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## 6B: Member/Officer Protocol

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### Preamble

1. Mutual respect and trust between Members and Officers may seem obvious, but what happens when relationships go awry? Where can members and officers turn for guidance? What mechanisms exist for addressing concerns? How can matters be improved?
2. Such questions point to the need for a written guide to the basic elements of the relationship between members and officers:
  - to promote trust, openness, fairness and honesty by establishing some ground rules;
  - to define roles so as:
    - to clarify responsibilities (that is, who does what);
    - to avoid conflict; and
    - to prevent duplication or omission;
  - to secure compliance with the law, codes of conduct and a Council's own practices; and
  - to lay down procedures for dealing with concerns by members or officers.
3. This protocol should be recognised both as a central element of the Council's corporate governance, and as a commitment to upholding standards of conduct in public life. It is one way of demonstrating to the public at large that local government is serious about protecting and enhancing its integrity and reputation.
4. Members and officers must at all times observe this protocol. It should not be considered simply a list of do's and don'ts but also as guidance on cultural and behavioural matters to ensure that the Council benefits from good working relationships and achieves its full potential in delivering services to the community it serves.
5. In addition to this protocol all Publica staff are required to comply with Publica's Business Conduct Policy.

### Definitions

6. Unless the context indicates otherwise, references to the term "Council" includes Full Council, the Executive, all Committees, subcommittees and task/working groups.
7. Unless the context indicates otherwise, the terms "member" and "members" includes co-opted members as well as elected councillors.
8. "Officers" and "staff" mean all persons employed by the Council and Publica

“Senior officer” is as defined within the Constitution

“Designated Finance Officer” means the Chief Finance Officer (section 151 Officer) exercising the duties prescribed by law for the financial administration of the Council

“Monitoring Officer” means the officer exercising the duties prescribed by law for the ethical and legal administration of the Council.

### The role of members

9. Members have a number of elements within their role:

- as politicians with political values and support for the policies of the group to which they belong;
- as representatives of all the electorate of the Council’s administrative area, and their ward in particular;
- as community leaders for the whole population of the administrative area;
- as an elected member with responsibility for the administration and service delivery to the community as a whole; and
- in personal life where they may have to live and/or work in the area in which they serve.

There is a need for members to be alert to the potential for conflicts of interest, which may arise within their role. 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.

10. 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. In particular, members should: Define the core values of the Council as an organisation, and with assistance from officers, identify the priority objectives

11. 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.

12. Every elected-member represents the interests of, and is an advocate for, their Ward and individual constituents. They represent the Council in the Ward, respond to the concerns of constituents, meet with partner agencies, and often serves on local bodies.

13. Some members have roles within the Council relating to their position as members of the Executive, scrutiny committees or other committees and subcommittees of the Council

- a. The Leader and Executive collectively decide the day-to-day operational issues not delegated to officers and recommend framework policies and strategies to

Council.

- b. Members serving on scrutiny and review committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues.
- c. Members who serve on other committees and sub-committees collectively have delegated responsibilities, for example, deciding quasi-judicial matters that, by law, are excluded from the remit of the Executive.

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

15. 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. The political party values and aspirations should not be formally exercised by a political whip on members undertaking the scrutiny function.

16. Members will endeavour to give responses within a reasonable time, for example, 5 working days to enquiries from members of the public.

### **The rights and duties of members**

17. Members have no authority to instruct officers other than:

- through the formal decision-making process of the Executive, the committees and Council; and
- to request the provision of consumable resources provided by the Council for members' use;

18. Unless authorised by this Constitution under the Executive system individual members cannot authorise nor initiate actions nor certify financial transactions, nor enter into a contract on behalf of the Council. However, members who are appointed to certain positions may have to sign authorisations as required by secondary legislation or other requirements of this Constitution.

19. 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 and/or the Chief Finance Officer.

20. A member should not criticise the conduct or capability of an officer at any meeting of Council or committee. Neither should a member write letters or give interviews to the press criticising officers. This is because of the long-standing convention in public service that officers do not have the same means of responding to such criticisms in public. If a member has a concern regarding an officer this should be addressed to a senior officer.

21. Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that officers change their professional advice. Members must respect that the officers have a duty to correct information given to Members during the decision-making process.

22. 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.

23. 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.
24. Under the code, a member must not when acting as a member or in any other capacity:
  - Bring the Council or their position as a member into disrepute; or
  - Use their position as a member improperly to gain an advantage or disadvantage for themselves or any other person.

### **The role of officers**

25. Officers should work in partnership with members to deliver the services to the community, to the standard set by the Council. Officers should be committed to the Council as a whole and must not show any bias, partiality or allegiance to any political group or grouping. Officers must always provide advice and information in an impartial and professional manner and in a manner that does not compromise their political neutrality.
26. Officers are employed to undertake the functions of the Council (including management responsibilities) and to help members attain their policy goals. Where operational decisions are delegated to the officers, they must exercise that authority in accordance with the adopted policy and values of the Council. 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 and have a duty to advise members that certain courses of action desired by members cannot be adopted. Officers must not enter into a debate during the decision-making process unless to correct factual information or in response to a chair's request for an opinion.

### **The rights and duties of officers**

27. 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.
28. 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. 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.
29. Officers must also:
  - a. Respond to members' requests for information promptly but within 5 working days (either with the information or an explanation why the period will be longer).
  - b. Act with honesty, respect, dignity, courtesy and integrity at all times.
  - c. Provide support and learning and development opportunities for members to assist members perform their various roles, and
  - d. Respect confidences.

### **The relationship between members and officers: general**

30. Members and officers should inform the Monitoring Officer of any relationship which might be perceived as unduly influencing them in their respective roles.

31. 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 that directly affects the officer on a personal basis, or vice versa.

32. There are particular characteristics of the use of e-mails, notably its immediacy, which can create a greater sense of 'bombardment' or 'harassment'. Practical guidance for members and officers on the use of emails is referred to later in this protocol under the heading "Correspondence".

33. Officers' work priorities are set and managed by senior managers' not individual members. It follows that, whilst such officers will always seek to assist a member, they must not be unduly disrupted or asked to exceed the bounds of authority they have been given by their managers. Meetings should be arranged to a timescale that enables officers to complete tasks assigned to them and not at a frequency which disrupts other tasks set by the Council. Except when the purpose of an enquiry is purely to seek factual information on day-to-day matters, members should normally direct their requests and concerns to a senior officer, at least in the first instance.

34. Officers will do their best to give timely responses to members' enquiries within 5 working days but should not have an unreasonable volume of requests placed on them.

35. Officers shall not discuss with a member personal matters concerning themselves or another individual employee. This does not prevent an officer raising, on a personal basis, and in their own time, a matter relevant to a Council function with their ward member.

### **Relationships between Officers and Executive Members, Chair's of Committees and the Leader**

36. It is important to the efficient discharge of the Council's functions that there should be a good working relationship between Members of the Executive, Chief Executive and Senior Officers and between the Chair of a committee and officers. However, such relationships should never be allowed to become close, or appear to be so close, as to bring into question the employee's ability to deal impartially with other Members and other party groups.

37. Officers frequently write reports having undertaken background research and professional and technical appraisals of proposals.

38. These reports are then presented by the Executive Member with Portfolio, with the assistance of officers where necessary.

39. Members must accept that in some situations officers will be under a duty to submit an opinion or advice in a report on a particular matter. In those situations the officer will always be fully responsible for those elements of a report submitted in the Member's name.

40. The principles set out in paragraphs 41 and 42 below apply to such elements of the report.

41. Where an officer wishes to consult an Executive Member or Chair as part of the preparation of a report to a decision-making body under the Council's constitution, the following principles will apply. The Executive Member or Chair may ask the report author:

- To include particular options;
- To clarify the report by expanding, simplifying or re-phrasing any part of the report or including other particular information;
- To check or correct any error or omission of any matter or fact including statements of summaries of policy or budget;
- To check any estimate of costs or savings.

42. The Executive Member or Chair may not ask officers:

- To exclude any option contained in the draft report;
- To exclude or alter the substance of any statement in the draft report of any officer's professional opinion;
- To alter the substance of any recommendation that compromises the officer's integrity or would result in illegality;
- To exclude any report, comments or representations arising from consultations, publicity or supply of information to the community.

43. Certain statutory functions are undertaken by officers. Their reports on such matters are then their own full responsibility.

### **Scrutiny Arrangements**

44. Executive arrangements raise particular issues for local authority employees because:

- The advice which officers have given to the Executive, its Members or to any group may be subject to scrutiny and examined by a Scrutiny Committee.
- Officers may have written reports for presentation by an Executive Member with Portfolio or provided advice to the Executive. Where such a decision is subject to scrutiny by a Scrutiny Committee, or when a decision is called-in, an officer may provide information or advice to a Scrutiny Committee. Members must recognise that there is an inherent tension between these two roles. As circumstances change or more information comes to light, advice may reflect the difference.
- The Scrutiny Committee's and their members will need active assistance from officers if they are to perform their role of scrutinising the Executive effectively.

These factors will require understanding by Members of the role that officers have to perform.

### **Overview and Scrutiny**

45. The scrutiny role of the Council is performed by three Scrutiny Committees and the Audit and Governance Committee. Senior Officers may need to attend Scrutiny Committees to give evidence and assist in its scrutiny.

46. Where an employee /Senior Officer is required to attend before a Scrutiny Committee, to report to it or provide evidence for it, it is the employee's duty to do so, or to explain why he or she is unable or unwilling to do so. If after considering that explanation the committee insists on the information being provided the employee must do so.

47. Where a Scrutiny Committee has resolved to undertake a review it is the duty of Senior Officers to co-operate fully with the review. This duty extends beyond merely answering the Committee's questions and involves a requirement to assist the Committee in addressing the right questions and seeking the information which may be required to help them in their work.

### **Party group meetings and Officers**

48. Party Group Meetings play an important role in the political management of the Council. They provide a useful forum to keep Members up to date with Council and Group business. They can assist in the smooth running of meetings especially in agreeing questions and motions for Full Council Meetings.

49. Senior officers may properly be asked to provide advice and information on matters concerning Council business by party groups but should not contribute to deliberations of the group. 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 their behalf. In their dealings with party groups, officers must treat each group in a fair transparent and even-handed manner. If one group requests particular support then other groups will be offered the opportunity to have similar support.

50. Officers have the right to refuse such requests, and will not attend a meeting of a party group where some of those attending are not members of the Council, unless specific authority has been given by the Chief Executive who has the discretion to discuss the request with other group leaders.

51. 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.

52. 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 does not confer formal status on such meetings in terms of Council business and must not be interpreted as doing so.

53. Where officers provide factual information and advice to a party group in relation to a matter of Council business, this will not be 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.

54. It must not be assumed that an officer is supportive of a particular policy or view considered at a party group meeting simply because they have attended or provided information to the meeting of the group.

55. 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.

56. Members must not do anything which compromises or is likely to compromise officers' impartiality. 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 they feel it is no longer appropriate to be there.

57. 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.

#### **Local members and officers**

58. 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 local members informed, thus allowing members to contribute to the decision-making process and develop their representative role. Issues may affect a single ward. Where they have a wider impact, a number of local members will need to be kept informed.

59. 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.

60. 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.

61. If a local member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, they 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.

62. No such meetings should be arranged or held in the immediate four week run-up to Council elections, i.e. within the period following a declaration of an election or of a vacancy.

63. Officers must never be asked to attend ward or constituency political party meetings. Whilst support for members' ward work is legitimate, care 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.

64. It is acknowledged that some Council staff 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.

65. 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.

#### **Members' access to documents and information**

66. This part of the protocol should be read in conjunction with the [access to information rules](#).

67. 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.

68. It will be the task of senior officers to ensure that adequate systems to communicate information etc. are in place and other officers are made aware of the need to provide the information. If a member has need of specific information, other advice or particular support, this should be channelled through the senior officer.

69. Every member of a committee has a right to inspect documents about the business of that committee or subcommittee.

70. A member who is not a member of a specific committee or subcommittee may have access to any document of that specific part of the Council provided:

- the document is in the public domain; or
- they can demonstrate a reasonable need to see the documents in order to carry out their role as a member (the "need to know" principle); or
- the documents do not contain "confidential" or "exempt" information as defined by the law, e.g. personal information covered by the Data Protection Acts; and
- the subject matter is one in which they do not have a personal or prejudicial interest as defined in the members' code of conduct.

71. 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 their advice if in any doubt about the reasonableness of a member's request.

72. Members may approach any Senior Officer for information, explanation or advice about that group's functions, as they may reasonably need to know in order to assist them in discharging their role as members of Council, being aware that personal information may not be disclosed without proper authorisation.

73. Information that is of a sensitive nature, e.g. personal data, commercially confidential, etc. which is given to a member or officer must only be used for the purpose for which it was requested, i.e. the better performance of Council duties, and should not be used for personal benefit, including benefit to family, friends and business. Information, which is restricted in circulation, for example, confidential, commercially sensitive or exempt, must not be disclosed by the member to any other party. 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.

74. When requested to do so, officers will keep confidential from other members advice requested by a member, save the Monitoring Officer if the matters involve maladministration but in that case the source of the information will be kept confidential.

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

#### **Media relations**

76. Press releases or statements issued by the Council will be factual and consistent with Council policy. They cannot be used to promote a party group. Officers will keep relevant members informed of media interest in the Council's activities, especially regarding strategic or contentious matters.

77. If a member is contacted by, or contacts, the media on an issue, they should:

- 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;
- take particular care in what they say in the run-up to local or national elections to avoid giving the impression of electioneering, unless they have been contacted as an election candidate or political party activist;
- not divulge advice given personally to that member by an officer; and
- not jeopardise the necessary trust between officers and members by making statements apportioning blame to officers for decisions made by members or personally criticise the officer for the advice he gave. Qualified privilege may not apply to defamatory statements made against officers.

#### **Emails**

78. Emails between an individual member and an officer should not be copied to another member unless there is a genuine need to do so. Where correspondence is copied, this should always be made explicit, i.e. there should be no "blind" copies. Officers may forward copies to other (relevant) officers where specific action is required to be taken or explained.

79. The content of all emails should be checked to ensure that it does not offend in its tone and that it is clear and unambiguous.

80. Emails which are capable of creating legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a member.

### **Access to premises**

81. Members and officers have a right of access to Council owned land and premises to fulfil their duties. Members have no right of access to any other private land, save that they own.

82. When invited to attend at any premises, members should:
- 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; and
  - take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

### **Use of Council resources**

83. Officers and members must comply with the Information Security Policy and [Use of Resources Policy](#).

### **Interpretation, complaints and allegations of breaches**

84. Members or officers with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Chief Executive, Monitoring Officer or Deputy Monitoring Officer.

85. Members must not criticise, personally attack, or abuse officers in a public forum. A member who is unhappy about the actions taken by, or conduct of, an officer should follow the adopted internal procedures.

86. The Chief Executive is responsible for the disciplining of retained staff and processes have been agreed with the trade unions, which allow a fair and thorough review of conduct. It is important that these procedures are adhered to in cases where an officer's conduct gives cause for concern. Publica has its own arrangements in place for the disciplining of Publica employees which will be applied when required.

87. Officers who have concerns about a member's conduct should initially refer the issue to their line manager, the Chief Executive, Monitoring Officer or a Senior Officer who will (where appropriate) attempt to resolve the matter informally. If the issue remains unresolved, or informal action is not suitable, the Chief Executive, Monitoring Officer or Senior Officer will take appropriate action via the Council's internal processes, including the Member Code of Conduct and this Protocol.