MEMBER/OFFICER PROTOCOL

1 Mutual trust and respect between Members and officers is at the heart of the Council's good governance. They are essential if the partnership necessary for the effective running if a local authority is to succeed.

2 This protocol is designed to:-

- promote trust, openness, fairness and honesty by establishing clear ground rules;
- define roles so as to clarify responsibilities
- avoid conflict
- prevent duplication or omission;
- secure compliance with the law, codes of conduct and the Council's own practices and procedures and to lay down procedures for dealing with concerns by Members or Officers.

3 The protocol represents a central element of the Council's corporate governance.

Definitions

4 Unless the context indicates otherwise, references to the term *Council* include the Executive, overview and scrutiny committees, and all other committees and sub-committees.

5 For the purposes of this protocol, the term *Executives* refers to the Leader and Cabinet.

6 Unless the context indicates otherwise, the terms *Member an*d *Members* include non-elected (i.e. co-opted) Members as well as elected councillors.

7 *Officers an*d *Employees* mean all persons employed by the Council.

8 Senior Officer means Chief Executive, Deputy Chief Executive, Chief Officers and Service Managers

9 *Designated Finance Officer* means the Section 151 officer (currently the Chief Accountant 1.1.13)

Principles

10 Members and officers must at all times observe this protocol.

11 The protocol has been approved by the Council's Standards Committee who will monitor its operation.

12 The protocol seeks to maintain and enhance the integrity (real and perceived) of local government which demands the highest standards of personal conduct.

13 Members and officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.

14 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 Council.

15 The Council has adopted codes of conduct for both Members and officers. The following principles underpinning both codes of this protocol:-

- Selflessness – serving only the public interest.
- Honesty and integrity – not allowing these to be questioned; not behaving improperly.
- Objectivity – taking decisions on merit.
- Accountability – to the public; being open to scrutiny.
- Openness – giving reasons for decisions.
- Personal judgement – reaching one's own conclusions and acting accordingly
- Respect for others – promoting equality; avoiding discrimination; respecting others (Member/Member, as well as Member/officer and officer/officer).
- Duty to uphold the law – not acting unlawfully.
- Stewardship – ensuring the prudent use of a council's resources.
- Leadership – acting in a way which has public confidence.

16 Officers are bound by the Council's Code of Conduct for staff and in some cases by the codes of the professional associations.

17 Breaches of this protocol by a Member may result in a complaint to the Council's Standards Committee if it appears the Members' code has also been breached. Breaches by an officer may lead to disciplinary action.

The role of officers

18 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.

19 Under the direction and control of the Council (including, as appropriate, the Cabinet, 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.

20 Officers have a duty to implement decisions of the Council, the Cabinet, 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 minuted.

21 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.

22 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.

23 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.

24 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

The role of Members

25 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.

26 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.

27 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.

28 Every elected-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.

29 Some Members have roles relating to their position as Members of the Executive, overview and scrutiny committees or other committees and sub-committees of the Council.

30 Members of the Executive can have individual delegated powers. They may determine matters within their portfolios but implementation of their decisions is the responsibility of officers.

31 Members serving on overview and scrutiny committees/panels monitor the effectiveness of the Council's policies and services, develop policy proposals in accordance with their terms of reference.

32 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.

33 Some Members may be appointed to represent the Council on local, regional or national bodies.

34 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.

35 Members are not authorised to instruct officers other than:

- through the formal decision-making process;
- to request the provision of resources provided by the Council for Members' use;
- where employees have been specifically allocated to give support to a Member or group of Members; and

36 Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.

37 Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their code of conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the designated Finance Officer.

38 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.

39 Members have a duty under their code of conduct:

- to promote equality by not discriminating unlawfully against any person, and
- to treat others with respect.

40 Under the code, a Member must not when acting as a Member or in any other capacity:

- bring the Council or his/her position as a Member into disrepute, or
- use his/her position as a Member improperly to gain an advantage or disadvantage for his/herself or any other person.

The relationship between Members and officers: general

41 The conduct of Members and officers should be such as to instil mutual confidence and trust.

42 The key elements are recognition of and 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.

43 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.

44 Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.

45 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.

46 Officers serve the Council as a whole. They have a duty to implement the properly authorised decisions of the Council.

47 Officers will make every effort to give timely responses to Member's enquiries in accordance with the appropriate timescales set out in Paragraphs 105 - 111

48 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.

49 Members and officers should respect each other's free (i.e. non-Council) time.

The Council as employer

50 Officers are employed by the Council as a whole, under the stewardship of the Head of Paid Service.

51 Members' roles are:

- Approve annually the Pay Policy Statement
- The appointment of specific senior posts (as set out in Part 3 of the Constitution)

52 Members shall not act outside these roles.

53 Participating in the appointment of officers, Members should:

- remember that the sole criterion is merit
- 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.

Mayor and officers

54 Officers will respect the position of Mayor and provide appropriate support.

Executive Members and officers

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

56 In addition to individual Members of the Executive, senior officers (including the Monitoring Officer and the designated Finance Officer) have the right to submit papers to the Executive as a whole or to individual Executive Members for consideration.

57 Senior officers and Executive Members shall agree mutually convenient methods of regular contact. Before taking any formal decisions, the Executive will seek appropriate professional advice including, without exception, the Monitoring Officer and designated Finance Officer, and will not direct officers in the framing of recommendations.

58 Before any formal decisions with a financial implication are taken by the Executive, the Finance Officer and the senior officer(s) for the service(s) concerned must be consulted. This is to ensure that those officers who are budget holders:

- are aware of the proposed decision,
- have the opportunity to offer advice, and
- are subsequently able properly to authorise the financial transactions needed to implement decisions.

59 An individual Executive Member who is minded to write or commission a report or to make a decision about a matter within his/her portfolio must ensure that those other Members and officers who need to know of the matter are so informed. There is a particular requirement to involve other Executive Members on cross-cutting issues.

60 Executive Members when making decisions (whether collectively or individually) must state the reasons for those decisions. The written record of the decisions must include the reasons.

61 Officers taking decisions under their delegated powers must consider the advisability of informing the relevant Executive Member(s) of their intentions in

advance when the matter to which the decisions relates is likely to be sensitive or contentious, or has wider policy implications.

Overview and Scrutiny Members and officers

62 Chairmen and other leading scrutiny Members shall maintain regular contact with the officer(s) providing the principal support to the scrutiny function. In consultation with chairmen, it shall be the responsibility of the latter to ensure that those who need to know of matters being considered or for possible future consideration are so informed.

63 An Overview and Scrutiny Committee or its chairman acting on its behalf may require officers to attend scrutiny meetings. Members should not normally expect junior officers to give evidence. All requests should be made to senior officers in the first instance.

64 When making requests for officer attendance, overview and scrutiny Members shall have regard to the workload of officers.

65 It is recognised that officers required to appear before an Overview and Scrutiny Committee may often be those who have advised the Executive or another part of the Council on the matter under investigation. In these circumstances, an officer may have a conflict of interest. Both Members and officers need to consider the severity of the conflict. If deemed appropriate, research and advice may be sought elsewhere – from the Council's overview and scrutiny support officers or externally.

66 Subject to 65 above, 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.

67 Officers must also be prepared to justify decisions they have taken under delegated powers.

68 In giving evidence, officers must not be asked to give political views.

69 Officers should respect Members in the way they respond to Members' questions.

70 Members should not question officers in a way which could be interpreted as harassment. Neither should they ask about matters of a disciplinary nature.

71 Overview and scrutiny proceedings must not be used to question the capability or competence of officers. Chairmen and Members need to make a distinction between reviewing the policies and performance of the Council and its services, and appraising the personal performance of staff. The latter is not an overview and scrutiny function.

72 In exercising the right to call-in a decision of the Executive, overview and scrutiny Members must seek officer advice if they consider the decision is

contrary to the Council's approved plans, policies or frameworks, or is unlawful.

Members of other committees or sub-committees and officers

73 The appropriate senior officers will offer to arrange regular informal meetings with chairmen, vice-chairmen, and spokesmen of committees and subcommittees.

74 Senior officers (including the Monitoring Officer and the designated Finance Officer) have the right to present reports and give advice to committees and sub-committees.

75 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.

76 At some committee or sub-committee meetings, a resolution may be passed which authorises a named officer to take action between meetings in consultation with the chairman. In these circumstances it is the officer, not the chairman, who takes the action and is responsible for it. A chairman has no legal power to take decisions on behalf of a committee or sub-committee, neither should he/she apply inappropriate pressure on the officer.

Party groups and officers

77 Senior officers may properly be asked to contribute to deliberations of matters concerning Council business by party groups.

78 Officers have the right to refuse such requests, and will normally not attend a meeting of a party group where some of those attending are not Members of the Council.

79 Officer 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.

80 Party group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions. 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.

81 Where officers provide factual information and advice to a party group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.

82 It must not be assumed that an officer is supportive of a particular policy or view considered at a party group meeting simply because he/she has attended or provided information to the meeting.

83 Officers will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of such discussions 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.

84 In their dealings with party groups, officers must treat each group in a fair and even-handed manner.

85 Members must not do anything which compromises or is likely to compromise officers' impartiality.

86 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.

87 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.

88 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.

89 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.

90 No Member will refer in public or at meetings of the Council to advice or information given by officers to a party group meeting.

91 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.

92 Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Chief Executive and the relevant party group leader.

Local Members and officers

93 To enable them to carry out their ward role effectively, Members need to be fully informed about matters affecting their ward. Senior officers must ensure that all relevant staff are aware of the requirement to keep Members informed, thus allowing Members to contribute to the decision-making process and develop their representative role.

94 This requirement is particularly important:

- during the formative stages of policy development, where practicable,
- in relation to significant or sensitive operational matters,
- whenever any form of public consultation exercise is undertaken, and
- during an overview and scrutiny investigation.

95 Issues may affect a single ward. Where they have a wider impact, a number of local Members will need to be kept informed.

96 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the wards affected should be invited to attend the meeting as a matter of course.

97 If a local Member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he/she should inform the relevant officer. Provided the meeting has not been arranged on a party political basis:

- an officer may attend but is not obliged to do so, and
- the meeting may be held in Council-owned premises.

98 No such meetings should be arranged or held in the immediate run-up to Council elections.

99 Officers will not normally accompany Members to ward surgeries. However, if they do so:

- the surgeries must be open to the general public, and
- officers should not be requested to accompany Members to surgeries held in the offices or premises of political parties.

100 Officers must never be asked to attend ward or constituency political party meetings.

101 It is acknowledged that some Council staff (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.

102 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 always be able to carry out the work required by Members in the requested timescale, and may need to seek instructions from their managers.

Member Enquiries

103 It is acknowledged that there are a wide range and diversity, of enquiries that a Member may wish to pursue, this section offers guidance on the procedure relating most commonly received Member enquiries as follows.

104 Planning applications / planning enforcement: enquiries should normally be directed in the first instance to the case officer who will normally reply by email or telephone within three working days. Should the matter be of a particularly sensitive or complex nature the enquiry should be directed to the relevant team leader or the planning control Manager. Members are encouraged to check the planning section of the Councils website prior to contacting officers when seeking information on live planning applications.

105 Matters (other than live planning/ planning enforcement cases) related to a Member's own Ward: enquires should be sent by email to the Member Enquiries Mailbox, which will be acknowledged within 2 working days and a response should be provided within 10 working days. If further time is required to provide a response, the Member will be given an estimate of the length of time necessary to prepare a full response together with a brief explanation of the reason that a longer timescale is required. If a response is not provided by responsible officers to the staff responsible for the Members Enquiries Inbox, they should then escalate this to the Chief Officer or Chief Executive. Should the Member be unhappy with the explanation provided to them then this should be raised with a Chief Officer. Where a matter is considered by the Member to be particularly urgent and time is of the essence, Members should confirm this within their email to the Members Enquiries Mailbox.

106 Policy matters under active consideration by a Council body or any other matter directly relating to a report due to be considered by a Council body: enquires should be sent by email to the Member Enquiries Mailbox, which will be acknowledged within 1 working day and a response will aim to be provided before the relevant meeting. .

107 Complaints: enquires should be directed to the Democratic Service Manager, the Monitoring Officer or to the Chief Executive. Depending on the nature and severity of the issue, a response will be provided within three working days but in more complex cases an acknowledgement will be provided together with an estimation of the time likely to be required to fully address the matter.

108 Portfolio/political issues - such enquires should be directed to the Council Leader/Deputy leader or the relevant portfolio leader.

Members' access to documents and information

109 This part of the protocol should be read in conjunction with the Access to Information Rules in the Council's constitution.

110 Members may request 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. Requests should be

sent by email to the Member Enquiries Mailbox, which will be acknowledged within 2 working days and a response should be provided within 10 working days. 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 by legislation from being given.

111 Every Member of the Executive, an Overview and Scrutiny Committee, and/or any other committee or sub-committee has a right to inspect documents about the business of that Overview and Scrutiny Committee, other committee or sub-committee or the Executive.

112 A Member who is not a Member of a specific Overview and Scrutiny Committee, other committee or sub-committee, or the Executive may have access to any document published by that specific part of the Council provided:

- he/she can demonstrate a reasonable need to see the documents in order to carry out his/her roles as a Member (the “need to know” principle), and
- the documents do not contain “confidential” or “exempt” information as defined by the law.

113 Disputes as to the validity of a Member’s request to see a document on a need to know basis will be determined by the Monitoring Officer. Officers should seek his/her advice if in any doubt about the reasonableness of a Member’s request.

114 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 prejudicial interest as defined in the Members’ code of conduct.

115 Information given to a Member must only be used for the purpose for which it was requested.

116 It is an accepted convention that a Member of one party group will not have a need to know and therefore a right to inspect a document which forms part of the internal workings of another party group.

117 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.

118 When requested to do so, officers will keep confidential from other Members advice requested by a Member.

119 Members and officers must not prevent another person from gaining access to information to which that person is entitled by law.

Media relations

120 All formal relations with the media must be conducted in accordance with the Council's agreed media relations guide and the law on local authority publicity.

121 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.

122 Officers will keep appropriate Members informed of media interest in the Council's activities, especially regarding strategic or contentious matters.

123 Before responding to enquiries from the media, officers shall ensure they are authorised to do so.

124 Likewise, officers will inform the Council's communications unit of issues likely to be of media interest, since that unit is often the media's first point of contact.

125 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 Cabinet 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 press office and/or relevant senior officer, except in relation to a statement which is party political in nature;
- 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.

Correspondence

126 Correspondence between an individual Member and an officer should not be copied to another Member unless the author expressly intends and states that this is the case or consents. Where correspondence is copied, this should always be made explicit, i.e. there should be no “blind” copies.

127 Official letters written on behalf of the Council should normally be in the name of the relevant officer. It may be appropriate in some circumstances (e.g. representations to a Government Minister) for letters to appear in the name of a Executive Member or the chairman of a Scrutiny Panel.

128 The Mayor may initiate correspondence in his/her own name.

129 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.

130 When writing in an individual capacity as a ward Member, a Member must make clear that fact.

Use of Council resources

131 The Council provides all Members with services such as 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.

132 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;
- in relation to any locally-agreed arrangements e.g. payment for private photocopying; and
- regarding ICT security

133 Members should not put pressure on employees 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.

Interpretation, complaints and allegations of breaches

134 This part of the protocol should be read in conjunction with the Council "whistle-blowing" policy the Council.

135 Members or officers with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Monitoring Officer.

136 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,
- ensure that any criticism is made in private
- take up the concern with the appropriate Chief Officer or Service Manager.
- If the matter is of a particularly serious nature to inform the Leader and Chief Executive.

137 A serious breach of this protocol by an officer may lead to an investigation under the Council's disciplinary procedure.

138 An officer who believes a Member may have acted other than in accordance with this protocol should raise his/her concern with their Chief Officer who may refer the matter to the Monitoring Officer. He/she will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the leader of the relevant party group. More serious complaints may involve alleged breaches of the Members' code of conduct, and may be referred to the Standards Committee.