

**Luton Borough Council Constitution**

**Section 4: Members & Standards**

**Part 4 C: Protocol for Member & Officer  
relations**

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## Section 4: Members & Standards

### Part 4 C: Protocol for Member & Officer relations

#### 1. The Protocol

##### 1. Purpose & Scope

- 1.1 The purpose of this protocol is to set out the relative roles and responsibilities of Members and officers. It aims to act as a guide to both Members and officers in their dealings with each other. It also sets out the basic ground rules for the proper conduct and administration of the council's business.
- 1.2 There are seven principles of public life, known as the 'Nolan' principles which apply to anyone who works as a public office-holder. This includes people who are elected or appointed to public office, nationally and locally, and includes all people appointed to work in local government. The principles are:
  - (1) **Selflessness** - holders of public office should act solely in terms of the public interest.
  - (2) **Integrity** - holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
  - (3) **Objectivity** - holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
  - (4) **Accountability** - holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
  - (5) **Openness** - holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
  - (6) **Honesty** - holders of public office should be truthful.
  - (7) **Leadership** - holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.
- 1.3 The Protocol does not seek to cover every situation that may arise in the relationship between Members and officers. It does aim to cover the most common situations where difficulties may be met and to provide a set of guiding principles which can be applied to other situations.
- 1.4 This Protocol covers all aspects of the relationships between Members in their capacity as Members of the Council and officers in their capacity as employees of the Council.
- 1.5 This Protocol is subject to the Articles of the Council's Constitution, to Standing Orders, to the Council's Schemes of Delegation to Officers and to the Council's Financial Regulations, with which both Members and officers have to comply and all of which will prevail over this Protocol if there is any conflict.

- 1.6 Members are required to comply with the Council's Code of Conduct for Members and in the event of any conflict between the provisions of the Code of Conduct for Members and this Protocol then the Code of Conduct for Members will prevail.
- 1.7 Officers are subject to their contractual conditions of employment and to the Council's employment policies and disciplinary procedures. In the event of any conflict between these and this Protocol then the former will prevail.
- 1.8 Officers must comply with the Code of Conduct for Employees adopted by the Council. In the event of any conflict between the provisions of the Code of Conduct for Employees and this Protocol then the Code of Conduct for Employees will prevail.
- 1.9 In this Protocol the expression "**Member**" includes any Member of a Committee or Sub-Committee of the Full Council who is not an elected Member of the Council (a "Co-opted Member").
- 1.10 In this Protocol the expression "**officer**" includes all employees of the Council and any person working for the Council as a temporary employee, agency worker, consultant or contractor.

## 2. The Principle of Mutual Respect

- 2.1 This section sets out the **Principle of Mutual Respect**. It is important that Members and officers comply with this principle in their dealings with each other. Both Members and officers should observe reasonable standards of courtesy, recognise each other's positions and should not seek to take unfair advantage of their position.
- 2.2 Members are required by the Code of Conduct for Members to treat others with respect.
- 2.3 Both Members and officers are servants of the public and they are indispensable to one another but their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Full Council, the Executive and the Council's Committees and Sub-Committees.
- 2.4 Mutual respect between Members and officers is essential to good local government. Close personal familiarity between individual Members and officers can damage this relationship and prove embarrassing to other Members and officers.
- 2.5 Neither Members nor officers should subject each other to undue influence or pressure, to physical or verbal intimidation, or to bullying arising out of their position or the relationship between them.

## 3. The Role and Responsibilities of Members

- 3.1 Members are responsible for setting the Council's policies, policy framework, and budget framework and for establishing corporate aims and objectives.
- 3.2 Members represent the local community as the elected representatives of the community. It is the role of Members to ensure that the interests of the community are considered in the development of Council policy.
- 3.3 Members are responsible for the development of policy proposals, receiving professional advice as necessary from officers.
- 3.4 It is the role of Members to determine which policy options will be pursued.

- 3.5 Members are responsible for the monitoring of the implementation of policy and for the monitoring of the Council's performance against the established corporate aims and objectives.
- 3.6 Members have a responsibility to serve the people of Luton as a whole, but with particular regard toward the interests of the constituents of the Ward they represent, including those who may not have voted for them.
- 3.7 Members have the right to professional advice and assistance from officers.
- 3.8 Members must acknowledge that officers may only act in accordance with or implement decisions of the Full Council, the Executive or the Council's Committees and Sub-Committees, unless powers have been formally delegated to the officer concerned specifically or under the Council's Schemes of Delegation to officers.
- 3.9 Members must not put pressure on or try to persuade officers to take any action at variance with such a decision, or to implement any policy or carry out any work contrary to such a decision, or to delay implementation of such a decision.

#### 4. The Role and Responsibilities of Officers

- 4.1 It is the role of officers to implement and to manage the implementation of Council policy.
- 4.2 Officers are responsible for ensuring that Members receive appropriate professional advice.
- 4.3 Officers are accountable to the Council as a whole and not directly to the community, although they need to acknowledge that the Council serves the community.
- 4.4 Officers have a responsibility to serve all Members and not any particular political party, political group or individual Member.
- 4.5 Officers must acknowledge the rights and responsibilities of Members.
- 4.6 Officers must only act in accordance with the decisions of the Full Council, the Executive or the Council's Committees and Sub-Committees, or in accordance with powers delegated to them specifically or under the Council's Schemes of Delegation to Officers.
- 4.7 Officers must not exceed their authority or pursue policies that have not been approved by, or which have been rejected by, Members.
- 4.8 Officers are responsible for Departmental and staff management.
- 4.9 With the exception of certain senior posts specified by the Council being posts subject to appointment by Members, officers are responsible for the appointment of staff.
- 4.10 Some officers hold politically restricted posts under the Local Government & Housing Act 1989 and therefore also face restrictions on their personal political activity. Officers should be seen to observe political neutrality so the public and Members of the Council may rely on them to give impartial advice.
- 4.11 Certain officers have statutory responsibilities relating to the overall conduct of the Council's activities. These Officers are as follows:-
  - (1) **The Head of Paid Service** - This is the Chief Executive who is responsible for oversight of the Council's staffing structures and establishment, with authority through Departments over all the Council's officers.
  - (2) **The Chief Finance Officer (Section 151 Officer)** - This is the Service Director, Finance, Revenues & Benefits who is responsible for ensuring that the Council conducts its financial affairs properly and in accordance with the law.

- (3) **The Monitoring Officer** - This is the Service Director, LLAL who is responsible for ensuring that the Council's activities and decisions are lawful, that the Constitution is kept up to date and for dealing with complaints against Members.

These Officers are known as the statutory officers and they each have specific statutory powers in support of their roles.

## 5. Role of Individual Members

- 5.1 In law all Members have equal rights and responsibilities.
- 5.2 A Member only has authority to take decisions as part of a formally constituted meeting of the Full Council or the Executive or any of the Council's Committees or Sub-Committees of which he/she is a Member. A Member does not have authority to take decisions as an individual Member. The Council has chosen not to delegate Executive functions to individual Members of the Executive.
- 5.3 A Member is responsible for ensuring that any facilities or services provided by the Council for the use of Members are used for the purposes of their duties as Members and for no other purpose.
- 5.4 A Member is entitled to information that he/she needs to carry out his/her work as a Member. This is normally referred to as "the need to know". This term describes the restriction of data which is considered very sensitive. A Member is not necessarily entitled to confidential information which is not directly relevant to his/her role as a Councillor or information which relates to a particular person or commercially sensitive material.
- 5.5 Member is entitled to professional advice and assistance from Officers.

## 6. Role of the Executive Leader and Portfolio Holders

- 6.1 The Executive Leader is a statutory office under the Local Government Act 2000. The Executive Leader is appointed by the Full Council.
- 6.2 The Executive Leader allocates the portfolios to the Portfolio Holders who are other Members of the Executive. The Executive makes decisions collectively.
- 6.3 The Executive Leader in addition to his/her statutory role has the specific responsibilities set out at 6.5 below. These include the general overview of the work of the Executive.
- 6.4 The Executive Leader and the relevant Portfolio Holder are the Members of the Executive to be consulted by officers between meetings of the Executive on urgent matters which do not fall within the delegated powers of the officer. In respect of the Executive Leader's own portfolio, to express views on matters where officers are required to seek such views prior to taking decisions relating to matters delegated to them.
- 6.5 It is the role of Executive Leader:
- (1) to chair meetings of the Executive;
  - (2) control the conduct of business at meetings of the Executive;
  - (3) to steer the meeting towards constructive debate and the reaching of clear decisions;
  - (4) to ensure compliance with the Council's Constitution (including Standing Orders) by the Executive;
  - (5) to act as a focus and sounding board for the Executive between meetings;
  - (6) to represent the Executive (or to decide on representation) at functions where this is necessary; and

(7) to make statements or to be interviewed by the media (or to make arrangements for statements or interviews to be made) in relation to the work of the Executive.

- 6.6 The role of Portfolio Holders is an advisory one and does not involve individual decision making.
- 6.7 Portfolio Holders will present reports at meetings of the Executive and will act as a sounding board on matters within the remit of their portfolios between meetings of the Executive. They will also be consulted by officers between meetings where officers are seeking views prior to taking decisions relating to matters delegated to them.
- 6.8 Portfolio Holders should not give directions to officers on operational matters or seek to persuade them to take action which has not been authorised by the Executive.

## 7. Role of Chairs

7.1 The Full Council is chaired by the Mayor. Every committee and sub- committee established by the council will have a chair.

7.2 It is the role of the chair to:

- (1) control the conduct of business at meetings
- (2) to steer a meeting towards constructive debate and the reaching of clear decisions
- (3) to ensure compliance with the Council's Standing Orders by the meeting of which he/she is Chair
- (4) to put recommendations to the Full Council on behalf of the Committee or, in appropriate cases, recommendations of Sub-Committee to its parent Committee
- (5) to act as a focus and sounding board for the Full Council's Committees and Sub-Committees between meetings
- (6) to represent the Council at formal or ceremonial functions relating to the work of the Full Council's Committees or Sub-Committees
- (7) to make statements to or be interviewed by the media in relation to the work of the Council's Committees and Sub-Committees in appropriate cases; and
- (8) to be consulted on matters by officers between meetings and to express views where officers are required to seek such views prior to taking decisions relating to matters delegated to them.

## 8. Role of Political Group Leaders

- 8.1 Each political group represented on the council must by law have a leader - the 'Political Group Leader'.
- 8.2 Much of the role of a Political Group Leader is political and not the subject of this protocol. Those aspects of the role of Political Group Leader which relate to the Council's administrative and decision making processes are covered by this Protocol as set out below.
- 8.3 Each Political Group Leader will represent the Political Group on the Council of which he/she is Leader.
- 8.4 The Political Group Leader of each Political Group will be responsible for the expression of that Political Group's wishes where such wishes need to be formally sought by officers (e.g. on nominations to fill vacancies on Committees).

- 8.5 The seeking of the formal views of a Political Group from a Political Group Leader will be carried out by the Chief Executive or the Monitoring Officer as appropriate or by other officers under arrangements approved by the Head of Paid Service.
9. **Officer Advice to Political Groups**
- 9.1 The Council is divided into Political Groups. There is now statutory recognition for Political Groups and it is common practice for Political Groups to give preliminary consideration to matters before they are considered by the Executive or the relevant Council Committee or Sub-Committee.
- 9.2 It is not improper for officers to advise Political Groups provided that the rules set out below are followed.
- 9.3 Officer advice must only relate to Council business. Officers must not be involved in advising on Party business or on party political issues. Officers should not therefore be invited to attend or give presentations to Political Group meetings at which party political business is discussed.
- 9.4 Political Group meetings are not part of the Council's decision making structure and they may not make decisions on behalf of the Council. Views expressed or conclusions reached at such meetings are not Council decisions and the officers have no authority to act on them.
- 9.5 Where officers provide information or advise one or more Political Group meetings, this cannot be in substitution for providing all necessary information and advice to the Full Council, the Executive or the Council's Committees and Sub-Committees. It is the officers' duty to provide this advice to the Full Council, the Executive or the Council's Committees and Sub-Committees irrespective of whether the matter has been discussed previously at a Political Group meeting at which advice has been given.
- 9.6 Officers should not normally be asked to attend meetings of Political Groups or to give advice to Political Groups at which Party members who are not Members of the Council are present. In exceptional cases, subject to consultation with the Chief Executive and the Monitoring Officer, this may be permissible subject to appropriate safeguards. Any request for an officer to attend a meeting of a Political Group shall be made to the relevant Service Director and the Officer should only attend with his/her prior approval. A Member should not make any direct request to an officer to attend. If the Service Director refuses a request the Member should then make the request to the Chief Executive.
- 9.7 Officers must respect the confidentiality of any discussion which takes place at Political Group meetings and of any advice given. They should not relay the content of any such discussions or advice to any other Political Group or to any Member of any other Political Group.
- 9.8 Where advice is requested or given or attendance at any Political Group meeting is requested, then the other Political Groups on the Council should be informed by the officers and offered the same facility, to be taken at the discretion of the Political Groups.
10. **Officer Advice to the Full Council, the Executive and to the Council's Committees and Sub-Committees**
- 10.1 It is the role of officers to advise professionally and to ensure that the Full Council, the Executive or the Council's Committees and Sub-Committees receive proper professional advice.



- 10.2 Members should acknowledge the role and duty of officers to give unbiased and politically neutral professional advice.
- 10.3 It may occasionally be the duty of officers to give advice to Members that is unpopular or unwelcome, or to warn Members of the consequences of action, and Members should respect this.
- 10.4 It is the role of Members to take policy decisions based on the professional advice of officers and on any research which the Member has separately undertaken and on his/her own personal knowledge and experience. Officers must respect this role.
- 10.5 Officers may give advice to the Mayor, the Chair of any of the Council's Committees or Sub-Committees, the Executive Leader, the Deputy Executive Leader or to an Executive Portfolio holder. Such advice cannot be in substitution to proper advice to the Full Council, the Executive and to the Council's Committees and Sub-Committees collectively, as appropriate.
- 10.6 Members who are concerned about the conduct of officers at, or about the quality of advice given to, the Full Council, the Executive or the Council's Committees and Sub-Committees should not raise the issue at the meeting, as the officer concerned will have no real opportunity of responding. Members should take such issues up subsequently with the officer's Service Director, Corporate Director or the Chief Executive as appropriate.
- 10.7 Officers who have concerns about the conduct of Members at the Full Council, the Executive or the Council's Committees and Sub-Committees or other meeting are referred to paragraph 22 of this protocol.
- 10.8 Members who have concerns about the conduct of officers are referred to paragraph 22 of this protocol.
11. **Advice to Political Group Leaders and Individual Members**
- 11.1 Where an officer advises a Political Group Leader the officer must respect the confidentiality of the advice given and not disclose the advice to any other Political Group Leader or any other Member without the consent of the Political Group Leader to whom the advice has been given.
- 11.2 Where procedural advice is given to Political Group Leaders, or to other Members, either acting on behalf of their Political Group or independently, (e.g. on motions and amendments coming up for debate at the Full Council or at the Executive) the fact that advice has been given and the nature of the advice should not be disclosed to any other Political Group, Political Group Leader or to any other Member of the Council without the consent of the Member to whom the advice has been given.
- 11.3 Where an officer advises a Member in connection with Ward business or in relation to that Member's rights and duties as a Member such advice should not be disclosed to any other Member without the first Member's consent.
12. **Social and Personal Relationships**
- 12.1 The working relationship between Members and officers is essential to the effective working of the Council and is to be encouraged. This is particularly so in the case of the Mayor, Chairs of Committees or Sub-Committees and Members of the Executive, and the Corporate Directors, Service Directors and other senior officers who report regularly to such bodies.

- 12.2 Such close working relationships should, however, not be allowed to become so close that the relationship affects the Mayor's or the Chair's or an Executive Member's ability to perform his/her duties as the Mayor or the Chair or an Executive Member in an effective manner. Equally the relationship should not be so close as to affect the officer's ability to give proper advice to the Mayor or the Chair or the Executive Member and to the Full Council, the Executive or the Council's Committees and Sub-Committees or to deal impartially with issues and with other Members and other Political Groups.
- 12.3 Both Members and officers should be aware of the inferences that others may draw from close social or personal relationships and how such relationships, if they become known, may be perceived by other Members and officers. Members and officers must avoid any occasion which could give rise to the appearance of improper conduct. Both Members and officers should as far as possible avoid situations which may give rise to the suspicion that the duties of the Member or officer may be affected.
- 12.4 Any Member who is closely related to any officer, and any officer who is closely related to a Member, should disclose the fact to the Head of Paid Service.
- Compliance with Standing Order 78 (Relatives of Members or Officers) will be sufficient disclosure for this purpose, but separate disclosure will be necessary in situations where Standing Order 78 does not apply.
- An example would be because a Member has become closely related to an officer subsequent to the officer first being employed by the Council.
- 12.5 A Member who is closely related to an officer and who is present at a meeting at which a matter is discussed which significantly affects or is likely significantly to affect that officer or the work or area of work of that officer, should declare an interest in the matter and withdraw from the meeting.
- 12.6 For the purposes of paragraphs 12.4 and 12.5 'closely related' means a situation where a member is either:
- (1) married to or is the partner of an officer
  - (2) in a close personal relationship with an officer
  - (3) the daughter, son, brother, sister, parent, grandparent, uncle, aunt, nephew, or niece of an officer
  - (4) in a family relationship with an officer, which although not falling with any of the above, is a close family relationship
  - (5) a close personal friend of an officer and the member and officer are likely to come into contact with each other in the course of the officer's work
  - (6) a business partner or business associate of an officer
  - (7) to their knowledge, a member of the same social club or association as an officer - apart from large national associations or societies, unless the member and officer are likely to come into contact with each other arising from membership.

### 13. Access to Information and to Council Documents

- 13.1 Members may approach any Department of the Council requesting such information or advice as they reasonably need to assist them in their role as a Member. Such approaches should normally be directed to the relevant Service Director, unless a contact officer has been identified for that particular area of the Council's activity.

- 13.2 Members have a right to inspect any document which has been considered in public by the Executive or by a Committee or Sub-Committee, whether or not they are members of the Full Council, the Executive or the Council's Committees and Sub-Committees.
- 13.3 Members' rights to inspect documents considered in private by the Full Council, the Executive or the Council's Committees and Sub-Committees, and to inspect other Council documents are more restricted. A Member has the right to see any document and have any information which is reasonably necessary to enable the Member to carry out his/her duties as a Member properly. This is commonly referred to as the "**need to know**". A Member of the Full Council or of the Executive or of any of the Council's Committees or Sub-Committees at which a document was considered or to the business of which a document relates will normally have the "need to know" and the Council's Standing Orders provide for this. A Member who is not a Member of the Executive or of the relevant Committee or Sub-Committee thereof will need to demonstrate that he/she has the "need to know".
- 13.4 Members' rights to see documents and have information may also be restricted in other ways. A Member must not knowingly seek access to a document relating to a matter in which the Member is professionally interested or in which he/she has an interest. A Member may be refused access to a document considered in private by the Full Council, the Executive or the Council's Committees and Sub-Committees where the Monitoring Officer has reasonable grounds for believing that the Member (even if he/she would otherwise have the "need to know") intends to use the document for an improper purpose such as for private purposes not related to the Member's duties as a Councillor, or intends to use the document against the Council in litigation or otherwise. Any Council information provided to a Member must only be used by that Member for the purpose for which it was provided, that is in connection with the proper performance of that Member's duties as a Councillor. Confidential information must not be disclosed without lawful authority and Members attention is drawn to the applicability of the Data Protection Act 2018 and the Freedom of Information Act 2000 and allied Regulations.
- 13.5 Where a Member is seeking information an approach should be directed to the relevant Service Director. In particular Members should not approach officers direct for information in child care matters. Members should obtain a signed authority from any constituent on whose behalf they are acting to authorise the Council to release personal data which would normally be protected under the Data Protection legislation.
- 13.6 Whilst any Member may ask a relevant Service or Corporate Director or the Chief Executive for written factual information about a department or service, such requests must be reasonable and not seek information relating, for instance, to case work such as social care matters or employment. Requests will be met, unless there are any over-riding legal considerations (which will be determined by the Head of Legal Services), or if the recipient of any request considers the cost of providing the information requested, or the nature of the request to be unreasonable. If a Member requesting such information is dissatisfied by such a response s/he should raise the matter in the first instance with the relevant Director, and if still dissatisfied with the Chief Executive who will discuss the issue with the relevant Group Leader(s).

- 13.7 Requests for personal information about specific employees, or where the group of employees is so small that individual employees' personal data are likely to be revealed, should only be considered where a Member has a demonstrable need for such detailed personal information in order to carry out the business of the Council and they could not carry out that business without the information being supplied in a redacted form. Any such requests must be accompanied by the Member's reasons for requiring the information and should be forwarded to the Service Director Customer & Organisational Development for determination (following consultation with the Council's Data Protection Officer as appropriate).
- 13.8 Members should be aware that Data Protection legislation restricts the ability of officers to copy information to Members who are not directly involved in a case and thereby they may not be entitled to receive the information.
- 13.9 If there is a dispute about the right of a Member to see a document the Council's Standing Orders provide that the Monitoring Officer will initially decide the matter, but may only decide to refuse access to a document with the approval of the Chief Executive. Ultimately any dispute would be determined by the Executive or by the relevant Council Committee.

#### 14. Correspondence

- 14.1 Correspondence between an individual Member and an officer should not normally be copied by the officer to any other Member without the first Member's knowledge. All correspondence copied should be clearly marked as being copied and the identity of those it is copied to marked on the correspondence. This applies to copies both to Members and to officers.
- 14.2 Correspondence between an officer and an individual Member on a matter relating to that individual Member's rights and duties as a Member will not normally be copied to any other Member without that first Member's knowledge and consent.
- 14.3 Official letters on behalf of the Council should be sent out in the name of an officer and not normally in the name of a Member. Letters which create obligations or give instructions or convey decisions made by the Council must not be sent out under the name of a Member.
- 14.4 Officers will draft letters for Members to send out in the Member's name on Council business.

#### 15. General Data Protection Regulations

- 15.1 Members should not leave confidential or sensitive information visible on their workstation or in other areas and should lock them away if they have to leave that area for any reason. Members should also be mindful of circulating emails they receive either electronically or printed copy.
- 15.2 Members have a personal responsibility for any IT equipment supplied to them by the council and should take all reasonable steps to ensure that this equipment is kept safe and in good working order. Members should report any loss/theft to member services immediately and at least within 24 hours of the loss. Any suspected or actual data loss should be reported to member services within the same timescales.
- 15.3 Members are responsible for ensuring that they comply with the Data Protection Act 2018 at all times. Members are considered to be data controllers in their own right and in the event of a serious data breach can face significant fines or other enforcement action by the Information Commissioner's Office. Guidance on holding and processing data to comply with the Data Protection Act 2018 can be found on the council's intranet.

## 16. Freedom of Information Act 2000

- 16.1 Under the Freedom of Information Act (FOI), Members like other members of the public have a general right, subject to any applicable exemption, of access to information. Requests under the Freedom of Information Act must be in writing and contain sufficient information to enable the document to be identified. There is a requirement under the Act that for the information to be disclosed within 20 working days.
- 16.2 Where a request is made for access to documents that are unrelated to any council meeting, or where the Member requesting information specific to a Ward is not a Member for that Ward, officers will inform the Member that the request is being treated as a freedom of information request and that a response will be provided within 20 working days.

## 17. Matters Raised by a Constituent

- 17.1 If a Member is asked to investigate a matter on behalf of a constituent, which requires access to personal data held by the Council (for example housing benefit records), the Members will need to show that permission has been acquired from that constituent to do so.
- 17.2 An email from the constituent asking for their case to be reviewed is sufficient to show implied consent. However, if the Member is asked over the telephone or at a surgery it may be more difficult to demonstrate consent. The safest way to overcome this is to seek written permission when investigating a case which involves access to council records containing personal data. A pro-forma letter is available from Member Services or it can be downloaded from the intranet.
- 17.3 Members should remember that emails may be subject to disclosure if a request is made under the Freedom of Information Act 2000 or Data Protection Act 2018 (subject access).
- 17.4 Any use of IT resources, including email and the internet, that contravenes any legislation (such as the Data Protection Act 2018; the Computer Misuse Act 1990; and the Copyrights, Designs and Patents Act 1988 (amended 2002)); or breaches the general obligations of the code of conduct for members; or breaches council policies on information security is considered to be unacceptable. Members are responsible for the content of any email sent from their username.
- 17.5 It is important that Members manage the information that they store to ensure its availability, confidentiality and integrity. Therefore Members should regularly review all council information (including files and email messages) they hold and delete all redundant or irrelevant data.

## 18. Ward Councillors

- 18.1 Wherever there is an obligation or requirement on the part of an officer to consult the Councillors of a particular Ward or Wards, or whenever an officer considers it necessary to do so, all the Councillors of that Ward will be consulted, irrespective of the Political Group which they represent. The same will apply to invitations to Ward Councillors to attend any meetings.

## 19. Decisions under Delegated Power

- 19.1 No non-Executive powers are currently delegated to individual Members. Although individual Members of the Council will not have any personal delegated powers, they may, nevertheless, develop, a personal special interest in specific areas of Council activity (the “Relevant Member”). No Executive powers are currently delegated to individual Members. Although neither the Leader of the Council nor individual members of the Executive will have any personal delegated Executive powers, they may, nevertheless, develop a personal special interest in specific areas of Council activity. The term “Portfolio Holder” is used to describe Members with any such special interest, to avoid creating any misleading impression that the Member concerned does have personal delegated powers, the Executive may decide that there should be more than one Portfolio Holder for any particular area of special interest.
- 19.2 The role of a Relevant Member or a Portfolio Holder will include:-
- (1) providing a point of reference for an officer who wishes to sound out the Member perspective before taking an Executive decision under powers delegated to that Officer,
  - (2) providing a better-informed elected Member perspective and opinion on any relevant proposals before (or likely to come before) the Council, the Executive or the Council’s Committees or Sub- Committees,
  - (3) appearing, as appropriate, before any relevant Overview and Scrutiny Committee on behalf of the Executive, and
  - (4) making position statements or responding to questions on the relevant area of activity, on behalf of the Full Council, the Executive or the Council’s Committees or Sub- Committees at any meeting.
- 19.3 Where an officer volunteers (rather than is required) to consult a Relevant Member or Portfolio Holder or other Member before exercising his or her delegated powers, both will understand, and accept, that the final decision (and the responsibility which goes with it) remains with the officer; and that the process of reference to the Relevant Member or Portfolio Holder or other Member is not intended to operate as a clandestine delegation of power to the Relevant Member or Portfolio Holder or other Member.
- 19.4 The same principles apply where authority to take a decision has been specifically delegated to an officer “after consultation with” one or more elected members, whether a Relevant Member or Portfolio Holder or other Member. Although the process of consultation is required by the specific delegation of authority, this does not change the fact that the process is still one of consultation with, not specific approval by, the Relevant Member or Portfolio Holder or other Member concerned. If the consultation process was handled as if it were one of specific approval, then that could reasonably be regarded as tantamount to de facto personal delegation to the Relevant Member or Portfolio Holder or other Member concerned.
- 19.5 Since consultation alone is involved, an officer can, theoretically, decide to proceed with his or her proposed course of action even in the face of some degree of objection from the Relevant Member or Portfolio Holder or other Member consulted. However, the officer may decide to decline to exercise the delegated authority and refer the decision back to the body which conferred the authority on the officer.

- 19.6 On occasions, an Executive or Regulatory Committee decision may be reached which authorises named Officers to take action between meetings following consultation with a Member or Members. It must be recognised that it is the officer, rather than the Member or Members, who takes the action and it is the officer who is accountable for it.
- 19.7 Officers should be careful about the methods they use to record, for internal purposes, that the process of consultation has taken place and its result. There should be mutual trust and understanding between Members and officers - a degree of trust which should be sufficient to render inappropriate a formalised process whereby an officer expects the Relevant Member or Portfolio Holder or other Member to sign written confirmation that they have read and understood the relevant material supplied to them and that they agree its content. To adopt that kind of approach would tend to suggest that, regardless of its terms, the delegated power to make the decision had been given, in reality, to the Relevant Member or Portfolio Holder or other Member, rather than the officer.
- 19.8 In implementing any process of consultation, if the view of the Relevant Member or Portfolio Holder or other Member is not in conformity with the professional view of the officer and the difference of view is material and cannot be reconciled, then the officer must:-
- (1) seek advice from the Chief Executive, Monitoring Officer or Chief Finance Officer as appropriate; and
  - (2) refer the issue to a meeting of the Full Council or the Executive or the body which conferred the delegated power - to protect the interests of the Relevant Member or Portfolio Holder or other Member, the officer and, ultimately, the Council.
20. **Guidance to Members and officers on employment Issues**
- 20.1 Although officers are not encouraged to do so, Members may occasionally find themselves being approached by officers on matters relating to their personal circumstances as a member of the Council's staff.
- 20.2 This puts the Member in some difficulty because they will potentially have a conflict of interest. On the one hand the Member may well want to offer assistance to the employee, particularly if s/e resides in the Ward the Member represents. On the other hand, as a Member, all elected members have responsibilities as "the employer".
- 20.3 It is suggested in such circumstances that the Member concerned should limit his/her role to the following:-
- (1) listening to the nature of the issue;
  - (2) offering advice about where the officer can get assistance and support e.g. trade union, HR staff, manager, website;
  - (3) pointing to the various mechanisms (as explained below) which the Council has in place for resolving issues and disputes with groups of employees and individuals;
  - (4) satisfying themselves that the Council's procedures (including the Whistleblowing Procedures, where appropriate) are being followed correctly in that case and receiving details of the outcome. If there is concern that this may not be the case the Member should seek advice from the Monitoring Officer or the relevant Corporate Director or Service Director.
- 20.4 Beyond the above, it is not the role of a Member to pursue any particular case on behalf of the officer. To do so could prejudice any procedures which are already underway and would not be in the Council's or public's interests.

- 20.5 The following procedures are available for officers to raise individual issues in relation to their employment:-
- (1) Grievance Resolution Procedure – covers individual issues not covered by any other procedure,
  - (2) Unfair Discrimination, Harassment and Bullying Procedure, and/or various appeal procedures, for example within the following:-
    - (a) Handling Organisational Change Procedure
    - (b) Disciplinary Procedure
    - (c) Employee Performance Procedure and
    - (d) Probationary Policy.
- 20.6 The Whistleblowing Policy provides officers with a means of making serious allegation about standards, conduct financial irregularity or possible unlawful action in a way that will not be seen as being disloyal to their colleagues or the Council. This Policy is also intended to provide “whistle-blowers” with protection from being victimised, discriminated against or disadvantaged for having made an allegation in good faith.
- 20.7 Officers’ attention is also drawn to the Code of Conduct for employees at Part 6 B of the Constitution.
21. **The Council’s Media Relations**
- 21.1 All formal relations with the media relating to Council business must be conducted in accordance with the Council’s agreed procedures and the law and Code of Practice on local authority publicity. All such contact with the media should be made through the Council’s Communications and Marketing Team; in order to protect the Council’s reputation it is important to avoid any delay.
- 21.2 The Council’s Communications and Marketing Team will only issue news releases or statements to the media insofar as these are factual and a reflection of established Council policy. They will normally do this on behalf of the relevant Corporate Director or Service Director or the Leader of the Council or the Portfolio Holder, and on occasions for the Mayor. No such material may be used to promote or affect support for a Political Group or a political party.
- 21.3 Where individual Members initiate or respond to media interest, they do so in a personal capacity only and do not act on behalf of the Council. Any material relied on for support of a Member’s position (for example relevant facts and figures) should be checked with officers prior to publication. Although it is recognised that on occasions individual Members may wish to highlight alleged shortcomings in the Council’s affairs, they should be mindful of the need for accuracy when drawing attention to matters which may impact on the Council’s reputation.
- 21.4 Members should not release confidential information to the Media.
22. **When things go wrong**
- 22.1 Occasionally a relationship between a Member and an officer may break down or become strained. An informal resolution, such as an explanation or apology, should always be explored first but sometimes this may not be possible and it is important for Members and officers to know how to pursue any complaint or grievance.



- 22.2 If a Member wishes to complain about an officer, he/she should raise it with the appropriate Service Director in the first instance. If the Member is not satisfied with the response, he/she may take the matter up with the appropriate Corporate Director and thereafter the Chief Executive. If the complaint relates to a Service Director, it should be raised with the relevant Corporate Director in the first instance.
- 22.3 Where the complaint relates to a Corporate Director, the Monitoring Officer or the Chief Finance (section 151) Officer, the Member should raise it with the Chief Executive. If the Member is not satisfied with the response he/she should raise it with his or her Group Leader, who should seek advice from the Service Director, Customer and Organisational Development on the appropriate course of action, which may include, in respect of the Monitoring Officer and Chief Finance (Section 151) Officer, activation of the Disciplinary and Dismissal Procedure for Statutory Officers. The Service Director Customer and Organisational Development should, where appropriate, consult with the Leader of the Council before action is taken.
- 22.4 Where the complaint relates to the Chief Executive, the Member should raise it with the Monitoring Officer, who will, in consultation with the Service Director, Customer and Organisational Development if necessary, determine the most appropriate course of action for dealing with the complaint, which may be through the Council's Complaints Policy or, where justified, by activating the Disciplinary and Dismissal Procedure for Statutory Officers. Where the complaint is dealt with through the Complaints Policy the Member may, if dissatisfied with the response, raise the matter with the Local Government and Social Care Ombudsman. The Monitoring Officer will keep the Leader of the Council and the relevant Political Group Leader (if different) informed at all stages of the process.
- 22.5 If an officer has a grievance about the conduct of a Member, he/she should take the matter up with his/her Service Director. If the officer is not satisfied with the response, he/she may take the matter up with the appropriate Corporate Director. If the officer is still not satisfied with the response, he/she may take the matter up with the Chief Executive. The Chief Executive will determine whether the case should be discussed with the Leader of the Council and/or relevant Political Group Leader as appropriate. Depending on the outcome of any such discussion, the Chief Executive may choose to ask the Monitoring Officer to deal with the matter in accordance with the Code of Conduct for Members and Co-opted Members.