

 Council 25 February 2015		Agenda Item No. <h1 style="text-align: center;">18</h1>
Title	Revised Member/Officer Protocol	
For further information about this report please contact	Richard Barr Tel: (01926) 456815 E Mail: richard.barr@warwickdc.gov.uk	
Service Area	Finance	
Wards of the District directly affected	Not applicable	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006	No	
Date and meeting when issue was last considered and relevant minute number	Not applicable	
Background Papers	Other local authorities' member/officer protocols	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No
Equality & Sustainability Impact Assessment Undertaken	N/A: no direct service implications

Officer/Councillor Approval		
With regard to officer approval all reports <i>must</i> be approved by the report author's relevant director, Finance, Legal Services and the relevant Portfolio Holder(s).		
Officer Approval	Date	Name
Chief Executive / CMT	17/2/2015	Chris Elliott / CMT
Section 151 Officer	17/2/2015	Mike Snow
Monitoring Officer	17/2/2015	Andrew Jones
Senior Management Team	17/12/2014	Senior Management Team
Finance	17/2/2015	As Section 151 Officer
Leader of the Council	17/2/2015	Councillor Mobbs
Consultation and Community Engagement		
Standards Committee 21 January 2015 Employment Committee 27 January 2015 Recognised Trades Unions of Warwick District Council January/ February 2015 Constitution Working Party January/February 2015		
Final Decision?	Yes	
Suggested next steps (if not final decision please set out below)		

1 **SUMMARY**

- 1.1 The report provides a revised Member/Officer Protocol, the purpose of which is to guide Members and Officers in their relations with one another.
- 1.2 Although the Protocol is largely no more than a written statement of current practice and convention, intending to be neither prescriptive nor comprehensive, it seeks to promote greater clarity and certainty on some of the issues that most commonly arise.

2 **RECOMMENDATION**

- 2.1 That Council adopts the revised Member/Officer Protocol, set out at Appendix 1 to this report.

3 **REASON FOR THE RECOMMENDATIONS**

- 3.1 An up-to-date Member/Officer Protocol is required to guide and support relations between Members and Officers.
- 3.2 The Protocol will help to ensure that Members receive objective and impartial advice and that Officers are protected from any accusations of bias or undue influence from Members.
- 3.3 The revised protocol was considered by both the Standards Committee and Employment Committee during January 2015. The Employment Committee sought a few minor changes to the Protocol to ensure clarity which have been made. Both Committees supported the adoption of the revised protocol.
- 3.4 The recognised Trades Unions within Warwick District Council and the Constitution Working Party, have both been consulted on the revised Protocol via email. Only one comment has been received back in response and this was in support of the Protocol.

4 **POLICY FRAMEWORK**

- 4.1 The Member/Officer Protocol is part of the suite of policies that help to ensure the Council is governed properly.

5 **BUDGETARY FRAMEWORK**

- 5.1 Although there are no direct budgetary implications arising from this report, an effective relationship between Members and Officers helps to ensure that the Authority achieves its objectives economically, efficiently and effectively.

6 **RISKS**

- 6.1 The Council's performance and reputation would suffer if relations between Members and Officers were deficient.

7 **ALTERNATIVE OPTION(S) CONSIDERED**

- 7.1 This report is not concerned with recommending a particular option in preference to others so this section is not applicable.

8 **BACKGROUND**

- 8.1 The previous Member/Officer Protocol had been in existence for a number of years and was due for an overhaul.
- 8.2 In reviewing the Protocol a number of other authorities' protocols were examined to determine best practice.

8.3 The revised Protocol seeks to reflect the principles underlying the respective Codes of Conduct that apply to members and officers. Consequently, a breach of the provisions of this Protocol may also constitute a breach of those Codes.

8.4 The Protocol therefore supplements and interprets, but does not override:

- statutory provisions, the code of conduct for members and other codes and guidance;
- the other provisions of the council's own adopted constitution and especially the rules of procedure;
- disciplinary codes that regulate the conduct of officers.

8.5 A relevant extract from the National Code of Local Government Conduct for members is reproduced below:

23. 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 so 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.

24. Mutual respect between councillors and officers is essential to good local government. Close personal familiarity between individual councillors and officers can damage this relationship and prove embarrassing to other councillors and officers.

8.6 In line with the National Code's reference to "mutual respect", it is important that any dealings between members and officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.

8.7 Mutual respect and trust should be founded on The Ten General Principles of Public Life (developed from the Nolan Principles). The principles, which apply equally to Members and Officers, are:

- Selflessness
- Honesty and Integrity
- Objectivity
- Accountability
- Openness
- Personal Judgment
- Respect for Others
- Duty to Uphold the Law
- Stewardship
- Leadership

8.8 The revised Protocol attempts to build on these required standards of conduct and achieve the objective of mutual respect between Members and Officers.

PROTOCOL ON MEMBER/OFFICER RELATIONS

1 INTRODUCTION

- 1.1 The purpose of this Protocol is to guide the Council's Members and Officers in their relations with one another.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues that most commonly arise. It is intended, however, that the approach that it adopts to these issues will serve as a guide to dealing with other, related, issues.
- 1.3 This Protocol is to a large extent no more than a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.
- 1.4 Following the Protocol will help to ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.
- 1.5 This Protocol should be read in conjunction with the Members' and Employees' Codes of Conduct, the Council's Constitution and other relevant guidance that may be issued from time to time.
- 1.6 This Protocol seeks to reflect the principles underlying the respective Codes of Conduct that apply to members and officers. Consequently, a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 1.7 The Protocol therefore supplements and interprets, but does not supplant:
- ∨ statutory provisions, the Code of Conduct for Members, the Code of Conduct for Employees and other codes and guidance;
 - ∨ the other provisions of the Council's own adopted constitution and especially the rules of procedure;
 - ∨ disciplinary codes that regulate the conduct of Officers.
- 1.8 A relevant extract from the National Code of Local Government Conduct for Members is reproduced below:
23. *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 so 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.*
24. *Mutual respect between councillors and officers is essential to good local government. Close personal familiarity between individual councillors and officers can damage this relationship and prove embarrassing to other councillors and officers.*

- 1.9 In line with the National Code's reference to "mutual respect", it is important that any dealings between members and officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.
- 1.10 Mutual respect and trust should be founded on The Ten General Principles of Public Life (developed from the Nolan Principles). The principles, applying equally to Members and Officers, are:
- Selflessness
 - Honesty and Integrity
 - Objectivity
 - Accountability
 - Openness
 - Personal Judgment
 - Respect for Others
 - Duty to Uphold the Law
 - Stewardship
 - Leadership

3 THE ROLE OF MEMBERS

- 3.1 Members are elected democratically. It is their policies, ideas and decisions that people vote for. Members agree a policy framework, set the corporate goals and promote the Council in all its work. Members are also the key channels of democratic accountability and Members are the channel for the voices of the people in their wards.
- 3.2 The Council meets as a body when all its Members are summoned to attend a Council meeting. This meeting has ultimate authority over the affairs of the Council, subject only to the law. The Council can delegate authority to the Executive, committees and sub-committees of Members (and co-opted members in some circumstances) and to Officers. When Members meet as the Executive, a committee or sub-committee they can take decisions and act on behalf of the Council, within that body's terms of reference and delegated powers, again subject only to the law.
- 3.3 Members will also be involved in a variety of less formal meetings, correspondence and discussions with other Members, Officers and people outside the Council, to help the Council develop policies and deliver services.
- 3.4 As a Member attending a meeting of Council, the Executive, or of a committee or sub-committee, or in less formal settings, Members will have a variety of roles:
- The policy making role – deciding the broad direction of Council policy
 - The executive role – deciding how those policies are to be delivered in practice
 - The scrutiny role – holding Executive and Officers to account for their decisions and actions
 - The ward member role – representing the interests of individual residents or residents' groups within their ward, in the overall public interest.

- 3.5 Members will be involved in individual staffing matters only if they are a member of a committee or panel set up for that purpose. This may include being part of an appeals process or in the case of the Chief Executive and other senior officers in the appointment process.
- 3.6 In other circumstances, however, Members must not become embroiled in the management of the Council (such as officer-related disciplinary, capability or grievance processes). They must not engage in activities that might undermine the management line of command or adherence to Council HR procedures, or try to influence the recruitment process.

4 **THE ROLE OF OFFICERS**

- 4.1 Officers can also have a variety of roles:

They are responsible for the operational management of the Council. They advise Members to help them to take decisions in the Executive, committee, sub-committee and Council.

Some Officers have personal statutory powers and duties, for example, the Officers designated as Head of Paid Service (Chief Executive), Chief Finance Officer (Head of Finance and the Monitoring Officer (Head of Members' Services and Monitoring Officer).

The Council has given delegated powers to the Chief Executive, Deputy Chief Executives and other Officers so that they can act and take decisions on behalf of the Council in many areas, provided that they follow the rules of delegation and that Members have access to their decisions.

The Council is a large organisation, and Officers have a role to play within the organisation itself.

- 4.2 Officers' roles have two dimensions. Some Officers have professional skills relevant to a particular organisational task. Others have managerial responsibility primarily. Many Officers have elements of both in their job.
- 4.3 Officers should expect to have the opportunity to give 'honest advice' and to have their professional integrity respected (e.g. not to be required to make recommendations they cannot support professionally) and the chance to explain what may appear to be a shortcoming in performance.
- 4.4 In addition Members and Officers must understand there is a clear and acceptable division of responsibilities regarding policy and implementation. It is the duty of Officers to manage the implementation of policy, in agreement with Members.
- 4.5 Officers serve the Council through its committees and other Council bodies. They work to the instructions of their Head of Service or the Chief Executive - not individual Members of the Council, whatever office the Member might hold.

4.6 Officers should:

- a. Pursue every known lawful policy of the Council
- b. Implement the decisions of Council, the Executive, committees and sub-committees
- c. Inform Members through their head of service of any decision that they cannot fully implement and the reasons for this
- d. Be helpful and respectful to Members
- e. Behave in a professional manner
- f. Serve all members, not just those of the administration group(s)
- g. Maintain confidentiality
- h. Deal with Member enquiries efficiently
- i. Strive continually to comply with the Council's performance management and scrutiny processes
- j. Support Members in their role as ward Councillors

4.7 Officers must not raise directly with Members, either acting independently or on behalf of others, any personal matter to do with their jobs, or relating to any potential appointment within the Authority. Formal procedures have been agreed with the trade unions for dealing with such issues.

5 OFFICER SUPPORT TO MEMBERS AND PARTY GROUPS

5.1 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.

5.2 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.

5.3 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.

5.4 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 in control of the Council, such support is available to all party groups.

5.5 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

- a. 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;
- b. 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; and

- c. similarly, 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.
- 5.6 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting that includes persons who are not Members of the Council. Such persons are not bound by the National Code of Local Government Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and, for this and other reasons, Officers may not attend and/or give advice to such meetings.
 - 5.7 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.
 - 5.8 Whilst any Member may ask a relevant senior manager for written factual information about a service, such requests must be reasonable. Requests will be met subject to any overriding legal considerations or if the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If a Member requesting such information is dissatisfied by such a response, they should raise the matter in the first place with the relevant head of service and, if still dissatisfied, should raise the matter with the Chief Executive who will discuss the issue with the relevant Group Leader(s) and relevant Portfolio Holder(s), as appropriate.
 - 5.9 Officers should ensure that any information supplied does not contain any personal information (within the meaning of the Data Protection Act 1998) relating to individual employees such as salary, grade, Trade Union affiliation etc.
 - 5.10 Requests for personal information about specific employees or where the group of employees is so small that individual employees personal details are likely to be revealed should only be considered where a Member has a demonstrable need for such detailed personal information in order to carry out the business of the Council and they could not carry out that business without the information being supplied in a redacted form. Any such request must be properly justified.
 - 5.11 All information held by the Council, in whatever form, is confidential to the Council unless and until such confidentiality is waived by the Proper Officer and subject to the requirements of the Data Protection Act 1998. Officers and elected Members are responsible for ensuring that personal information and data is only handled and processed in accordance with the provisions of the Act and to familiarise themselves with their obligations under the Act accordingly. Officers or Members who require advice or assistance in relation to their duties under the Data Protection Act 1998 should take advice from the Monitoring Officer or the Council's legal service as appropriate.

- 5.12 In relation to budget proposals:
- a. the Administration shall be entitled to confidential information/discussions with Officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of Committee / Council meetings, whichever is the earlier; and
 - b. the opposition groups shall also be entitled to confidential information/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.
- 5.13 As part of the Budget process, Officers may be called upon to give advice on budgetary proposals, wherever they may emanate from (once political confidentiality has been lifted). This is in addition to the "normal" rights that any member has to seek advice "in confidence" from Officers.
- 5.14 In addition, Officers may feel it appropriate to offer advice to individuals, groups or all Members. In doing so, they should be aware of the need to remain impartial. It is appropriate and indeed, in certain circumstances, necessary that as a matter of professional judgement, if a proposed course of action is imprudent, Officers should advise the Members of the Authority that this is so. It would, however, be for the Officer to decide how and when to do so. This is without prejudice to issues of legality and financial administration which are covered by specific duties placed on the Chief Financial Officer and Monitoring Officer.
- 5.15 Members should consider, when attending a meeting, whether or not minutes should be taken and/or an officer should be present. It is a matter for Members' judgement whether this is necessary, but factors such as whether any commitment is likely to be given on behalf of the Council and/or whether any complex financial, legal or procurement issues may be discussed will be relevant in deciding that. In such situations, Members are generally recommended to have an officer present and to ensure that contemporaneous minutes are taken and, where appropriate, shared with the other parties present to ensure that an accurate record is maintained. It will, however, be a case of judgement on each and every occasion as to how and when this principle is applied.
- 5.16 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.
- 5.17 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).
- 5.18 It is clearly important that there should be a close working relationship between Members serving on committees (including the Executive) 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.

6 OFFICER SUPPORT TO MEMBERS ON EXECUTIVE AND ON SCRUTINY COMMITTEES

- 6.1 Officer support to Members serving on the Executive and on Scrutiny Committees should adhere to certain principles and standards regardless of which body the Member is serving on. In both cases Officers are expected:
- a. to maintain political impartiality at all times when commenting on the Council's policies and actions;
 - b. to be prepared to explain and justify advice given to Members and to justify decisions they themselves have taken under the Scheme of Delegation;
 - c. to ensure that an Officer of sufficient seniority appears before the relevant meeting in the light of the topics under discussion;
 - d. to provide information in a comprehensive and timely fashion;
 - e. to respond to questions from Members in an open, constructive and helpful manner;
 - f. not to mislead or be economical with the truth.
- 6.2 There are some aspects of Officer support, however, that are more relevant to either the Executive or Scrutiny Committees. Taking each in turn:

Executive

- 6.3 It is clearly important that there should be a close working relationship between Members serving on the Executive 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.
- 6.4 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 Head of Service or other senior Officer will always be 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 Head of Service in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.
- 6.5 Members serving on the Executive have wide ranging leadership roles. They will:
- a. lead the preparation of the Council's policies and budget;
 - b. 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

- c. be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 6.6 Where functions that 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, through the Scrutiny Committees, 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.
- 6.7 Under Executive Arrangements, individual Members of the Executive are allowed to formally take decisions. Members serving on the Executive must satisfy themselves that they are clear what exactly they can and cannot do.
- 6.8 The Council has mechanisms and protocols that ensure that (as with the Council 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 the extent of legal authority.
- 6.9 Members also need to comply with the Code of Financial Practice and Code of Procurement Practice when they are directly involved in procurement exercises, particularly in discussions with potential and/or actual tenderers.
- 6.10 Decisions taking by individual Members of the Executive give rise to legal and financial obligations in the same way as decisions taken collectively. Therefore, Members of the Executive should always be aware of legal and financial liabilities (consulting the Monitoring Officer and Chief Financial Officer as appropriate) that will arise from their decisions. To ensure effective leadership for the Council and the community it serves, there are arrangements to ensure co-ordination of and sharing responsibility for Executive decisions including those made by individuals.
- 6.11 Officers will continue to work for and serve the Local Authority as a whole. Nevertheless, as the majority of functions will be 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 Officers. Officers must ensure that, at all times, their political neutrality is not compromised.
- 6.12 In organising support for the Executive, there is potential for tension between Officers and Members of the Executive 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, whether real or perceived.

Scrutiny Committees

- 6.13 Scrutiny Committees are an important element of the Council's arrangements. It is not, however, a Scrutiny Committee's role to act as a Disciplinary tribunal in relation to the actions of Members or Officers. Neither is it the role of Officers to become involved in what would amount to disciplinary investigations on a Panel's behalf. This is the Chief Executive's function alone in relation to staff and the Monitoring Officer's and the Standards Committee as regards the conduct of Members. This means:
- a. A Scrutiny Committee's questioning should not be directed to the conduct of individuals, not in the sense of establishing the facts about what occurred in the making of decisions or implementing of Council policies, but with the implication of allocating criticism or blame;
 - b. in these circumstances, it is for the Chief Executive to institute a formal enquiry, and a Scrutiny Committee may ask (but not require) him to do so.
- 6.14 Scrutiny Committees should not act as a "court of appeal" against decisions or to pursue complaints by individuals (Councillors, Officers or members of the public) as other procedures exist for this. These are internal, e.g. the Corporate Complaints Procedure, and external/statutory, e.g. Local Government Ombudsman or appeal to the Courts. That said, Scrutiny Committees may:
- a. investigate the manner in which decisions are made but should not pass judgements on the merits of a decision in individual cases;
 - b. comment on the merits of a particular policy affecting individuals.
- 6.15 It would be unfair to invite someone to appear at a Scrutiny Committee without telling them in general terms what they will be asked and without giving them adequate time to prepare. Scrutiny Committees ought to provide written questions, or at least "indicative topics", beforehand, so that the answers can form the basis of the questioning and discussion. In addition, speakers ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Panel had previously indicated.
- 6.16 The way in which Scrutiny Committee Members probe Officers should be influenced by the level of seniority of the Officers present – accordingly when calling Officers to give evidence, Members should consider the level of the Officer they wish to have before them in the light of the line of questioning they wish to follow.
- 6.17 Officers may be asked to give a professional opinion, including presenting alternative options. Officers may not confine themselves solely to justifying either the position of or the advice that they gave to the Executive although, in giving options, it is to be expected that they will explain the rationale for the advice they gave.
- 6.18 It is appropriate for Members of Scrutiny Committees to ask Officers to explain and justify advice given to Members, whether on the Executive or otherwise, prior to decisions being taken, and to justify decisions that Officers have taken under delegated powers.

7 SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS

- 7.1 Support services (e.g. stationery, typing, printing, photocopying) to Members must only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

8 MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

- 8.1 Members have the ability to ask for information pursuant to their legal rights to information. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Head of Service or another senior Officer of the Division concerned.
- 8.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 8.3 The law concerning access to information is complex, with the following pieces of legislation applying:
- The Access to Information provisions of the Local Government Act 1972
 - The Data Protection Act 1998
 - The Local Government Act 2000
 - The Freedom of Information Act 2000

The Freedom of Information Act has probably the greatest impact, potentially providing Members with a single route through which to obtain information in support of their work, whatever their role within the Authority.

- 8.4 Any Council information provided to a Member is deemed to be information provided in confidence; it is subject to the protections afforded by the Data Protection Act 1998 and 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 a Member of the Council. Therefore, for example, early drafts of Committee reports / briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied.
- 8.5 Failure to observe this obligation or disclosure of confidential information may amount to a breach of the Code of Conduct. Failure to safeguard and protect the confidentiality of personal information within the meaning of the Data Protection Act 1998 may result in prosecution of the Authority and/or any individual Officer or Member by the Information Commissioner and the imposition of significant monetary penalties.
- 8.6 Any Member request for personal information or personal data about an individual employee (rather than a general group of employees as a whole) should only be supplied where there is a demonstrable need for that Member to have the information at that level of detail in order to carry out their duties as a Member of the Council. Any such requests should be referred to and considered

by the Head of HR who may, if necessary, refer the request to the Monitoring Officer.

- 8.7 In cases where such information is to be released, the Head of HR will specifically remind the Member that the information is confidential, subject to the protection of the Data Protection Act 1998 and confirm the necessary measures for handling that data in order to keep it confidential and ensure that it is not further disclosed to any other person or body either within or external to the Council.

9 CORRESPONDENCE AND ADVICE

- 9.1 Members seeking advice from officers shall be entitled to assume that such advice is given under "Chatham House rules" in terms of disclosure to other Members, unless otherwise agreed with the officer(s) concerned.
- 9.2 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. In other words, a system of "silent copies" should not be employed.
- 9.3 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in 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 of the Council or the Leaders of all political groups represented on the Council by agreement, but this should be the exception rather than the norm. Letters that, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member, Executive or otherwise.
- 9.4 Officers responding to members' queries should do so in a timely manner, and in accordance with the agreed standards for replying to letters and emails from Members; namely:
- a. Members will receive an acknowledgement within two working days of the date of the enquiry, to include the name and contact details of the officer dealing with the enquiry (subject to leave, etc);
 - b. a response will be given as soon as possible but not later than 10 working days of the date of the enquiry. If it is not possible to give a detailed response within 10 working days, the councillor should be informed within that period of the date by which they can expect to receive the information requested and be given a reason for the delay
- 9.5 Democratic Services provides an alternative route whereby Members may make enquiries or request information from officers within the Authority. Any Member may pass an enquiry to Democratic Services who will then refer it to the appropriate officer and follow it up as necessary. Members can expect to be updated as to progress by the officer responsible for replying to the request.

10 PUBLICITY AND PRESS RELEASES

- 10.1 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Authority, explaining its objectives and policies to the electors and rate-payers. In recent years, all local authorities have used publicity to keep increasingly the public informed and 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 of a council's activities is, in the words of the Government, to be welcomed.
- 10.2 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 local authority 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 that provides guidance on the subject and that should be complied with.
- 10.3 Particular care should be paid to any publicity used by the Council around the time of an election. Advice will be given on this by the Monitoring Officer.

11 ALLEGATIONS OF MEMBER OR OFFICER MISCONDUCT

- 11.1 In a situation where a Member identifies that an Officer may have committed a breach of the Council's disciplinary rules and procedures, they should draw the issue to the attention of the Chief Executive who, following consultation with the Council's Monitoring Officer, will ensure an appropriate investigation.
- 11.2 In respect of an Officer who believes a Member has breached the Members' Code of Conduct, they should:
- a. not offer any opinion or judgement upon that conduct to the Member;
 - b. they must advise the Monitoring Officer immediately of the circumstances, facts, their belief and the rationale behind it, including supplying all and any documentation; and
 - c. they should not comment further on the issue to any other Officer or Member without the prior consent of the Monitoring Officer.

These provisions are to protect both the Member and Officer, avoid Officers from becoming unduly involved in allegations of Member misconduct at an inappropriate level and to ensure that any investigation that may need to be carried out by the Monitoring Officer or other agency, is not compromised in any way.

- 11.3 Any complaints made regarding the alleged conduct of Councillors will be dealt with in accordance with the Council's agreed arrangements for handling complaints.
- 11.4 The Monitoring Officer will investigate allegations of fraud or criminal misconduct against Members. They may investigate other allegations of misconduct against Councillors, but only if:

- a. the matter affects the business of the Council or its reputation; and
- b. it is proper for the Monitoring Officer to investigate.

11.5 Some issues are matters of party discipline. Even if the allegations were proved, there may be no action or sanction that the Council can apply. Normally such matters must be investigated by the party itself. The Monitoring Officer will refer the matter to the group leader.

11.6 The Monitoring Officer:

- a. will investigate any matters which are properly raised with them;
- b. will always inform the Councillor who is the subject of the allegations - unless this would prejudice the investigation;
- c. has no obligation to report the findings to the Councillor making the allegation but is responsible for satisfying the Councillor that appropriate action has been taken; and
- d. has a duty to take whatever action they think fit as a result of the investigation, in accordance with their statutory duties.

11.7 Investigations will be subject to supervision by and report to the Standards Committee of the Council or any equivalent body.

11.8 Where the allegation is within the terms of reference of the Council's auditors, the police, the matter will be referred to them.

12 CONCLUSION

12.1 Straightforward respect and consideration between Members and Officers provide the greatest safeguard of the integrity of the Council.

13 APPROVAL / DISTRIBUTION / CLARIFICATION

13.1 This version was approved by the Council as part of the Constitution in (*to be completed*).

13.2 Copies of the Protocol will be issued to all Members as part of the Constitution upon election.

13.3 Questions of interpretation of this Protocol will be determined by the Chief Executive in consultation with the Monitoring Officer.