

E-mail: democraticservices@teignbridge.gov.uk

22 January 2024

PROCEDURES COMMITTEE

A meeting of the **Procedures Committee** will be held on **Tuesday, 30th January, 2024** in the **Council Chamber, Forde House, Brunel Road, Newton Abbot, TQ12 4XX** at **10.00 am**

PHIL SHEARS
Managing Director

Membership:

Councillors Clarence (Chair), Bullivant (Vice-Chair), Daws, Keeling, MacGregor, Ryan, Thorne Wrigley and vacancy

Please Note: Filming is permitted during Committee meeting with the exception where there are confidential or exempt items, which may need to be considered in the absence of the press and public. By entering the Council Chamber you are consenting to being filmed.

A G E N D A

Part I

1. **Apologies for absence**
2. **Minutes of the previous meeting** (Pages 7 - 10)
3. **Declarations of interest**
4. **Revision of the Member and Officer Protocol** (Pages 11 - 26)
To consider the revision of the Member and Officer Protocol which was deferred from the previous Procedures Committee to enable Group Leaders discuss the protocol with their Members and feedback to this meeting.

5. Notice of Motion - Decisions making

To consider the Notice of Motion on decision making present by Cllr Bullivant to [Full Council on 17th October, 2023](#),

Democratic oversight of the administration of the Council is a fundamental responsibility of elected councillors.

Decisions taken by the Council are taken with the authority of all councillors given through the established voting procedures following receipt of officer advice, appropriate review, analysis and consideration of councillors by way of prior notification and properly conducted debate and voting.

This process requires that a meeting agenda and associated papers are available to councillors and the public for a minimum of (5)days prior to a meeting taking place and any questions received must be within (3) days to allow proper evaluation and answers by officers.

Over recent months there have been a number of council meetings with agenda items withdrawn, altered or added to by the Executive within minutes of a meeting taking place and without going through due process.

This has led to changed proposals being introduced that have not had the benefit of proper examination by other councillors or officers before a debate takes place and decisions being imposed by means of majority group voting.

The rules of council decision making are well established and work when applied.

In view of the serious potential challenge to any decision taken without following due process I propose that in future any agenda item circulated properly when meeting notices and agendas are issued cannot be changed prior to the scheduled meeting, and no changes allowed prior to the scheduled meeting.

Agenda items may be withdrawn prior to any debate but any request to modify or alter an agenda item should only be permitted following a properly submitted amendment proposal submitted during the meeting which will allow a detailed explanation of the reason for an amendment and subsequent debate and voting by councillors.

6. Notice of Motion - Loss of Section 106 contributions

To consider the Notice of Motion on Section 106 contributions present by Cllr J Taylor to [Full Council on 17th October, 2023](#),

I would like your support for the following motion, which I believe will improve transparency within the planning process and give councillors more decision making in regards to planning applications and amendments of major developments. It is particularly important that all decisions relating to the loss of agreed 106 affordable units, are made by the Planning Committee.

Planning is a process tied up in legislation, including the committee decision making element. Councillors are, when an application comes to committee, presented with recommendations, accompanied by detailed reports and are expected to adopt an open mind when deciding on the merits of that application. Often, the officer presenting the report has anticipated where concerns might lie and along with

technical aspects listed conditions that will apply should the application be passed.

On large sites, those conditions might relate to aspects such as the number of affordable homes, children's play areas and green landscaping. Thus, typically, the committee members make a decision based on what is in front of them but in reality the ends product looks nothing like the approved application.

That application may then change beyond recognition by a process of amendments, submitted by the applicant and approved by delegated authority. It may never come back to the Planning Committee.

This is a well-established practice by Developers which enables the Plans to be passed and then amended so that the maximum profit can be achieved. It is called value engineering. I call it deception and it's time it stopped.

The council are well aware of this process but choose to engage with it for fear of the monetary consequences of non-compliance. It is no secret that this council, along with many others, has an unhealthy dependency on the money provided by major house builders.

It is time to draw the line and take the first steps to breaking the cycle and distancing ourselves from this unhealthy relationship, by developing a transparent process and sending a clear signal to Developers. We will not be bartering to build houses. Submit, approve, build. We will no longer be engaging in planning ping pong.

The motion calls for additional transparency by ensuring that on all major developments (over 20 homes,) where variations to conditions are applied for, must be brought to the planning committee.

This is to apply to all 106 changes and any visible amendments, eg. change of materials, removal of garages, landscaping, etc.

All amendments on the grounds of viability, must come to the Planning Committee. (However, it should be an exception rather than the rule. Viability should be covered at the initial planning application stage. If a development is not viable then it should be withdrawn.)

7. Notice of Motion -Green improvements in Conservation Areas

To consider the Notice of Motion on Green improvements in Conservation Areas submitted by Cllr Mullone to [Full Council on 28th November, 2023.](#)

Large parts of residential Teignbridge are designated Conservation Areas. The rules for a conservation area come under Article 4 Directions that, unlike listed status for an individual building which are nationally codified, may be set and amended by a district council.

The rules for Conservation Areas in Teignbridge have not been re-examined for a long time. They do not take into account the sweeping changes in technologies, materials or group aesthetics. Neither do they account for the Climate Emergency that has been declared by many councils including this one.

Amendment to these rules is seriously overdue, most urgently in regard to windows and solar panelling. The rules on windows were drafted to stem the tide of shiny white plastic PVC windows being installed without thought in Georgian and Victorian houses that began to detract from areas of architectural heritage in the 1980s. These insist on like-for-like replacement of timber frame louvre windows. Today windows are being made from airtight, scientifically advanced materials that are, to any observer, entirely in keeping with older houses and which would bring them up to environmental standards with no loss of area aesthetics.

Solar panels, meanwhile, may need a change in our culture. We have decided as a society that wind turbines do not ruin a landscape; in fact most of us are pleased to see them. We might adjust our sensibilities to accommodate solar panels on the roofs of older, architecturally attractive dwellings. None of them, after all, have the original roof anymore so it seems somewhat contrarian to object to solar panels being installed on them.

We need to permit sensible ecological adjustment in Conservation Areas, as blanket bans make no sense, run contrary to our declared Climate Emergency and the rules are currently being applied with no consistency at all. At the Forde Park Conservation Area in College Ward we have residents being persecuted for high-quality modern upgrades next to houses full of PVC that have got away with it for years, seemingly because they weren't 'dobbed in' by a neighbour within the required time.

I therefore propose that:

A) A task and finish group be put together to look at reassessing the limits of remodelling in the area's Conservation Zones with an eye to allowing green improvements, and

B) Any resident with a current notice against them be given a stay of execution on any remodelling requirement until the rules can be examined and reframed.

8. Notion of Motion - Speaking at Planning Committee

To consider the Notice of Motion regarding questions requesting clarification of a point made during the presentation at Planning Committee to be put to an applicant/ objector and answered by them submitted by Cllr P Parker to [Full Council on 28th November, 2023](#).

In light of recent presentations by supporters and objectors at recent planning committee meetings it is apparent that the quality and clarity of presentations can vary.

There are instances where councillors would benefit from being able to request clarification for a point made during a presentation enabling a better decision to be reached.

For this reason I request that standing orders for planning committee meetings are altered to allow, through the chair, questions requesting clarification of a point made during the presentation to be put to an applicant/ objector and answered by them.

9. **Notice of Motion - constitutional requirements and decision making**

To consider the Notice of Motion regarding submitted by Cllr P Parker from the Full Council meeting 16 January 2024 relating

[Agenda for Full Council on Tuesday, 16th January, 2024, 10.00 am - Teignbridge District Council](#)

Following the meeting of O&S 2 on December 12th to call in the decision relating to the FHSF and finding that the Councils procedures and constitution requirements had not been followed and carried out with proper authority. Plus other instances where last minute amendments, decisions are introduced without involving leaders of other groups or officers. At the O&S 2 meeting on the 12th of December, I believe all members present accepted that the last minute amendments may not have been done with proper authority. The notice of motion I would like to propose would be Any amendments to the agenda on a full council meeting need to be notified by 12 o'clock on the previous day to allow officers and members time to prepare their responses.

If you would like this information in another format, please telephone 01626 361101 or e-mail info@teignbridge.gov.uk

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PROCEDURES COMMITTEE

MONDAY, 2 OCTOBER 2023

Present:

Councillors Bullivant (Vice-Chair), Clarence (Chair), H Cox, Keeling, MacGregor, Ryan, Thorne and Wrigley

Apologies:

Councillor Daws

Officers in Attendance:

Martin Flitcroft, Chief Finance Officer & Head of Corporate Services

Sarah Selway, Democratic Services Team Leader & Deputy Monitoring Officer

Phil Shears, Managing Director

Paul Woodhead, Head of Legal Services & Monitoring Officer to the Council

6. ELECTION OF DEPUTY CHAIR

RESOLVED that Cllr Bullivant be elected Vice Chair for the 2023/2024 municipal year.

7. DECLARATIONS OF INTEREST

None.

8. MINUTES OF THE PREVIOUS MEETING

RESOLVED that the minutes of the meeting held on 22 February 2023 be approved as a correct record and signed by the Chair subject to an amendment that *down* be added to the sentence 'for the changes to be broken *down* and presented over a period of time and not in one document'.

9. RECOMMENDATION FROM FULL COUNCIL - INCREASE IN FINANCIAL LIMITS

The Executive Member for Corporate Resources presented the recommendation to increase the financial limits.

In response to Members, the Chief Finance Officer & Head of Corporate Services confirmed he would provide a report for Full Council detailing the implications and benefits of the changes.

RECOMMENDED to Council that the financial limits Key Decisions at 3.4.7 in the constitution be increased as follows:

- Revenue £100,000
- Capital £250,000

And any other references to these limits be amended accordingly.

10. RECOMMENDATION FROM FULL COUNCIL - OVERVIEW & SCRUTINY COMMITTEE

The Leader presented the recommendation to revert to one Overview & Scrutiny Committee he proposed that this would be with effect from 1 January 2024.

Members discussed the appropriate size of a single Overview & Scrutiny Committee and raised concerns regarding the engagements of all Members in the Scrutiny function. It was noted by Members that this proposal did not include the Audit Scrutiny Committee.

RECOMMENDED to Full Council that the Overview & Scrutiny Committees are merged to have one Overview & Scrutiny Committee of 26 Members this would come into effect on 1 January 2024.

11. REVISION OF THE MEMBER AND OFFICER PROTOCOL

The Head of Legal & Monitoring Officer presented the revisions to the Member/Officer Protocol.

Members raised concerns that all Members should have input into this document.

The Head of Legal & Monitoring Officer advised that the Protocol would be considered by Full Council and therefore all Members would have an opportunity to have their input into the Protocol.

RESOLVED that Group Leaders discuss with their Members and feedback to the next Procedures Committee meeting on this matter.

Chairman

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**Teignbridge District Council
Procedures Committee
Part i**

Report Title

Revision of the Member and Officer Protocol

Purpose of Report

To seek approval for the proposed change(s) to the Member/Officer Protocol

Recommendation(s)

That the Procedures Committee recommends to the Council that the proposed Protocol be approved and incorporated into the Constitution.

Financial Implications

There are no financial implications arising directly out of this report.

Martin Flitcroft Chief Finance Officer
Email: martin.flitcroft@teignbridge.gov.uk

Legal Implications

There are no specific legal implications arising from this report.

Paul Woodhead, Head of Legal Services and Monitoring Officer
Email: paul.woodhead@teignbridge.gov.uk

Risk Assessment

The proposed changes are considered necessary as part of the Council's Best Value obligations.

Paul Woodhead, Head of Legal Services and Monitoring Officer
Email: paul.woodhead@teignbridge.gov.uk

Environmental/Climate Change Implications

None

Paul Woodhead, Head of Legal Services and Monitoring Officer
Email: paul.woodhead@teignbridge.gov.uk

Report Author

Paul Woodhead, Head of Legal Services and Monitoring Officer
Email: paul.woodhead@teignbridge.gov.uk

Executive Member

Cllr Richard Keeling - Executive Member for Corporate Services

Appendices/Background Papers

The Proposed Protocol for Member / Officer Relations
The Existing Officer and Member Relations Protocol – Part 10(b) Constitution.

1. Introduction/Background

- 1.1 This report arises as a consequence of a review of aspects of the Council's Constitution and procedures by the Monitoring Officer and Managing Director.

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TDC PROTOCOL FOR MEMBER / OFFICER RELATIONS

Content:

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15. Elections
16. Breaches of this Protocol
17. Monitoring, Review and Further Advice

1. Introduction

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another. The Protocol's intention is to build and maintain good working relationships between Members and Officers as they work together.
- 1.2 A strong, constructive, and trusting relationship between Members and Officers is essential to the effective and efficient working of the Council.
- 1.3 This Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these Codes is to enhance and maintain the integrity of Local Government and they therefore demand very high standards of personal conduct.
- 1.4 The following extract from the Local Government Association ("LGA") guidance on the 2020 Local Government Association Model Councillor Code of Conduct states that:

"Both Councillors and officers are servants of the public and are indispensable to one another. Together, they bring the critical skills, experience and knowledge required to manage an effective local authority.

At the heart of this relationship, is the importance of mutual respect. Councillor-officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Councillors and officers should observe reasonable standards of courtesy, should show mutual appreciation of the importance of their respective roles and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

Councillors provide a democratic mandate to the local authority and are responsible to the electorate whom they represent. They set their local authority's policy framework, ensure that services and policies are delivered and scrutinise local authority services.

Councillors of the executive, chairs and vice chairs of committees have additional responsibilities. These responsibilities will result in increased expectations and relationships with officers that are more complex. Such Councillors must still respect the impartiality of officers and must not ask them to undertake work of a party-political nature or compromise their position with other Councillors or other officers.

Officers provide the professional advice and managerial expertise and information needed for decision making by Councillors and to deliver the policy framework agreed by Councillors. They are responsible for implementing decisions of Councillors and the day-to-day administration of the local authority.

The roles are very different but need to work in a complementary way.

It is important for both sides to respect these differences and ensure that they work in harmony. Getting that relationship right is an important skill. That is why the code requires Councillors to respect an officer's impartiality and professional expertise. In turn officers should respect a Councillor's democratic mandate as the people accountable to the public for the work of the local authority."

- 1.5 The provisions of this Protocol are designed to complement the LGA Guidance and LGA Model Code of Conduct and will be interpreted having regard to the requirements of the Members' Code of Conduct, the Officers' Code of Conduct, the Council's Whistleblowing Policy and the Council's policies, procedures and processes. This Protocol sets out how the relationship works and what both Members and Officers can expect in terms of mutual respect and good working relationships.

1.6 Definitions in this document:

- Members: refers to elected or co-opted Members
- Senior Officer: refers to members of the Council's senior leadership team
- Officers: refers to officers employed by the Council
- Administration: refers to the largest ruling political group on the Council.
- Opposition Group: refers to the largest political group in opposition on the Council.

2. Members

2.1 Mutual respect between Members and Officers is essential to good Local Government. Overly close personal familiarity between individual Members and Officers can damage this relationship and can be perceived as inappropriate or favouritism by the public or other Members and Officers.

2.2 It is important that any dealings between Members and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.

2.3 In line with the Members' Code of Conduct, a Member must treat others with respect, must not bully or harass people and must not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.

2.4 Officers can expect Members:

- to give political leadership and direction and to seek to further their agreed policies and objectives with the understanding that Members have the right to take the final decision on issues based on advice
- to act within the policies, practices, processes and procedures established by the Council
- to work constructively in partnership with Officers acknowledging their separate and distinct roles and responsibilities
- to understand and support the respective roles and responsibilities of Officers and their associated workloads, pressures and reporting lines

- to treat them fairly and with respect, dignity and courtesy
- to act with integrity, to give support and to respect appropriate confidentiality
- to recognise that Officers work to the instructions of their Senior Officers and not to individual Members or political groups
- not to subject them to intimidation, harassment, or put them under undue pressure. Members will have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between the Member and Officer, and the potential vulnerability of Officers, particularly at junior levels
- not to request them to exercise discretion which involves acting outside the Council's policies and procedures
- not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a Member without proper and lawful authority
- not to use their position or relationship with Officers to advance their personal interest or those of others or to influence decisions improperly
- to comply at all times with the Members' Code of Conduct, the law, the Constitution and such other policies, procedures, protocols and procedures agreed by the Council.

2.5 It is important that Members of the Council:

- respect the impartiality of Officers and do not undermine their role in carrying out their duties
- do not ask Officers to undertake work, or act in a way, which seeks to support or benefit a particular political party or gives rise to an Officer being criticised for operating in a party-political manner
- do not ask Officers to exceed their authority where that authority is given to them in law, by the Council or by their Senior Managers

2.6 The Head of Paid Service, the Monitoring Officer and the Chief Finance (section 151) Officer and other Statutory Officers have specific responsibilities placed on them by law. These responsibilities go beyond their obligations as employees of the Council. Where an Officer is discharging their responsibilities under any statutory office Members shall not:

- improperly interfere with or obstruct the Officer in exercising those responsibilities
- victimise any Officer who is discharging or has discharged their responsibilities of Statutory Office
- compromise or attempt to compromise their impartiality and must allow them to carry out their duties in a neutral, non-biased and non-partisan way

3. Officers

- 3.1 The primary role of Officers is to advise, inform and support all Members and to implement the lawfully agreed policies of the Council.
- 3.2 Officers are responsible for day-to-day managerial and operational decisions within the Council. Members should avoid inappropriate involvement in such matters.
- 3.3 In performing their role Officers will act professionally, impartially and with political neutrality. Whilst Officers will respect a Member's view on an issue, the Officer should not be influenced or pressured to make comments, or recommendations which are contrary to their professional judgement or views.
- 3.4 Officers must:
- implement decisions of the Council and its Committees which are lawful, which have been properly approved in accordance with the requirements of the law and the Council's Constitution and are duly recorded.
 - work in partnership with Members in an impartial and professional manner
 - treat Members fairly and with respect, dignity and courtesy
 - assist and advise all parts of the Council. Officers must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
 - respond to enquiries and complaints in accordance with the Council's procedures.
 - 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.
 - act with honesty, respect, dignity and courtesy at all times.
 - provide support and learning and development opportunities for Members to help them in performing their various roles.
 - not seek to use their relationship with Members to advance their personal interests or to influence decisions improperly.
 - comply, at all times, with the Officer Code of Conduct, and such other Policies or procedures approved by the Council.
 - 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. The Relationship: General

- 4.1 Members and Officers are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the public, whereas Officers are accountable to the Council as a whole.
- 4.2 At the heart of the Codes, and this Protocol, is the importance of mutual confidence and trust and also of civility. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party. It is also

important that such dealings take place only when Members and Officers are acting in their official capacity. It is important that both parties respect the other's free time.

4.3 Members should not raise matters relating to the conduct or capability of an Officer, or of Officers collectively, in a manner that is incompatible with this Protocol at meetings held in public, on social media or in the press. Officers do not necessarily have the same right of reply to such comments as Members do and Members should take care not to abuse or exploit this imbalance.

4.4 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 Senior Manager
- If the matter is of a particularly serious nature inform the Managing Director.

4.5 Neither should an officer raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of the service in a manner that is incompatible with the objectives of this Protocol.

4.6 Potential breaches of this Protocol are considered at paragraph 15 below.

5. Family relationships and friendships on Social Media

5.1 Any family relationships between Members and Officers (e.g. parent/child, spouse/partner) must be disclosed as soon as reasonably practicable to the Managing Director who will then decide how far this needs to be disclosed to others.

5.2 A Member should not take up a decision-making role where it would give them decision-making responsibility for any Officer to whom they are closely related so as to avoid any perceptions or accusations of preferential treatment or a lack of objectivity.

5.3 If a Member or Officer is in any doubt about what is appropriate or not in relation to 5.1 or 5.2 above, then they should seek the advice of the Monitoring Officer.

5.4 Members and Officers should carefully consider the appropriateness of forming friendships on social media and whether this will infer a friendship between the Officer and Member that could create a perception of lack of objectivity.

6. Officer Advice to Party Groups

6.1 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such considerations by party groups.

6.2 The support provided by Officers can take many forms, ranging from a briefing meeting with a member of the Executive or shadow Executive or Chair prior to a Committee meeting, to a presentation to a full party group meeting. Whilst in practice such Officer support is likely to be in most demand from the Administration, such support is available to all party groups upon request to the relevant Senior Leadership Team Officer for that subject area.

6.3 Any requests for advice or attendance are to be directed through the Group Leaders, Executive Members (or their shadows) or Chairs for the relevant Committee. The request shall be made to the relevant Senior Leadership Team officer or, in their absence, to their deputy or the next appropriate lower tier Officer. An Officer accepting an invitation to one political group or individual will not decline an invitation to advise another political group or individual on the same subject. However, the Officer is not obliged to offer to advise another political group on the same subject.

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

(i) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of party business are to be discussed;

(ii) Party Group Meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such, particularly having regard to the risk of challenge on the grounds of pre-determination;

(iii) 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;

(iv) Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council meeting, Committee or Sub-Committee when the matter in question is considered.

6.5 In relation to budget proposals;

(a) The Administration shall be entitled to confidential discussions with Officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of the Executive /Council meetings, whichever is the earlier;

(b) The opposition groups shall be entitled to confidential discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Executive/Council meetings, whichever is the earlier.

6.6 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Council's Codes of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, Officers will only attend in these circumstances where the request has been made to, and agreed by, a Senior Officer. It must then be understood that Officers may not be able to provide the same level of information and advice as they would to a 'Members only' meeting.

6.7 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group, unless agreed otherwise.

- 6.8 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Managing Director who will discuss them with the relevant group leader(s).

7 Provision of Support Services to Members and Party Groups

- 7.1 Officers provide support services and resources to Members as agreed by the Council to enable them to undertake their various roles. This includes the provision of support to the Leader and Chair of Council.
- 7.2 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, 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 (including business) purposes.

8 Members' Access to Information and to Council Documents

- 8.1 Members are free to approach any service area of the Council to provide them with such information, explanation and advice (about the service area's functions) as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a service areas activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Senior Manager for the service area concerned.
- 8.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law. Further details on this and the use of Council information that is provided to a Member are set out in the Constitution.
- 8.3 Members are expected to give reasonable notice of requests for information and to have regard to the cost of producing detailed information.

9 Officer – Executive Member/Chair Relationships

- 9.1 It is clearly important that there should be a close working relationship between the relevant Executive Member or Chair of a Committee and the Senior Officers who support that Portfolio or Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other party groups.
- 9.2 Under the Constitution, individual Members of the Executive may, in some situations, take decisions. The Council has put in place mechanisms to ensure that the individual Executive Member seeks advice from relevant Members and Officers before making a decision within their delegated authority. This includes taking legal advice, financial advice and professional officer advice.
- 9.3 The Council's delegation scheme and resolutions passed at Executive or Committee meetings may authorise a named Officer to take action, sometimes in consultation with one or more Members such as the Executive Member or Chair and Vice-Chair of a Committee. In these circumstances it is the Officer, rather than the Member, who takes the decision or action and it is the Officer who is accountable for it.
- 9.4 Finally, it must be remembered that Officers within a service are accountable to their Senior Officer and that, whilst Officers should always seek to assist a Executive Member or Chair (or indeed any Member) they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Senior Officer.

10. Specific Member Roles / Officer Relationship

10.1 Leader & Managing Director / Senior Officers

The Leader gives political direction and leadership to the Council. The role encompasses:

- Setting standards of conduct and expectations for their group of Members and resolving any instances of misconduct by a member of that group that has been referred to him/her from the Standards Committee / Hearing Panel.
- Appointing their Executive and allocating responsibilities to Executive Members and Officers under the Executive Scheme of Delegation
- Encouraging all Members to play a full part in the running of the Council and being effective community leaders.
- Working closely with the Managing Director to ensure proper coordination of the Council's leadership and management. The Leader and Managing Director have ultimate responsibility for the corporate working of the Council. They also have responsibility for ensuring that overall partnership working is effective.

10.2 Executive Members and Officers

Executive Members will develop the expertise, knowledge of and responsibility for the service(s) allocated to them by the Leader. This includes taking decisions delegated to them by the Leader within the Executive Scheme of Delegation. The nature of this role means that Executive Members will work closely with their relevant Senior Officer(s) particularly on policy development, decision-making, service delivery and performance issues.

For their area of responsibility, the Executive Member provides political focus and leadership for their political group and is the lead spokesperson and 'first' political contact for opposition group spokespersons, other Members of Council, the public, press and Officers.

10.3 Leader of the Opposition and Officers

The Leader of the largest political group in opposition on the Council has several key roles including:

- supporting the democratic process by ensuring that the activities of the Administration are appropriately examined, contributed to and, where considered necessary, challenged through mechanisms provided for in law and within the Constitution;
- bringing forward alternatives to policies or operational decisions proposed by the Administration, as appropriate;
- giving political direction and leadership to their group of Members, setting standards of conduct and expectations and resolving any instances of misconduct by a member of that group referred to him/her by the Standards Committee / Hearing Panel
- liaising with the leaders of other minority political groups on the Council.
- The office-holder should establish effective working relationships with particularly the Managing Director and Senior Leadership Team officers and other Officers, as appropriate.

In addition, other minority Group Leaders will play a similar role as set out above in respect of the members of their own groups.

10.4 Scrutiny Members and Officers

Members of the Council's Scrutiny Committees shall:

- obtain the advice of the Monitoring Officer where they consider there is doubt about the vires for a decision or they consider a decision of the Leader, Executive, Executive Member or an Officer might be outside the policy and / or budget framework.
- when considering calling Officers to give evidence, consult the relevant Senior Officer to identify as to the most appropriate Officer to attend.
- when asking Officers to give evidence, confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions. Officers may be asked to give a professional opinion, but Officers must not be asked questions relating to political views.
- where they consider it appropriate, ask Officers to explain and justify advice given to Members prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution.
- not question Officers in such a way as to be in breach of the Members' Code of Conduct nor deal with matters which are of a personal or disciplinary nature.

It is not the role of scrutiny to act as a disciplinary tribunal in relation to the actions of Members or Officers. Neither is it the role of Officers to become involved in what would amount to disciplinary investigations on a Scrutiny Committee's behalf. This means:

- (a) Overview & Scrutiny's questioning about the conduct of individuals should be in the sense of establishing the facts about what occurred in the making of decisions or implementing of Council policies, not to imply criticism or blame;
- (b) In these circumstances, it is for the Managing Director to institute a formal enquiry, and Overview & Scrutiny may ask (but not require) him/her to do so.

Overview & Scrutiny should not act as a "Court of Appeal" against decisions or to pursue complaints by individuals, as other procedures exist for this. These are internal, for example, the Council's corporate complaints procedure, and external/statutory, for example the Local Government Ombudsman or appeal to the Courts. However:

- (a) Overview & Scrutiny may investigate the manner in which decisions are made but should not pass judgement on the merits or otherwise of a decision in individual cases;
- (b) They can comment on the merits of a particular policy affecting individuals.

Wherever possible Overview & Scrutiny should provide written questions or details of indicative topics to someone invited to appear before the Committee to ensure they have adequate time to prepare for the meeting. In addition, invitees ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Committee has previously indicated.

Officers shall:

- maintain political impartiality at all times when ~~22~~ commenting on the Executive's / Council's policies and actions.

- be prepared to explain and justify advice given to Members of the Executive and the Council prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution.
- ensure that appropriate Officers appear before the relevant Council body.

11. Conduct at meetings of the Council

- 11.1 Officers should respect Members in the way they respond to Member' questions. Members should not question Officers in a way which could be interpreted as harassment.
- 11.2 Proceedings must not be used to question the capability or competence of Officers, or to criticise them in public. Chairs 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 Officers (particularly at scrutiny meetings.) The latter is not an appropriate role for Members.
- 11.3 Senior Officers have the right to present reports and give advice to Committees and sub-committees of the Council. All reports to Council meetings include the name of a contact officer, and Members are encouraged to approach that Officer for any query or issue they wish to raise prior to the meeting.
- 11.4 Members on a Committee or sub-committee shall take decisions within the remit of that body, and will not instruct Officers to act otherwise.
- 11.5 At meetings of the Council, a resolution may be passed which authorises a named Officer to take action between meetings in consultation with the Chair, other Member(s) of that body or other Officers. In these circumstances it is the Officer, not the Chair, who takes the action and is responsible for it. Neither the Chair nor any other Member, or group of Members, (other than Executive Members) has any legal power to take decisions on behalf of the Council; neither should they apply inappropriate pressure on the officer.

12. Press and Media

- 12.1 Local Authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors and customers. Local Authorities use publicity to keep the public informed and to encourage public participation. The Council needs to tell the public about the services it provides. Good effective publicity should aim to improve public awareness of the Council's activities. Publicity is a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant.
- 12.2. The Council must comply with the provisions of the Local Government Act 1986 ("the Act") regarding publicity. All media relations work will comply with the national Code of Practice for Local Government Publicity. The Code is statutory guidance and the Council must have regard to it and follow its provisions when making any decision on publicity.
- 12.3 All Council press releases should be in accordance with the Council's agreed Media Guidelines and must be issued through the Council's Communications Team.
- 12.4 Members or political groups have the right to issue political press releases but these shall not be prepared or issued using the Council's resources of any kind. If a Member is contacted by, or contacts, the media on an issue, they should:

- indicate in what capacity they are speaking (e.g. as a local County Councillor, in a personal capacity, as a Executive Member, on behalf of the Council, or on behalf of a party group);
- if necessary, and always when they would like a press release to be issued on a non-party political nature seek assistance from the Council's Communications Team;
- consider the likely consequences for the Council of their statement (e.g. commitment to a particular course of action, image, allegations of predetermination);
- 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 they say in the run-up to local or national elections to avoid giving the impression of electioneering, unless they been contacted as an election candidate or political party activist.

It is important for Members to comply with their general obligations in the Code of Conduct when dealing with the press and media and recognise that as a representative of the Council their actions impact on how the Council as a whole is viewed by the public.

- 12.5 Lead Members with special responsibilities will receive training in handling the media and shall receive additional support as required and as appropriate for their roles from the Communications Team.
- 12.6 Any press release that may be necessary to clarify the Council's position in relation to disputes, major planning developments, court issues or individuals' complaints should be approved by the appropriate Senior Manager and/or the Monitoring Officer.
- 12.7 Members should have regard to their obligations under 4.3 above when making any statements to the press or media.

13 Correspondence

13.1 Use of Paper

- 13.1.1 The paper containing the Council's corporate identity image must be used for all correspondence written on behalf of the Council. When Members are writing in their capacity as a Member they must make it clear whether they are writing on behalf of the Council or as the divisional member. Members must never use paper or electronic communications containing the Council's corporate identity image for personal, party political or business matters.

13.2 Correspondence between Members and Officers

13.2.1 Correspondence from an individual Member to an Officer will not normally be copied by the Officer to any other Member unless it is the intention of the Member that it should be so (e.g. representations made in relation to a planning application). Where, exceptionally, and having sought the advice of a Senior Officer, it is considered appropriate to copy the correspondence to another Member, then the original Member should be given prior notification and be told to whom it is proposed to be copied and the reasons for this proposed course of action. The decision of whether another Member should be sent the correspondence is ultimately for the Managing Director to take.

- 13.2.2 Particular care needs to be taken with email correspondence where the Council's use of email policy should be followed. For example, when dealing with constituency email correspondence be careful when copying emails when using 'cc' or 'bcc' or 'reply to all'. Only copy your email to those people that really need to see it, don't inadvertently

forward confidential information and don't forward a constituent's email to others even within the Council without having first obtained their consent.

14. Involvement of Local County Councillors and Town/Parish Councils

14.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the division or divisions affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the relevant local County Councillors should be notified at the outset of the exercise.

14.2 Whenever a public meeting is organised by the Council to consider a local issue the Clerk of the relevant Town/Parish Council(s) should be advised with an invitation for the Parish/Town Chair (or substitute) to attend.

15. Elections

15.1 Particular rules apply around elections and by-elections. These are contained in the Election Protocol.

16. Breaches of the Protocol

16.1 This paragraph of the Protocol should be read in conjunction with the Council's Whistleblowing Policy.

16.2 Where the relationship between Members and Officers breaks down or becomes strained, every effort will be made to resolve matters informally, through conciliation by an appropriate Senior Officer or Members.

16.3 Where a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the relevant Senior Leadership Team Officer. Where the Officer concerned is a Director, the matter should be raised with the Managing Director. Where the employee concerned is the Managing Director, the matter should be raised with the Monitoring Officer.

16.4 The Senior Officer will acknowledge the complaint and advise on next steps. The timescale for dealing with such a complaint will be in accordance with the Council's normal complaints procedure.

16.5 Members have a right to know if action has been taken to address a matter, but they must not, either:

- influence, or seek to influence, the level of disciplinary action to be taken against an Officer, nor
- insist (nor be seen to insist) that an Officer is disciplined.

16.6 Members have a right to be told the outcome of any disciplinary case, but have no entitlement to detailed information about the hearing or its conduct aside from those Members of the Appeals Committee where specific cases are considered by the Committee.

16.7 Where an Officer feels that they have not been properly treated with respect and courtesy, and wishes to make a complaint under the Members' Code of Conduct this should be made in writing to the Monitoring Officer. In the event of the concerns being raised informally, the Monitoring Officer may refer the matter to the leader of the relevant party group or to the Member concerned. In the event of a formal complaint, the Monitoring Officer will consider whether the complaint should be referred for investigation, other action or whether no further action should be taken and the Council's procedures for

dealing with Members' Code of Conduct complaints will be followed as set out in the Constitution.

16.8 Breaches of this Protocol by a Member may constitute a breach of the Members' Code of Conduct.

16.9 Breaches of this Protocol by an Officer may be referred for disciplinary action.

17 Monitoring, Review and further Advice

17.1 The application and implementation of this Protocol will be monitored and reviewed by the Council's Standards Committee in consultation with the Council's Monitoring Officer.

17.2 Further advice on the interpretation of this Protocol is available from the Managing Director or Monitoring Officer.