

 Council - 26th October, 2011		Agenda Item No. 5
Title	Member/Officer Protocol	
For further information about this report please contact	Andrew Jones Andrew.jones@warwickdc.gov.uk (01926) 456830	
Wards of the District directly affected	None	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?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	Not Applicable	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan?	No
Equality & Sustainability Impact Assessment Undertaken	No

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive	7 th October 2011	Chris Elliott
Deputy Chief Executive & Monitoring Officer	7 th October 2011	Author
CMT	7 th October 2011	Chris Elliott Bill Hunt Andrew Jones
Finance	10 th October 2011	Mike Snow
Member – Strategic Leadership	7 th October 2011	Councillor Doody
Consultation & Community Engagement		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

1. SUMMARY

- 1.1 The report asks Council Members to reacquaint themselves with the provisions of this Council's Member/Officer Protocol which forms part of the Council's Constitution.
- 1.2 The report is in response to a request from the Standards Committee's Hearing Sub-Committee that the Council's Monitoring Officer "takes all necessary steps to make all Councillors aware of the Member/Officer Protocol."

2. RECOMMENDATION

- 2.1 That Council Members reacquaint themselves with this Council's Member/Officer Protocol (attached at Appendix) and that the Council's Group Leaders emphasise at their respective Group Meetings the importance of Council Members acting in accordance with both the words and spirit of the Protocol.

3. REASON FOR THE RECOMMENDATION

- 3.1 Whilst considering the Councillor Code of Conduct case LSF 09 2010, members of the Standards Committee's Hearing Sub-Committee were required to have reference to the Council's Member/Officer Protocol. (Members will be aware of the Protocol as it was included in all *Councillor packs* following the District Council elections; there was also an opportunity to attend specific Member/Officer Protocol training provided by Civic & Committee Services. The Protocol forms part of Part 5 of the Council's Constitution).
- 3.2 In reaching a decision on the case before it, the Sub-Committee was concerned that many of the provisions of the Protocol had not been adhered to and recognising the importance of the Protocol, the Sub-Committee asked this Council's Monitoring Officer "to take all necessary steps to make all Councillors aware of the Member/Officer Protocol." As part of the Decision Notice in case LSF 09 2010, the Chairman recorded:

"The Sub-Committee felt the general recommendation to the Monitoring Officer was necessary because, while the Council had a well developed training programme, the Member/Officer Protocol was key to good relationships between officers and Councillors and it would benefit all Councillors to be reminded of their responsibilities on these matters and the effect this could have on the delivery of services and the wellbeing of the staff that the Council employs."

- 3.3 Accompanying this Agenda item, the Monitoring Officer will be providing a brief presentation on the Protocol to highlight its salient points but the Monitoring Officer would like to draw Members' attention specifically to Section 5 of the report, THE COUNCIL AS AN EMPLOYER.
- 3.4 Although the section as it currently stands is not explicit on the matter, case law (*Moore v Bude Stratton Town Council*) has clearly shown that should a Councillor's actions towards an officer or officers be so unreasonable that an officer resigns their post, then the implied contractual term of trust and confidence required in contracts of employment may be breached. The consequence of this is that the Council could be liable for a claim of constructive dismissal, and thereby significant costs.

4. ALTERNATIVE OPTION(S) CONSIDERED

- 4.1 No alternative options were considered as the report fulfils a specific request of a Sub-Committee of the Standards Committee.

5. BUDGETARY FRAMEWORK

- 5.1 The report has no budgetary consequences although all Members should consider carefully paragraph 3.4 of this report.

6. POLICY FRAMEWORK

- 6.1 The Member/Officer Protocol forms part of the Council's Constitution. The Constitution describes the Council's fundamental principles and established precedents which underpin the work of the Council.