's Director.
- 9.4 A serious breach of this Protocol by an Officer may lead to an investigation and action under the Council's disciplinary procedure.
- 9.5 An Officer who believes a Member may have acted other than in accordance with this Protocol should raise his/her concern with the Monitoring Officer. He/she will consider how the complaint or allegations should be dealt with and take such action as he/she considers appropriate. At a minor level, this may be to raise the matter confidentially with the Member and/or the Leader of the relevant party group, giving information to the Officer concerned as to the action taken. More serious complaints may be dealt with in accordance with

the Members' Code of Conduct and Standards Procedure Rules, if they relate to an alleged breach of the Members' Code of Conduct.