

Public Document Pack

Mid Devon District Council

Standards Committee

Thursday, 5 February 2015 at 6.00 pm
Exe Room, Phoenix House

Those attending are advised that this meeting will be recorded

Membership

Cllr R J Chesterton
Cllr Mrs F J Colthorpe
Cllr R M Deed
Cllr R Evans
Cllr Mrs L J Holloway
Cllr C R Slade
Cllr Mrs M E Squires
Cllr P F Williams
Cllr Mrs N Woollatt

A G E N D A

Members are reminded of the need to make declarations of interest prior to any discussion which may take place

- 1 **APOLOGIES AND SUBSTITUTE MEMBERS**
To receive any apologies for absence and notices of appointment of Substitute Members (if any).

- 2 **PUBLIC QUESTION TIME**
To receive any questions relating to items on the Agenda from members of the public and replies thereto.

Note: A maximum of 30 minutes is allowed for this item.

- 3 **MINUTES** (*Pages 5 - 8*)
To approve as a correct record the minutes of the last meeting of this Committee (attached).

- 4 **CHAIRMAN'S ANNOUNCEMENTS**
To receive any announcements the Chairman of the Committee may wish to make.

- 5 **UPDATE FROM THE CONSTITUTION WORKING GROUP** (*Pages 9 - 26*)
The Committee to receive an update from the Monitoring Officer

outlining the ongoing work of the Constitution Working Group.
Member/Officer Protocol

6 **COMPLAINTS**

To receive an update from the Monitoring Officer with regard to any on-going complaints being dealt with. During the discussion it may be necessary to consider passing the following resolution to protect the Members of Town and Parish Council's being discussed.

During discussion of this item it may be necessary to pass the following resolution to exclude the press and public having reflected on Article 12 12.02(d) (a presumption in favour of openness) of the Constitution. This decision may be required because consideration of this matter in public may disclose information falling within one of the descriptions of exempt information in Schedule 12A to the Local Government Act 1972. The Committee will need to decide whether, in all the circumstances of the case, the public interest in maintaining the exemption, outweighs the public interest in disclosing the information.

ACCESS TO INFORMATION ACT – EXCLUSION OF THE PRESS AND PUBLIC

RECOMMENDED that under section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act, namely information relating to an individual.

7 **COUNCILLOR D F PUGSLEY HAS REQUESTED THAT THE COMMITTEE DISCUSS THE FOLLOWING:**

"Chairman's duty to act impartially and in a non-partisan manner at all times (Minute 44): implications for the chairman's casting vote (Procedure Rule, 18.2)."

8 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING**

Members are asked to note that the following items are already identified in the work programme for the next meeting:

Kevin Finan
Chief Executive
Thursday, 29 January 2015

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as

unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use other forms of social media to report on proceedings at this meeting.

Members of the public are welcome to attend the meeting and listen to discussion. Lift access to the Council Chamber on the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is time set aside at the beginning of the meeting to allow the public to ask questions.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or

If you would like a copy of the Agenda in another format (for example in large print) please contact MeetingContact on:

Tel: 01884 234209

Fax:

E-Mail: jstuckey@middevon.gov.uk

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **STANDARDS COMMITTEE** held on 14 January 2015 at 6.00 pm

Present

Councillors R M Deed (Chairman)
R J Chesterton, Mrs L J Holloway,
C R Slade, Mrs M E Squires, P F Williams
(Vice Chairman) and Mrs N Woollatt

Apologies

Councillors Mrs F J Colthorpe and R Evans

Also Present

Councillors D F Pugsley

Also Present

Officers: Julia Stuckey (Member Services Officer) and Amy Tregellas (Head of Communities and Governance and Monitoring Officer)

40 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Councillor Mrs F P Colthorpe and Councillor R Evans.

41 **PUBLIC QUESTION TIME**

There were no members of the public present.

42 **MINUTES**

The minutes of the last meeting were agreed as a true record and signed by the Chairman.

43 **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman had no announcements to make.

44 **CONSTITUTION WORKING GROUP (00:02:55)**

The Head of Communities and Governance and Monitoring Officer outlined the recent work of the Constitution Working Group.

The Officer explained that the Member Code of Conduct had recently been updated so the Group did not consider it necessary to make changes to it and that the Member/Officer Protocol would come to the next Standards Committee. The Scheme of Delegation was being updated and the Planning Working Group was being looked at to establish where it should fit, it was currently included in the Allocation. The

Chairman of the Audit Committee had requested that the number of Members be increased from 5 to 7 so this would be added.

The Officer intended to meet with Members of the Cabinet to update their responsibilities and would also use this to indicate which areas of responsibility sat with each of the Policy Development Groups.

The Working Group would be looking at Member Job Descriptions next, using examples from other authorities as well as the model constitution to produce them.

The Committee worked through the amended Articles:

Discussion took place regarding citizens' rights and the difference between petitions and submitting a petition requesting a referendum. Not all citizens would be eligible to vote in all elections so it was **AGREED** that the Monitoring Officer would check if citizen was an appropriate term or whether wording such as 'eligible elector' would be a more accurate term to use.

Wording explaining that the Constitution and the Forward Plan must be published to be added to Article 3.

It was **AGREED** that the section on Citizen Responsibly should include the sentence 'Citizens should not publish anything about individual Councillors or Officers that was slanderous or libellous. The Committee considered this to be very important with the current use of social media.

At the section regarding Chairing the Council it was **AGREED** that the word 'impartially' be added to 5.2 presiding over meetings and that the job description for Chairman to include that Chairman should always act impartially, in a non-partisan manner and not convey any personal animosity.

Discussion took place regarding a caveat that had been added to the section on Standards Sub Committee Specific Functions. The caveat allowed for the Head of Paid Service to determine a course of action if a Councillor had acted outside of their role of Councillor. It was **AGREED** the wording 'following discussion with Chairman and Vice Chairman of the Standards Committee' be added.

The Monitoring Officer would circulate information regarding Officer Decisions to the Committee.

The Monitoring Officer would discuss hospitality with Management Team to establish an amount considered appropriate for Officers and Members.

Notes:- Paperwork previously circulated and attached to the minutes.

45 **EXCLUSION OF THE PRESS AND PUBLIC (01:04:58)**

Councillor D F Pugsley had raised the following matter at the Scrutiny Meeting held on 8 December 2014.

Exclusion of Press and Public. Following discussion it was **RECOMMENDED** to the Standards Committee that Procedure Rule 21 be amended to ensure that whenever

there was a possibility that an item may need to be discussed in part two the agenda should include a brief explanation as to why this might be the case, in plain English, and make reference to the Constitution, Article 12, which mentions a presumption in favour of openness and transparency.

Discussion took place regarding Part II and the importance of making the reasons for using it very clear in both agenda and minutes.

RESOLVED that Procedure Rule 21 have the following text added as a second paragraph referring to 12.02.d.

Whenever there is a possibility that an item may need to be discussed in part two the agenda should include a brief explanation as to why this might be the case, in plain English, and make reference to the Constitution, Article 12, which mentions a presumption in favour of openness and transparency.

Proposed by the Chairman.

46 **STATE OF THE DISTRICT DEBATE (01:14:10)**

Motion 495 had previously been referred to the Standards Committee for consideration and report:

The Standards Committee at its meeting on 12 November 2014 considered this proposal and recommended that it be supported.

Following discussion at Council, it was AGREED that Motion 495 be referred back to the Standards Committee as Members requested further clarification with regard to who would request the subject of the debate.

Discussion took place regarding the debate and it was agreed that if the Leader had failed to call a debate within the specified time it was likely that he did not have a topic for the debate.

RECOMMENDED to Council that the following sentence be added at the end of Procedure Rule 16.1: - If the Leader declines or fails to call a debate within nine months in any municipal year, it may be called by notice in writing to the Chief Executive signed by any 10 Members of the Council and that the debate shall be held on the subject specified by those 10 Members.

(Proposed by Cllr C R Slade and seconded by Cllr R J Chesterton)

47 **STANDARDS SUB COMMITTEE (01:23:30)**

The Head of Communities and Governance and Monitoring officer confirmed that following a meeting of the Standards Sub Committee held on Friday 9th January 2015 further correspondence would be sent to a Town/Parish Council.

48 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING**

Update from the Constitution Working Group

(The meeting ended at 7.30 pm)

CHAIRMAN

Protocol on Member/Officer Relations

[Note: This is based on the existing Code of Local Government Conduct and will need to be revised to reflect the new Members' Code of Conduct once the Government has given the expected guidance.]

1 Introduction

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Comment [AT1]: We agreed to put this information in the glossary of terms

~~1.0~~ **Definitions**

- ~~1.1 Unless the context indicates otherwise, references to the term *Council* includes the Cabinet and other committees and sub-committees.~~
- ~~1.2 Unless the context indicates otherwise, the terms *member* and *members* include non-elected (ie eo-opted) member as well as elected councillors.~~
- ~~1.3 *Officers* and *staff* mean all persons employed by the Council.~~
- ~~1.4 *Senior officer* has the meaning the Chief Executive and Heads of Service.~~
- ~~1.5 *Designated Finance Officer* means the officer exercising the duties prescribed by law for the financial administration of the Council.~~

Comment [AT2]: Give examples in the glossary of terms in respect of people who serve on committees who are not elected to post.

~~2.0~~ **Principles**1.0 Introduction

- 1.1 Members and officers must at all times observe this protocol.
- 1.2 The protocol has been approved by the Council's Standards Committee which will monitor the protocol and its operation. The Monitoring Officer will produce an annual report for the Standards Committee highlighting the number of complaints that have been made by staff about Members who breach this protocol, and vice versa, so that the effectiveness of this protocol can be examined.
- 1.3 The protocol seeks to maintain and enhance the integrity (real and perceived) of local government which demands the highest standards of personal conduct.
- 1.4 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. There must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Employees. It is important that both Members and Employees remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of other Members, or other Employees, in public places.
- 1.5 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.
- 1.6 The Council has adopted codes of conduct for both members and officers. Both represent best practice. The members' code follows the legislation set out in the Localism Act and includes the Nolan seven principles of public life, national code which in turn is based on the general principles governing members' conduct enshrined in law, viz:

Comment [AT3]: Hyperlinks will be attached in the Constitution to the officer and member code of conduct

➤ ~~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).~~
- ~~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.~~

1.7 These principles [in the Codes of Conduct](#) underpin this [protocol](#). ~~They will also be reflected in a new national code of conduct for employees due in the near future and on which the Office of the Deputy Prime Minister began a three months' consultation period in August 2004.~~

Comment [AT4]: Hyperlinks will be attached in the Constitution to the officer and member code of conduct

1.8 ~~Until such time as a new national code appears, officers are bound by the Council's own code of conduct for staff and, in some cases, by the codes of their professional associations.~~

1.9 Breaches of this protocol by a member may result in a complaint to the Authority's [Audit Standards](#) Committee if it appears the members' code has also been breached. Breaches by an officer may lead to disciplinary action.

2.0 The Role of Members

[2.1 Members represent their ward and are advocates of for the citizens who live in their area but must also have a strategic view of the whole district](#)

2.2 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.

2.3 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.

2.4 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.

2.5 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.

[3.5 Some members have roles relating to their position as members of the Cabinet, Scrutiny Committee or other committees and sub-committees of the Council.](#)

~~3.6 Members serving on Scrutiny Committee monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor local health service provision.~~

Comment [AT5]: For sections 3.5, 3.6 and 3.7 CWG suggest adding this information to relevant member job roles

~~3.7 Members who serve on other committees and sub-committees collectively have delegated responsibilities, eg deciding quasi-judicial matters.~~

2.6 Some members may be appointed to represent the Council on local, regional or national bodies. They will be expected to follow their code of conduct and this protocol.

Comment [AT6]: To add into the job role that Members representing the Council on outside bodies must report back to Council on the work and outcomes of the outside body

2.7 As politicians, members may express the values, policies and aspirations of the party political groups to which they belong, whilst recognising that in their role as members they have a duty always to act in the public interest.

2.8 Members are not authorised to ~~instruct~~direct officers other than:-

- through the formal decision-making process;
- to request the provision of consumable resources provided by the Council for members' use; and
- where staff have been specifically allocated to give support to a member or group of members
- request help from staff on ward issues.

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

2.10 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.

2.11 Members must respect the impartiality of officers and do nothing to compromise it, eg by insisting that an officer change his/her professional advice.

~~3.14 Members have a duty under their code of conduct.~~

Comment [AT7]: Cross check that this is in the code of conduct/job role

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

~~3.15 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.~~

3.0 The Role of Officers

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

3.2 Briefly, Employees have the following main roles:

- Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services
- Providing advice to the Council and its various bodies and to individual Members in respect of the services provided and council policies
- Initiating policy proposals
- Implementing agreed policy
- Ensuring that the Council always acts in a lawful manner

~~4.1 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.~~

~~4.2 Under the direction and control of the Council (including, as appropriate, the Cabinet, Scrutiny Committee, Policy and Development Groups, Audit Committee, 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.~~

Comment [AT8]: This needs to go into Article 11

~~4.3 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.~~

~~4.4 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.~~

~~4.5 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.~~

~~4.6 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.~~

~~4.7 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.~~

4.0 The Relationship between Members and Officers: General

- 4.1 The conduct of members and officers should be such as to instil mutual confidence and trust.
- 4.2 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.
- 4.3 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.
- 4.4 Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 4.5 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.

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

- 4.6 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 normally direct their requests and concerns ~~to a senior relevant~~ officer, at least in the first instance. Where members are not clear who the relevant officer is, they should speak to the Service Manager or Head of Service.
- 4.7 Officers will ~~do their best to give timely~~ responses to members' enquiries within five working days. If this is not achievable then an acknowledgement be sent indicating how long it will take to provide a response. However, officers should not have unreasonable requests or timescales placed upon them. Their work priorities are set and managed by senior managers. Members should avoid disrupting officers' work by imposing their own priorities.
- 4.8 Members will ~~endeavour to give timely~~ responses to enquiries from officers within five working days.
- 4.9 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.

Comment [AT9]: What is a timely response? Await information from the Scrutiny Committee discussion on the 16th Feb

Comment [AT10]: What is a timely response? Await information from the Scrutiny Committee discussion on the 16th Feb

Comment [AT11]: Also needs to be in job descriptions

4.10 Members and officers should respect each other's free (ie non-Council) time.

~~6.0 The Council as Employer~~

~~6.1 Officers are employed by the Council as a whole.~~

~~6.2 Members' roles are limited to:-~~

- ~~➤ the appointment of specified senior posts;~~
- ~~➤ determining human resources policies and conditions of employment;~~
- ~~➤ the appointment of political assistants; and~~
- ~~➤ hearing and determining appeals.~~

~~6.3 Members shall not act outside these roles.~~

~~6.4 If participating in the appointment of officers, members should:-~~

- ~~➤ remember that the sole criteria is merit;~~
- ~~➤ never canvass support for a specific 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.~~

~~6.5 A member should not sit on an appeal hearing if the appellant is a friend, a relative, or an officer with whom the member has had a working relationship.~~

5.0 THE COUNCIL'S ROLE AS EMPLOYER

5.1 In their dealings with Officers, Members should recognise and have regard to the Council's role as employer and the Council's duty of care. Members should be aware that Officers could rely on inappropriate behaviour of a Member in an employment case against the Council.

6.0 Chairman and Officers

6.1 Officers will respect the position of Chairman and provide appropriate support.

7.0 PROVISION OF SUPPORT SERVICES TO MEMBERS

7.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, word processing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

Correspondence

7.2 Official letters on behalf of the Council should be sent in the name of the appropriate Employee, rather than over the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly

Comment [AT12]: Needs to be separate to 7.1 as relates to more than just the chairman

Comment [AT13]: Also needs to be added to the job role.

appropriate, for example, in response to a letter of enquiry or complaint sent direct to that Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

Comment [AT14]: Raise issue of post room not opening post addressed to Councillors

Media

7.3 Communication with the media can be an important part of a Member's workload. In general, Members provide comments, information and views. If a Member is unsure about the circumstances or facts of a particular issue he/she should contact the appropriate Head of Service or ask the Press Office to do so. Employees must only provide the press with factual information and not give any comments or views.

8.0 — Scrutiny Committee Members and Officers

Comment [AT15]: Include in individual committees guidance

- ~~8.1 — The Chairman and other leading Scrutiny Committee members shall maintain regular contact with the officer(s) providing the principal support to the scrutiny function. In consultation with the Chairman, 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.~~
- ~~8.2 — Scrutiny Committee or its Chairman acting on its behalf may require officers to attend Scrutiny Committee meetings. Members should not normally expect junior officers to give evidence. All requests should be made to senior officers in the first instance.~~
- ~~8.3 — When making requests for officer attendance, Scrutiny Committee members shall have regard to the workload of officers.~~
- ~~8.4 — It is recognised that officers required to appear before Scrutiny Committee may often be those who have advised the Cabinet 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 within the Council or externally.~~
- ~~8.5 — Subject to 8.4 above, officers should be prepared to justify advice given to the Council, the Cabinet or other committees and sub-committees even when the advice was not accepted.~~
- ~~8.6 — Officers must also be prepared to justify decisions they have taken under delegated powers.~~
- ~~8.7 — In giving evidence, officers must not be asked to give political views.~~
- ~~8.8 — Officers should respect members in the way they respond to members' questions.~~
- ~~8.9 — Members should not question officers in a way which could be interpreted as harassment. Neither should they ask about matters of a disciplinary nature.~~

~~8.10 — Scrutiny Committee 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 a Scrutiny Committee function.~~

~~8.11 — In exercising the right to call in a decision of the Cabinet, Scrutiny Committee members must seek officer advice if they consider the decision is contrary to the Council's approved plans, policies or frameworks or is unlawful.~~

~~9.0 — Members of Regulatory Committees or Sub-Committees and Officers~~

~~9.1 — The appropriate senior officers will offer to arrange regular informal meetings with Chairmen, Vice Chairmen and spokesmen of committees and sub-committees.~~

~~9.2 — 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.~~

~~9.3 — 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.~~

~~9.4 — 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.~~

8.0 Party Groups and Officers

8.1 Senior officers may properly be asked to contribute to deliberations of matters concerning Council business by party groups but officers have the right to refuse such requests.

~~8.2 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.~~

8.3 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.

8.4 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.

8.5 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.

- 8.6 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.
- 8.7 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.
- 8.8 In their dealings with party groups, officers must treat each group in a fair and even-handed manner.
- 8.9 Members must not do anything which compromises or is likely to compromise officers' impartiality.
- 8.10 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.
- 8.11 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.
- 8.12 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.
- 8.13 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.
- 8.14 **No member will refer in public or at meetings of the Council to advice or information given by officers to a party group meeting. If confidential information is referred to by an officer or a member at a group meeting then no member of officer will refer to it.**
- 8.15 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 Council² 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.
- 8.16 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.

Comment [AT16]: Minded to get rid of this check and come back at next meeting. This needs to be checked – comment was if liberal democrats ask Andrew for information re an alternative budget that they would not be able to give

9.0 POLITICAL ACTIVITY

9.1 There are a number of constraints that apply to an employee who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989.

1.1 In summary, such employees are prevented from:

Comment [AT17]: Added in section 9 from model

- 1.1.1 being a Member of Parliament, European Parliament or local authority;
 - 1.1.2 acting as an election agent or sub-agent for a candidate for election as a member of any the bodies referred to in [1.1.1](#);
 - 1.1.3 being an officer of a political party or any branch of a political party or a member of any committee or sub-committee of such a party or branch, if his duties would be likely to require him to:-
 - (a) participate in the general management of the party or branch; or
 - (b) act on behalf of the party or branch in dealings with persons other than members of the party;
 - 1.1.4 canvassing on behalf of a political party or a candidate for election to any the bodies referred to in [1.1.1](#)
 - 1.1.5 speaking to the public with the apparent intent of affecting public support for a political party; and
 - 1.1.6 publishing any written or artistic work of which he is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party.
- 1.2 It is common for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Employees may properly be called upon to support and contribute to such deliberations by party groups provided they maintain a stance which is politically impartial. Support may include a range of activities including briefings for Members relating to their roles e.g. chairperson or spokesperson. Employees should be required to give information and advice to political groups on Council business only and not on matters which are purely of a party political nature. Such advice should be available to all party groups and not solely to the majority group. It is important that the political neutrality of Employees is preserved and that group confidentiality is maintained by Employees.
- 1.3 Usually the only Employees involved in attending group meetings will be the Chief Executive, Directors and Heads of Service and they will generally leave the meeting after making their presentation and answering questions.
- 1.4 Employees are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Directors/Heads of Service, and not to individual Members of the Council whatever office they might hold.

10.0 Local Members and Officers

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

10.2 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 a Scrutiny Committee investigation.

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

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

10.5 If a ~~ward~~ local member intends to arrange a public meeting in their local area on a matter concerning some aspect of the Council's work, he/she should inform the relevant Head of Service officer or the Chief Executive. 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.

Comment [AT18]: This is not clear – really badly phrased. Need to check on this – query logged with Legal

10.6 No such meetings should be arranged or held in the immediate run-up to Council elections. The pre-election period (often referred to as Purdah) is the period of time between an announced election and the final election results. This normally begins six weeks before the election.

10.7 Whilst support for members' ward work is legitimate, officers will not attend Ward Surgeries ~~are should be taken if staff are asked to accompany members to ward surgeries. In such circumstances:-~~

- ~~➤ 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.~~

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

10.9 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 be able to carry out the work required by members in the requested timescale and may need to seek instructions from their managers.

Comment [AT19]: Clarification re officers giving members clear guidance on length of time and then to provide an update if query still ongoing – managing expectations

11.0 Members' access to documents and information

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

Comment [AT20]: A hyperlink will be put here so that people can click on it and go straight to the rules

11.2 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 by the Data Protection Act from being given.

11.3 ~~All Members will receive agendas and documents for the Committees that they are on. Members may also have access to documents for committees they are not on. Every member of the Cabinet, Scrutiny Committee, Audit Committee, Policy Development Groups and/or any other committee or sub-committee has a right to inspect documents about the business of Scrutiny Committee, Audit Committee, other committee or sub-committee.~~

~~12.4 A member who is not a member of the Cabinet, Scrutiny Committee, Audit Committee, Policy Development Groups, other committee or sub-committee may have access to any document of 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.

11.4 Disputes as 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.

11.5 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 pecuniary or personal ~~or~~ prejudicial interest as defined in the members' code of conduct; or
- Where it is specified that the matter is "confidential" or "exempt".

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

11.7 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.

11.8 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.

11.9 When requested to do so, officers will keep confidential from other members advice requested by a member.

11.10 Where an item is discussed that is Part Two (i.e. excludes the press and public) Members must ensure that they do not share the confidential information with anyone outside of the Council Chamber, until otherwise directed by the Chief Executive or Head of Service.

Comment [AT21]: Do we need to add a comment about storage and destruction of documents. If not here where would we add it? Councillors handbook.

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

12.0 Media Relations

Comment [AT22]: Producing a separate protocol for dealing with media and social media

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

12.2 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.

12.3 Officers will keep relevant members informed of media interest in the Council's activities, especially regarding strategic or contentious matters.

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

12.5 Likewise, officers will inform the Council's public relations co-ordinator of issues likely to be of media interest, since that officer is often the media's first point of contact.

12.6 If a member is contacted by, or contacts, the media on an issue, he/she should:-

- indicate in what capacity he/she is speaking (eg as ward member, in a personal capacity, as Cabinet member, as Chairman of Policy Development Group, as committee chairman, 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 public relations co-ordinator 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 (eg 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 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.

12.7 If a Member or officer shares information with the media that is confidential they will be subject to further action under the code of conduct or disciplinary procedure.

13.0 Correspondence

- 13.1 Correspondence between an individual member and an officer [or member](#) 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, ie there should be no “blind” copies.
- 13.2 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 (eg representations to a Government Minister) for letters to appear in the name of an Cabinet member, a Chairman of a Policy Development Group or the chairman of the Scrutiny Committee or Audit Committee.
- 13.3 The Chairman may initiate correspondence in his/her own name.
- 13.4 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.
- 13.5 When writing in an individual capacity as a ward member, a member must make clear the fact.

14.0 Access to Premises

- 14.1 Officers have the right to enter Council land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.
- 14.2 Members have a right of access to Council land and premises to fulfil their duties.
- 14.3 When making visits as individual members, members should:-
- whenever practicable, notify and make advance arrangements with the appropriate manager or officer in charge;
 - comply with health and safety, security and other workplace rules;
 - not interfere with the services or activities being provided at the time of the visit;
 - if outside his/her own ward, notify the ward member(s) beforehand; and
 - take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

15.0 Use of Council Resources

- 15.1 The Council provides all members with services such as 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.
- 15.2 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, eg payment for private

- photocopying; and
- regarding ICT security.

15.3 Members should not put pressure on staff 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.

16.0 Interpretation, Complaints and Allegations of Breaches

16.1 This part of the protocol should be read in conjunction with ~~the any~~ "whistleblowing" policy ~~of the Council may have~~.

Comment [AT23]: The Whistle-blowing Policy will now be an attachment to the Constitution

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

16.3 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 ~~privately~~ personally, if appropriate.

16.4 If direct discussion with the officer is inappropriate (eg because of the seriousness of the concern) or fails to resolve the matter, the member should raise the issue with the officer's manager or the relevant ~~senior officer~~ Head of Service.

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

16.6 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 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.

16.7 ~~A~~ More serious ~~breach of this protocol by a Member complaints~~ may ~~lead to~~ involve investigation by the Monitoring Officer and could result in a -alleged breaches of the members' code of conduct and may be referred to the Authority's ~~Audit~~ Standards Committee.

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