

Standards Committee

- To:** Mrs Bainton (Independent Member, in the Chair)
Councillors Horton (Vice-Chair), I Waudby, Hudson and Taylor (CYC Members)
Mr Dixon, Mr Hall and Mr Wilson (Independent Members)
Councillors Crawford, Mellors and Forster (Parish Council Members)
- Date:** Friday, 23 January 2009
- Time:** 3.00 pm
- Venue:** The Guildhall, York

AGENDA

Note to Members:

This meeting will be followed by a short training session on delivering local determinations and setting sanctions (deferred from the meeting in November 2008). Exercises for this session will be circulated to members at the meeting.

If time allows, there will also be an informal discussion on the local assessment of complaints carried out to date by the Assessments Sub-Committee and Review Sub-Committee.

1. Declarations of Interest

At this point, Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Minutes

(Pages 3 - 4)

To approve and sign the minutes of the meetings of the Standards Committee held on 14 November 2008 (*to follow*) and 15 December 2008 (*attached*).

3. Public Participation

At this point in the meeting, members of the public who have registered their wish to speak, regarding an item on the agenda or an issue within the remit of the Standards Committee, may do so. The deadline for registering is 5:00 pm on Thursday, 22 January 2009.

4. Review of the Protocol on Officer/Member Relations (Pages 5 - 60)

This report presents details of the review of the Officer/Member protocol currently in place at City of York Council and asks Members to consider suggested amendments to the existing protocol.

5. Review of Work Plan (Pages 61 - 62)

To review the work plan for the Standards Committee for the 2008/09 municipal year.

6. The Bulletin of the Standards Board for England - December 2008 (Pages 63 - 70)

To receive and note the latest edition of 'The Bulletin', published by the Standards Board for England in December 2008.

7. Any other business which the Chair decides is urgent under the Local Government Act 1972.

Democracy Officer:

Name: Fiona Young

Contact Details:

- Telephone – (01904) 551027
- E-mail – fiona.young@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

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Would you like to speak at this meeting?

If you would, you will need to:

- register by contacting the Democracy Officer (whose name and contact details can be found on the agenda for the meeting) **no later than 5.00 pm** on the last working day before the meeting;
- ensure that what you want to say speak relates to an item of business on the agenda or an issue which the committee has power to consider (speak to the Democracy Officer for advice on this);
- find out about the rules for public speaking from the Democracy Officer.

A leaflet on public participation is available on the Council's website or from Democratic Services by telephoning York (01904) 551088

Further information about what's being discussed at this meeting

All the reports which Members will be considering are available for viewing online on the Council's website. Alternatively, copies of individual reports or the full agenda are available from Democratic Services. Contact the Democracy Officer whose name and contact details are given on the agenda for the meeting. **Please note a small charge may be made for full copies of the agenda requested to cover administration costs.**

Access Arrangements

We will make every effort to make the meeting accessible to you. The meeting will usually be held in a wheelchair accessible venue with an induction hearing loop. We can provide the agenda or reports in large print, electronically (computer disk or by email), in Braille or on audio tape. Some formats will take longer than others so please give as much notice as possible (at least 48 hours for Braille or audio tape).

If you have any further access requirements such as parking close-by or a sign language interpreter then please let us know. Contact the Democracy Officer whose name and contact details are given on the order of business for the meeting.

Every effort will also be made to make information available in another language, either by providing translated information or an interpreter providing sufficient advance notice is given. Telephone York (01904) 551550 for this service.

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Holding the Executive to Account

The majority of councillors are not appointed to the Executive (38 out of 47). Any 3 non-Executive councillors can 'call-in' an item of business from a published Executive (or Executive Member Advisory Panel (EMAP)) agenda. The Executive will still discuss the 'called in' business on the published date and will set out its views for consideration by a specially convened Scrutiny Management Committee (SMC). That SMC meeting will then make its recommendations to the next scheduled Executive meeting in the following week, where a final decision on the 'called-in' business will be made.

Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

Who Gets Agenda and Reports for our Meetings?

- Councillors get copies of all agenda and reports for the committees to which they are appointed by the Council;
- Relevant Council Officers get copies of relevant agenda and reports for the committees which they report to;
- Public libraries get copies of **all** public agenda/reports.

City of York Council

Minutes

MEETING	STANDARDS COMMITTEE
DATE	15 DECEMBER 2008
PRESENT	MRS BAINTON (INDEPENDENT MEMBER, IN THE CHAIR) COUNCLLORS HORTON (VICE-CHAIR) AND I WAUDBY (CYC MEMBERS) MR DIXON, MR HALL AND MR WILSON (INDEPENDENT MEMBERS) COUNCILLORS CRAWFORD AND MELLORS (PARISH COUNCIL MEMBERS)
APOLOGIES	COUNCILLORS HUDSON AND TAYLOR (CYC MEMBERS) COUNCILLOR FORSTER (PARISH COUNCIL MEMBER)

21. DECLARATIONS OF INTEREST

Members were invited to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda. No interests were declared.

22. EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That the press and public be excluded from the meeting during consideration of agenda item 3 (Minute 3 refers), on the grounds that it includes information relating to an individual. This information is classed as exempt under paragraph 1 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006).

23. MONITORING OFFICER'S REPORT INTO STANDARDS BOARD FOR ENGLAND LOCAL INVESTIGATION NO. SBE 21936.08

Members considered a report which presented the findings of an investigation into a complaint made against a member of Naburn Parish Council. The complaint had been received by the Standards Board for England (SBE) on 15 April 2008 and referred by the SBE to the Monitoring Officer at City of York Council on 2 July 2008. The Monitoring Officer had appointed an investigator to undertake the investigation on his behalf.

The investigator's conclusions, together with all supporting documents, were annexed to the report. Members were invited to decide, on the basis of the information supplied, whether or not they agreed with the findings of the investigator. If they did, then a notice to that effect would be issued. If they did not, then the matter would be referred for a hearing before the Standards Committee.

Having considered all the evidence supplied, it was

RESOLVED: That the findings of the investigator, that there was no breach of the Code of Conduct in this case, be supported.

REASON: The Committee agree with the conclusions set out in the investigator's report.

C BAINTON

Independent Member, In the Chair

The meeting started at 3.00 pm and finished at 3.35 pm.



Standards Committee – 23 January 2008

Report of The Head of Civic, Democratic & Legal Services

Review of the Protocol on Officer/Member Relations

Summary

1. This report concerns the review of the Officer/Member protocol currently in place at City of York Council. The review forms part of the actions arising from the findings of the recent Ethical Governance Health-check conducted in conjunction with the Audit Commission.
2. One area identified for further work was that of raising awareness of the different roles and responsibilities undertaken by officer and by elected members. The officer/member protocol is designed to assist in ensuring functional and professional working relationships between elected councillors and employed officers of the council. It seeks to do this by offering some guidance and clarity about the different roles of councillor. The existing protocol has been in place for some years and it is an opportune moment to review its content to look to see if it may be improved.

Background

3. The Member/Officer protocol can be found in most council constitutions and at CYC it is located at Part 5C. The purpose of the document is to offer guidance to Officers and Councillors as to aspects of their working relationships with each other.
4. It is recognised that the roles of Officers and Councillors differs significantly and that this difference can, in some instances, give rise to tensions or antagonisms. The Officers are paid employees of the Council itself, i.e. the corporate body of the council. They are employed to provide services and advice in the operational running of the council. They report to their line manager and ultimately all officers report to the Council's S.4 Officer, the Head of Paid Service (HOPS) who is invariably the council's Chief Executive. The Officers are not directly responsible to Councillors and their primary duty is to the interests of the council as a whole.
5. Councillors, on the other hand, have allegiances to their political groups which are entirely separate from the corporate body of the council and may have differing priorities and interests. Councillors also have a role as representing

the residents within their wards and here again the interests of the individual ward residents may not exactly mirror those of the council as a corporate body.

6. The difference in the roles can give rise to conflicts between officers and Councillors for instance where the Councillor is proposing action and the Officer advice is not supportive or is contradictory. There may be differences of professional judgement for instance relating to judgements about planning applications. Additionally, Officers may find themselves having to advise that a course of action is either not permissible within the legal framework or is represents a high risk to the Council. Experience has shown that in such circumstances, tensions can arise and Officers may, rightly or wrongly, feel under considerable pressure to temper their advice. The overriding consideration here is that local authorities are publicly funded bodies that must operate within a highly regulated environment and they must bare in mind the public interest when making decisions.
7. The results of the Ethical Health-check work conducted by the Audit Commission revealed that a small but significant number of senior officers at CYC who reported that they felt that they had been subjected to inappropriate pressure from Councillors in connection with the provision of advice or preparation of reports. In response to this finding the Council held two awareness raising sessions for Councillors and Officers and the review of this protocol is a further action in response.
8. In addition to the issue highlighted by the findings of the Ethical Health-Check another matter which has, to my knowledge, arisen in the day to day workings of the council is that relating to confidentiality particularly where that relates to advice provided to the administration in the formulation of its policy proposals. This is a particularly tricky area for Officers who can feel caught in the middle if asked to divulge the content of emerging policies whilst still in a draft state.

Review Process

9. I have concluded that the simplest way to get the review of this protocol underway is for me to provide the committee with an amended version of the existing protocol as a starting point and to include a number of examples of these protocols from other councils. I attach at Appendix A, the existing CYC protocol with some suggested amendments.
10. I have also attached in the appendices examples of the protocols taken from the following councils:-
 - a) Peterborough
 - b) Telford & Wrekin
 - c) Wigan MBC
 - d) Cheltenham BC

11. From the examples it is possible to see distinct approaches, for instance at the most basic level, length and complexity, Peterborough are clearly significantly more detailed in their approach than the other examples. I would say that having looked at around 20 council's protocols for the purposes of this report, the Peterborough protocol was the longest and most complicated that I found.
12. The difference in approach may result from the purpose which the authority regard the protocol as fulfilling. Is it intended to be guidance aimed directly at officers and councillors, or is intended as regulations that can be interpreted by the Monitoring Officer. I would say that the Peterborough model falls into the latter category.
13. I have approached my amendments on the basis that the protocol is intended to be directly accessible to both Officers and Councillors, and the public also. I have sought to reduce the length of the existing document by removing irrelevant information, and simplify the language where possible to make it easier to understand. I have also introduced a list of bullet points at the start of the protocol that are intended to capture the key messages for those who don't get past the first page or two. I have also sought to augment the protocol in certain areas such the provision of advice and preparation of reports.

Consultation

14. Following consideration of the amended version I shall invite comments and proposals from members of the standards committee as to whether the amended version will suffice, whether further amendments are necessary or whether you would like me to go away and re-draft the thing starting from scratch but following a different style. A further option is that of retaining the existing version unchanged.
15. In all but the last of these scenarios I would propose that the proposed draft version be circulated to representatives of the Officer cohort and of the Councillors. I would welcome suggestions on how to do this but at the very least would propose circulating it amongst all Councillors and amongst the Assistant Directors and Directors on the Officer side.

Options

16. There are three main options for the committee as follows:-
 - a) To retain the existing code unaltered;
 - b) To agree an amended draft version, based on the option existing one, such as the example at Appendix A, and instruct the Monitoring Officer to undertake consultation exercise and report the results of that consultation to a future meeting;
 - c) If the committee feels that a complete re-draft is required then it will need to agree the key elements of the revised document and highlight the particular style it wishes to see, and instruct the Monitoring Officer to prepare a draft document meeting the criteria set down.

Implications

17.

Legal	There are no legal implications arising from this report or the proposals it contains. There is no legal requirement that a local authority must have a member/officer protocol but it is almost universally the case that they voluntarily adopt such a document. Quentin Baker quentin.baker@york.gov.uk
Financial	There are no financial implications arising from this report or the proposals it contains.
Human Resources	There are no human resource implications arising from these recommendations.

Recommendations

18. I hereby recommend that the Standards Committee: -

- a) **Endorses the content and format of the existing protocol on Officer/Member relationships, or;**
- b) **The committee agrees an amended version of the existing document and instructs the Monitoring Officer to undertake a consultation exercise based on that proposed draft document and reports the results of that consultation back the committee in due course.**
- c) **If the committee is of the opinion that a more fundamental re-working of the existing protocol is necessary, it agree a set of proposed criteria concerning the style, content and format of the new document and instructs the Monitoring Officer to prepare a draft protocol in accordance with those criteria, to be reported back to the committee at the earliest opportunity.**

Contact Details

19.

Author:
Quentin Baker
Head of Civic Legal and Democratic Services

Chief Officer Responsible for the report:
Quentin Baker
Head of Civic, Legal and Democratic Services

Tel No.01904 551004

Specialist Implications Officer(s) None

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers:

Appendices:

Appendix A:- Existing protocol with amendments in tracked changes

Appendix B:- Peterborough City Council's Protocol

Appendix C:- Wigan MBC

Appendix D:- Telford & Wrekin BC

Appendix E:- Cheltenham BC

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PART 5C - PROTOCOL ON OFFICER/MEMBER RELATIONS

1 Introduction and Principles

1.1 The purpose of this Protocol is to provide a set of principles to guide Members and officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.

~~1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped however that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.~~

~~1.3 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity or certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that officers are protected from accusations of bias and undue influence from Members.~~

~~1.4 This Protocol reflects the principle 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 the Codes, therefore, demand very high standards of personal conduct.~~

~~1.5~~ 1.2 This Protocol should be read in conjunction with the Members' Code of Conduct, Employees' Code of Conduct, the Council's Constitution and any guidance issued by the Standards Committee, Audit and Governance Committee and/or the Monitoring Officer.

2 The Relationship: General Points

2.1 Both Councillors and officers are servants of the public, and they are indispensable to one another. But their roles and responsibilities are different distinct.

2.1.1 Councillors are responsible to the electorate and serve only so long as their term of office lasts. Members are representatives of the ward constituents and they also develop policies which will be implemented by the Officers.

2.1.2 Officers are responsible to the Council as a whole, they are employed by and ultimately responsible to the Chief Executive as Head of Paid Service. Their job is to provide professional advice and support to relevant parts of the Council in developing and implementing the policies and decisions.

2.2 These are very different roles and this may in some circumstances give rise to tensions and, as such, it is essential that the working relationship between Officers and Members is businesslike and founded upon mutual respect. At the heart of the Protocol is the importance of mutual respect.

2.2

2.3 Member/officer relationships should 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 or seek to exert undue influences on the other party.

3 Expectations

3.1 What can Members expect from Officers:-

- Political neutrality;
- A commitment to act in the interests of the Council as a whole and not to any one political group;
- A professional approach to the working relationship;
- An understanding of their role and its pressures;
- Timely response to enquiries;
- Professional advice;
- Confidentiality where appropriate;
- Courtesy and respect.

3.2 What can Officers expect from Members:

- Understanding of the requirements of their roles and an appreciation of competing calls on their time;
- A partnership working approach;
- Courtesy and respect;
- Political leadership and direction;
- Not to be bullied or subjected to inappropriate pressure;
- Acceptance of professional advice.
- Members shall act within the code of conduct at all times.

4 Specific Issues

4.1 Officer Advice and preparation of reports: – The provision of advice and the preparation of reports are central to the roles of many senior officers and they are under a duty to give their best advice in the interests of the Council as a whole. when carrying out these duties it is essential that they feel able to give full and frank advice even where this may not be supportive of a particular policy or decision promoted by a member. Members must not seek to unduly influence the content of any report or try to persuade an officer to change their professional advice when drafting their reports.

2.34.2 Social contact between Members and Officers:- Mutual respect between employees and Members is essential to good local government. Close personal familiarity between employees and Members that transcends the normal employer/employee relationship can potentially undermine Members' confidence in the political neutrality or even handedness of an officer ~~damage that relationship,~~ and should, therefore, should be avoided.

5 When Things Go Wrong

2.4

2.45.1 Procedure for Members:- From time to time the relationship between a Member

and an Officer may become strained for various reasons including the tensions mentioned above. In such circumstances it is essential that theA Member should not raise such matters relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol. An Officer has no means of responding to such criticisms in public. If a Member feels he/she has not been treated with proper respect, courtesy or has any concerns about the conduct or capability of an Officer and fails to resolve it through direct discussion with the Officer, he/she should raise the matter with the respective Head of Service/Assistant Director. The Head of Service/Assistant Director will then look into the facts and report back to the Member. If the Member continues to feel concern then he/she should report the facts to the appropriate Director, or if, after doing so is still dissatisfied, should raise the issue with the Chief Executive. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.

2.55.2 Where an Officer feels that he/she has not been properly treated with respect and courtesy by a Member, he/she should raise the matter with his/her Head of Service/Assistant Director, Director or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Head of Service/ Assistant Director, Director or the Chief Executive will take appropriate action either by approaching the individual Member and/or Group Leader or by referring the matter to the Head of Civic, Democratic and Legal Services for advice on how to proceed.

~~3 ——— The Relationship: Officer Support to Members: General Points~~

~~3.1 Officers are responsible for day-to-day managerial and operational decisions within the authority and will provide support to both the Executive and all Members in their several areas.~~

~~3.2 Certain statutory officers — the Chief Executive, the Monitoring Officer and the Chief Finance Officer — have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members.~~

~~3.3 The following key principles reflect the way in which Officers generally relate to Members:~~

~~(a) all officers are employed by, and accountable to, the authority as a whole;~~

~~(b) support from officers is needed for all the authority's functions including Full Council, Overview and Scrutiny, the Executive, individual Members representing their communities etc;~~

~~(c) day-to-day managerial and operation decisions should remain the responsibility of the Chief Executive and other officers;~~

~~(d) the Council should seek to avoid potential conflicts of interest for officers arising from the separation of the Executive and overview and scrutiny roles; and~~

~~(e) all officers will be provided with training and development to help them support the various Members roles effectively.~~

~~3.4 Where it has been decided that a named Officer is 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.~~

~~3.5 Officers within a Directorate are accountable to their Head of Service/Assistant Director and their Director and whilst officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Head of Service/Assistant Director or Director.~~

~~4 **The Relationship: Officer Support: Member and Party Groups**~~

~~4.1 It must be recognised by all officers and Members that in discharging their duties and responsibilities, officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.~~

~~4.2 Party groups are a recognised part of local authorities There is now 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 deliberations by party groups but must at all times maintain political neutrality. **All officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.**~~

~~4.34.2 In providing this support to party groups certain points must be understood by both officers and Members:~~

~~(a) Officer support must **not** be limited to extended beyond providing information and advice in relation to matters of a Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if it is recommended that officers are not present at meetings or parts of meetings where matters of party business are to be discussed.~~

~~(b) 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.

- (c) 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 committee or sub-committee when the matter in question is considered.

4.44.3 Special care needs to be exercised whenever officers are involved in providing information and advice to party groups or other meetings which include persons who are not Members of the Council or Elected Members. Such persons are not bound by the ~~Members' Code of Conduct National Code of Local Government Conduct~~ (in particular, the provisions concerning declarations of interest and confidentiality) and, for this and other reasons, Officers may not attend and/or give advice to such meetings.

4.54.4 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. However the confidentiality of information discussed in the presence of an officer cannot be guaranteed in all cases as it will be subject to the Freedom of Information Act.

4.64.5 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.

~~4.74.6 It must not be assumed by any party group or Member that any officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.~~

4.84.7 Any particular difficulty or uncertainty in this area of officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

5 ~~The Relationship:~~ Officer Support: The Executive

5.1 It is important that there should be a close working relationship between Executive Members and the Officers who support and/or interact with them. 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.

5.2 Whilst Executive Members will be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a professional duty to submit a report. A Director, Head of Service/Assistant Director will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. ~~This is to be distinguished from a situation where there is a value of judgement to be made. Any issues arising between an Executive Member, Head of Service/Assistant Director in this area should be referred to Chief Executive for resolution in conjunction with the Leader of the Council.~~

~~5.3 The Executive and its Members have wide ranging Leadership roles. They will:~~

- ~~(a) Lead the community planning process and service improvement to meet the challenge of the CPA process with input and advice from overview and scrutiny panels, ward committees and any other persons/partners as appropriate;~~
- ~~(b) Lead the preparation of the local authority's policies and budget;~~
- ~~(c) Take in year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Full Council; and~~
- ~~(d) Be the focus for forthcoming partnerships with other local public, private, voluntary and community sector organisations to address local needs.~~

~~5.4 Where functions which are the responsibility of the Executive are delegated to officers or other structures outside the Executive, the Executive will remain accountable to the Council, through overview and scrutiny, for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out.~~

~~5.5.3~~ Under Executive arrangements, individual Members of the Executive may, in some situations, be allowed to 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 with his/her delegated authority. This includes taking legal advice, financial advice and professional officer advice as well as consulting the Monitoring Officer where there is doubt about powers to act/vires.

~~5.6~~ Decisions taken by individual Members of the Executive give rise to legal and financial obligations in the same way as decisions taken collectively. Therefore,

Members of the Executive should always be aware of the legal and financial liabilities which will arise from their decisions. ~~To ensure effective Leadership for the Council and the communities it serves, there are arrangements to ensure co-ordination of and sharing of responsibility for Executive decisions including those made by individuals.~~

5.75.4 Officers will continue to work for and serve the Council local authority as a whole. However, as the majority of functions will be the responsibility of the Executive it is likely that in practice many officers will be working to the Executive for most of their time. The Executive must respect the political neutrality of the officers. Officers must ensure that their political neutrality does not appear to be is not compromised.

6 ~~The Relationship:~~ Officer Support: Overview and Scrutiny

6.1 It is not the role of Overview and 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 panels behalf. This means:

- (a) Overview and 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 Chief Executive to institute a formal enquiry, and Overview and Scrutiny may ask (but not require) him to do so.

6.2 Overview and 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, eg the Corporate Complaints Procedure, and external/statutory, eg Local Government Ombudsman, Standards Board for England or appeal to the Courts. However:

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

6.3 Wherever possible Overview and Scrutiny should provide written questions or details of indicative topics to someone invited to appear before a panel 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 Panel has previously indicated.

7 Members' Access to Information and to Council Documents

7.1 Members have the ability to ask for information pursuant to their legal rights to information. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Director, Head of Service or Assistant Director of the Directorate concerned. In cases of doubt Members should approach the Head of Civic, Democratic & Legal Services for assistance.

7.2 The legal rights of Members to inspect Council documents are partly covered by statute and partly by common law. Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted by the Council. This right applies irrespective of whether the Member is a Member of the committee or sub-committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to the documents relating to items which may appear as a confidential item on the agenda for a meeting.

7.3 In relation to the business of the Executive, by virtue of Regulation 17 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Registration 2000:

- (a) Where there is a meeting and there is a document which is in the possession/under the control of the Executive relating to the business to be conducted at the meeting, that document shall be available for inspection;
- (b) Where the decision is made at a private meeting by an Executive Member or is a Key Decision delegated to an officer, the document shall be available either after the meeting closes or when the decision is made;
- (c) There are exemptions for confidential material.

7.4 The common law rights of Members are based on the principle that any Member has a right to inspect Council documents so far as his or her access to the documents is reasonably necessary to enable the Member properly to perform his or her duties as a Member of the Council. This principle is commonly referred to as the "need to know" principle.

7.5 The exercise of this common law right depends upon an individual Member being able to demonstrate that he or she has the necessary "need to know". In this respect a Member has no right to a "roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must be determined by the particular Director or Assistant Director with advice from the Head of Civic, Democratic and Legal Services.

7.6 In some circumstances the Member will be expected to justify the request to inspect a document. In addition there will be a range of documents, which, because of their nature are either not accessible to Members or are accessible only by the political group forming the administration and not by the other political groups. An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft Committee reports, the disclosure of which prematurely might be against the Council's and/or the public interest.

7.7 Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, ie in connection with the proper performance of the Member's duties as a Member of the Council. Therefore, for example, early drafts of Committee reports/briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied, ie to brief the Member. [The members code of conduct contains specific rules about confidential information. This point is emphasised in the Members' Code of Conduct:](#)

~~“ A Member;~~

~~(a) — must not disclose information given to him or her in confidence by anyone without the consent of a person authorised to give it, or unless he or she is required to do so; and~~

~~(b) — must not prevent another person from gaining access to information to which that person is entitled by law”~~

8 Correspondence

8.1 Correspondence between an individual Member and an officer should not be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy to another Member, this should be made clear to the original Member.

8.2 Official letters on behalf of the Council should be sent in the name of the appropriate officer, rather than in the name of the Member. It may be appropriate in certain limited circumstances (eg, representations to a Government Minister) for a letter to appear in the name of an Executive Member or the Leader, but this should be the exception rather than the norm. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

9 Communication of Officer Delegated Decisions

9.1 Notwithstanding the rights of Members to information and to Council documents set out in this protocol. Officers taking decisions under delegated authority from the Executive must ensure that relevant Members have prompt information regarding the decision, the reasons for the decision and the impact of the decision.

9.2 For the purposes of this protocol “relevant Member” will include:

(a) Members of any Ward upon which the decision is likely to impact.

- (b) Members of the Executive and Shadow Executive where the decision falls within their portfolio area.
- (c) Members of any relevant Committee or advisory panel where if it was not for delegation to officers, the decision would be taken by that Committee or panel.
- (d) All Members of the Council where the decision is likely to have a corporate impact.

9.3 If any Member becomes aware that they have not been provided with the information in accordance with this protocol the matter should be raised with the appropriate Director and/or the Chief Executive.

10 Publicity and Press Releases

10.1 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.

~~10.2~~ Publicity is a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential to ensure that decisions on publicity are properly made in accordance with [the Code of Recommended Practice on Local Authority Publicity](#) ~~clear principles of good practice~~ and the Council's Media Protocol. ~~In addition the Government has issued a Code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code is issued under the provision of the Local Government Act 1986 as amended by the Local Government Act 1988 which provides for the Secretary of State to issue Codes of Recommend Practice as regards the content, style, distribution and cost of local authority publicity, and such other matters as he thinks appropriate. That section requires that all local authorities shall have regard to the provision of any such Code in coming to any decision on publicity.~~

~~10.3~~ 10.2 Officers and/or Members should seek advice from Head of Marketing and Communications when making decisions on publicity, and particular care should be paid to any publicity used by the Council around the time of an election.

11 Involvement of Ward Councillors

11.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Wards 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

Ward Members should be notified at the outset of the exercise. In addition officers should consider whether other policy or briefing papers, or other topics being discussed with an Executive Member should be discussed with relevant Ward Members. Officers should seek the views of the appropriate Executive Member(s) as to with whom and when this might be done.

12 Monitoring and Review

- 12.1 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.

MEMBER:OFFICER PROTOCOL

This document describes how city councillors and employees should work together. Mutual respect and goodwill are important underlying themes.

The protocols apply to city councillors, employees and co-opted members of council committees and panels. They recognise the contribution of politics and political groups, and complement other constitutional requirements such as Standing Orders, the Delegations Document and the Member and Officer Codes of Conduct.

There are separate protocols relating to *civic* and *media/pre-election publicity* activity.



MEMBER:OFFICER PROTOCOLS - A SUMMARY OF SECTIONS



2. USE OF TITLES IN CONSTITUTIONAL DOCUMENTS

<i>Chairman and vice-chairman</i>	The person chairing a meeting, and their deputy, whether male or female. The councillor holding office may choose their version of the title (eg. chairwoman or chair). Each chairman's choice of title should be respected.
<i>Mayor and Deputy Mayor</i>	The chairman and deputy of the full council meeting. Further details in the Civic Protocol.
<i>Members</i>	Councillors. The naming convention for councillors is 'Councillor' followed immediately by surname. Some councillors insert an additional title such as 'Mrs' or 'Dr' before their surname. Their choice of title format should be respected.
<i>Officers</i>	Council employees.
<i>The Executive</i>	The cabinet members, supported by officers. They deliver the Council's services, and make any decisions necessary within the Council's approved budget and major policy framework.
<i>Cabinet members</i>	Up to 9 councillors appointed annually by the Leader of the Council, plus the Leader. Each makes decisions about their own service area.
<i>The Cabinet</i>	The cabinet members meeting to discuss and make decisions collectively.
<i>The Leader of the Council</i>	The leading councillor and the Cabinet's chairman. Appointed annually by Council.
<i>A political group</i>	Most councillors, soon after election, sign up to a political grouping which may, but does not need to, bear the same name as a recognised political party. Each political group appoints a ' <i>leader</i> ' and a ' <i>group secretary</i> '. They may also appoint a ' <i>deputy leader</i> ' and make any other appointments which the group feels will help it conduct its affairs.
<i>The Administration</i>	The political group with the most seats is generally known as the Council's Administration, although sometimes a coalition of groups may collectively take on this role. Administration members form the Executive and are the chairmen for many or all committees.
<i>Group representatives</i>	Councillors identified by their political group to act as their main point of contact, for information or consultation, in relation to a particular subject.
<i>Directors</i>	First-tier officers responsible for a department; references to them in this protocol should also be taken to include the Chief Executive.
<i>Heads of service</i>	Second-tier officers responsible for a division within a department; they may also be known as ' <i>assistant directors</i> '. References in these protocols to heads of service include assistant directors and any other second-tier officers acting in a senior management role.

3. COUNCILLOR STRUCTURES

Each part of the Council's decision-making structure gets its authority from the law and the Council's Constitution. For more detail see the Delegations Document, Standing Orders and Procedural Rules. A summary of roles is:

The Council	All councillors collectively consider issues affecting Peterborough, and decide the major policy framework and the budget.
Ward members	Each councillor has a leading role and voice in their community, representing their constituents the Council and other public service agencies, and vice-versa.
The Executive	<p>Within the major policy framework and budget:</p> <ul style="list-style-type: none"> • provides public services, whether directly or through partnerships or contracts; • enforces regulations*; • decides local policies for service delivery and enforcement; • gives community leadership, a 'voice' for Peterborough. <p>(*Some enforcement matters are governed by regulatory committees instead of the Executive.)</p>
Overview and scrutiny committees	Contribute to policy development and review. Hold the Executive to account through scrutiny and challenge.
Regulatory committees	Decide quasi-judicial matters that are excluded by law from the Executive's remit (such as planning applications).
Officers	Provide services and carry out enforcement in accordance with the law and the Council's policies, using their delegated authority.

4. DECISION-MAKING PROTOCOLS

- 4.1 **The principles** of good decision-making are set out in Article 12 of the Constitution.
- 4.2 **Professional advice** should be taken before making a decision, including:
- relevant policy framework or previous decisions;
 - who has been consulted and relevant outcomes;
 - legal, financial/resource, equalities, community safety, human rights, etc implications;
 - alternative options.
- 4.3 **Administration policy** The Executive is not bound by previous Administrations. When the Executive wishes to make a decision contrary to past practice, officers will advise:
- is the practice mandatory or discretionary?
 - does current practice derive from a policy statement or precedent/an earlier decision?
 - was it decided by the current or a previous Administration?
- 4.4 **Cabinet business:**
- A **timetable** of meetings is agreed in Council's annual schedule but the Leader of the Council may add, vary or cancel meetings to provide efficient conduct of business. He or she will try to determine an arrangement that suits most Cabinet members.
 - Cabinet meetings deal mainly with cross-cutting, strategic issues. The Senior Cabinet Officer, in consultation with the Leader of the Council and Chief Executive, draws up the **agenda** taking into account the Forward Plan, other items on Cabinet's work programme and referrals from members, directors and committees. Any member who wants to put an item to Cabinet should contact the Cabinet Team who will liaise with the Leader of the Council and the member about how it should be placed on the agenda; this does not remove the member's constitutional right to place an item on the agenda.
 - When a **committee reports** to the Executive the Leader of the Council may, for example, require preliminary consideration by the relevant cabinet member. This does not remove the committee's right to refer a matter to the Cabinet without modification. The committee chairman or other representative(s) may attend to hear the debate and Cabinet's chairman may invite them to explain the recommendations briefly to Cabinet.
 - Officers will **brief each cabinet member** about any proposals relating to their service before the meeting. Their recommendations will be reflected within the relevant report.
 - **Ward councillors** should be consulted about matters specific to their ward. Comments submitted by them are included in the Cabinet report or tabled at the meeting. If they attend, the chairman may ask them to put their views briefly to the Cabinet meeting.
 - **Directors** usually attend all meetings. Other officers may attend for specific reports.
 - The Leader of the Council may request a **chairman's briefing** before the meeting, generally provided by the Chief Executive or another director.
 - With the Leader's agreement, an **informal Cabinet briefing** may discuss strategic issues faced by the Council. No decisions will be made at such briefings.
- 4.5 **Cabinet member business:**
- Individual members take **decisions** either at briefings with directors/departmental management teams, or at any other time provided that appropriate notice of any 'key decision' has been given and that the Cabinet Team is informed immediately after.

- Senior managers and cabinet members will build up **regular contact** to keep each other informed about developments, especially issues which may be sensitive or contentious. Briefings can be conducted in a variety of ways, the method being agreed between the member and officer to suit the subject matter and time constraints. There should be regular meetings to discuss strategic issues.
- Members should **brief officers** about their work in partnership or regional meetings, discussions held with outside organisations and constituents, conferences attended and any relevant training received.
- Officers should **brief members**, to help them prepare for meetings and discussions.
- Where it is unclear which **cabinet member to brief** about an issue the Cabinet Team will ask the Leader of the Council to highlight the appropriate member(s).
- The **Leader** of the Council meets the Chief Executive and the Cabinet Team regularly.
- **Other cabinet members** may meet the Chief Executive or the Cabinet Team as appropriate to discuss executive business.
- The Leader or other cabinet member may ask the relevant director to arrange a joint **briefing with group representatives**, particularly when developing proposals.

4.6 Overview and scrutiny protocols:

- The Scrutiny Team maintains a **work programme** for each committee including issues identified by the committee for scrutiny or review, items on the Forward Plan likely to require the committee's consideration, requests from the Executive for policy development work, and items referred by members or directors.
- An informal **quarterly co-ordination meeting** of overview and scrutiny chairmen and group representatives is convened by the Scrutiny Team, in consultation with the Scrutiny Committee group representatives. It may include briefing and training.
- The **agenda** for each committee meeting is prepared by the Scrutiny Officer from the work programme, mostly in conjunction with the group representatives. Any Executive or director's referral will usually be reported to the next ordinary meeting but the chairman and group representatives may agree to postpone it if they believe that the next meeting's agenda is already fully committed.
- Any individual **member referral** will be reported to the next ordinary meeting unless the member agrees to defer (for example, the group representatives may believe that the agenda is already full or the matter could be dealt with better another way). This does not remove the member's constitutional right to place an item on the agenda.
- **Group representatives' meetings** are convened and supported by the Scrutiny Team for most committees, in a regular cycle or when needed. They deal with agenda planning, adding/changing meeting dates, agreeing (where timescales are short) the final wording of a committee recommendation/report, and any other matters referred to them by the committee. Other relevant officers may attend. In the case of a policy overview committee, the lead director will usually facilitate the meeting.
- **Scrutiny** aims to identify improvement and will be conducted constructively and courteously, so that anyone being questioned can make a positive contribution. When **questioning** officers the committee should, as far as possible, confine itself to questions of fact and explanation, such as what policies are in force, the extent to which objectives are met and how services are being delivered. Officers may be asked

to explain and justify their own decisions. Questions about the Executive's conclusions and political choices should be directed to the relevant cabinet member.

- A guideline process for **reviews** will be maintained by the Scrutiny Team and promoted in training sessions for officers and members. The review scope, objectives and timetable should be set realistically, with regard to organisational capacity (member and officer) to sustain the likely workload. Agreed reviews will be supported by the Scrutiny Team, a lead officer from the relevant service and any necessary corporate support services (financial, human resources, policy, etc).
- **Research support** for members can be co-ordinated by the Scrutiny Team related to a policy area or decision that a committee is examining. The Team can advise upon avenues of enquiry and help to identify useful contributors. Other officers will provide support and briefings as necessary. If the Scrutiny Team or any other officer feels that an individual member request cannot be met without diverting time from priority work, they may through their director or head of service indicate to the requesting member that the research cannot be completed at present.
- It can arise that an activity is proposed where the director believes there is insufficient resource available. For example, there may be a **conflict of priorities**, or there may be no budget to carry out a survey or to commission an independent expert. In such cases the director should explain the situation to the committee or member. If priorities cannot be agreed, they should refer to the relevant cabinet member for guidance. If there is an **irreconcilable difference** between a committee or member's wishes and the relevant cabinet member's advice, this should be referred by the director to the Leader of the Council and Chief Executive for discussion.

4.7 **Regulatory committee business:**

- Democratic Services officers may prepare **agenda plans**, and an agenda planning meeting for the chairman and group representatives. The date should suit the majority of participants. Directors will summarise each potential issue for report, to help the representatives consider its appropriateness and request any relevant information.
- The agenda will try to ensure an appropriate **length of meeting**, so that members can retain concentration for dealing with complex applications and evidence, and to minimise the risk of participants and observers being kept waiting for items for unreasonably long periods. The agenda may therefore include specific timings within it.
- These committees often deal with matters involving consideration of applications and evidence. Members and officers participating must have **prior training** in and comply with the relevant legislation, codes of conduct and constitutional rules.
- When determining an application or appeal, the **procedure** will allow speakers for and against to hear the arguments put by others, all questions put and the answers given. Committee members should avoid suggesting any pre-formed opinion, bias or lack of openness and even-handedness during the sitting. Any member voting upon the case should not vote if they have been unable to hear all of the discussion about the item.
- **Site visits** required for planning applications will be arranged by officers, and members should not visit the sites unaccompanied on other occasions. Further details are included within the Planning Code of Conduct. If a member believes any other committee site inspection or visit should be arranged it would need to be approved by the relevant committee, taking account of budgetary provision for any related expenses.

5. OPEN GOVERNMENT

The City Council believes in open government and makes its decisions in public wherever possible. In particular:

The Forward Plan	A timetable of key decisions coming up in the next four months is published on the website and e-mailed to local media and other people upon request.
Council, Cabinet and committee meetings	<ul style="list-style-type: none"> • Agenda, reports and minutes published on the web and can be inspected at the Council's main office and at libraries. • Public seating available at meetings. The press and public are only excluded when the topics discussed are defined in law as confidential or exempt. • Public speaking is possible, within written guidelines, at Council and Planning & Environmental Protection Committee meetings. • At all public meetings visitors may observe but not participate. The chairman has discretion to allow non-committee members to speak, if it would help the meeting, but not join in the debate. • Where microphones are used, the meeting may be tape-recorded. Tape recordings are only usually taken for Council, Planning & Environmental Protection Committee, Cabinet and Scrutiny Committee meetings. Verbatim notes or tape transcripts of meetings are not compiled or published. A transcribed extract from a tape recording can be provided, within reason, upon request about a specific issue. <i>(This is current practice – to be debated by Cabinet).</i>
Cabinet member decisions	Every decision is published within two working days on the web and e-mailed to local media and others upon request. The decision record includes the reason for the decision and other options that were rejected.
Officer decisions and freedom of Information	Officers make many decisions, the majority of which are minor operational matters. When they make decisions of substance a file note is kept. Under freedom of information law, most Council documentation is opening to public inspection. The Council's scheme of documents open to the public is available on the web.

6. CONFIDENTIALITY

6.1 Personal data and exempt/confidential information:

- Councillors need information, explanation and advice to help them discharge their role. This may entitle them to information otherwise unavailable due to data protection restrictions (ie. personal data) and local government's access to information rules (ie. 'exempt' information). The Constitution's Access to Information Procedure Rules describe when a member may have a '**need to know**'. The Code of Conduct requires members to use any Council information properly, particularly confidential information.
- Officers may ask a member to explain their need to know information in accordance with the procedural rules. The **personal data flowchart** below also provides summary guidance. Advice can be sought from the relevant director or the Monitoring Officer, if anyone not sure what can be released to whom, and how it can be used.
- When a meeting considers an **exempt report**, all members and officers without direct involvement with the report (except directors, the lawyer and the committee officer) must leave. Only directors may access exempt or confidential reports that do not relate directly to their service area. Other requests for such information should be referred to the relevant director and, if not resolved, to the Monitoring Officer.

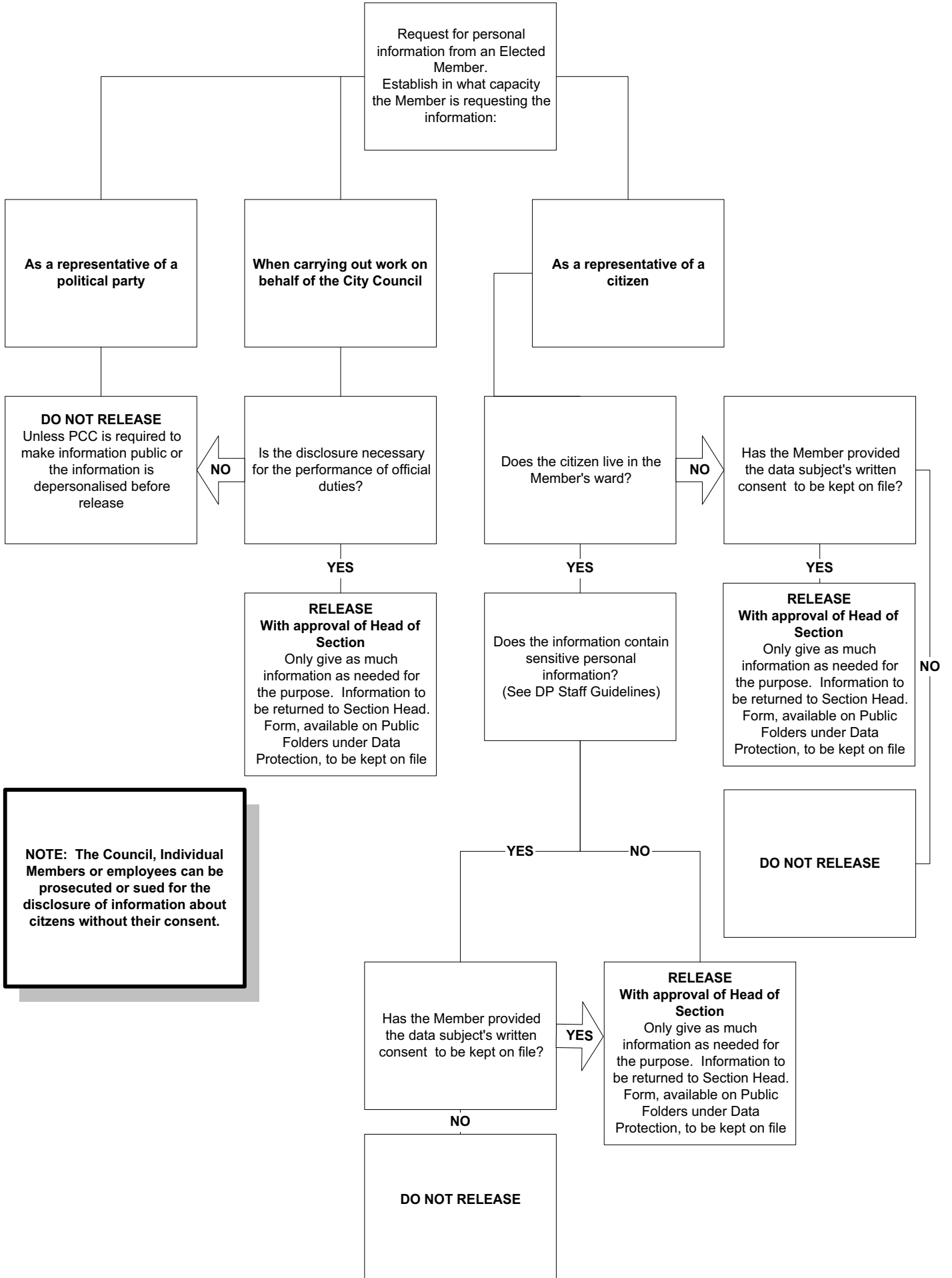
6.2 Confidentiality in briefings:

- Information **initiated** and volunteered by officers to members should be given to all political groups even-handedly.
- Information given **in answer** to specific member requests will not usually be shared with other members, unless the enquirer agrees. On occasions when an officer believes that information given to one member or political group should be shared with others, the officer will tell the requesting member or political group beforehand.
- Officers should not reveal their discussions with one member to another, including the relevant cabinet member, unless they told the enquirer beforehand that they would.
- Members should recognise that they may be involved in the early stages of a project or developing ideas, when it would be unhelpful for the matter to be discussed in public. If confidentiality has been requested, this should be respected.

6.3 E-mail and letter confidentiality:

- Because a member's *peterborough.gov.uk* e-mail account may be routed automatically to a private e-mail account, it is important to protect the privacy of the member's account address which may appear if their e-mails are forwarded.
- Officers who receive an e-mail or letter from a member should generally not forward this to colleagues or other members without first checking with the originator that this is permissible. If the permission is not given, then a new e-mail may be created which contains the gist of the original information. The reason for this is: firstly, the originator may not wish the content of the e-mail or letter to go further; secondly, they may not wish their originating e-mail address to be publicised.

DISCLOSING PERSONAL INFORMATION TO ELECTED MEMBERS



NOTE: The Council, Individual Members or employees can be prosecuted or sued for the disclosure of information about citizens without their consent.

7. ACCESS TO PREMISES

- 7.1 Officers may enter Council land and premises to carry out their work. Some officers are authorised by legislation and the Delegations Document to enter land and premises owned by other people or organisations.
- 7.2 Councillors have common law rights of access to Council land and premises to enable them to carry out their duties as a councillor, such as to attend a meeting they have been invited. If a member wants access in other circumstances they should make arrangements in advance with the appropriate director or the manager of the premises.
- 7.3 **Insurance** The Council has personal accident cover for members who are injured while carrying out their official duties as a councillor, and public liability cover against claims by a third party against a member while the latter is undertaking official duties. However, a member visiting Council premises outside the scope of official duties is only covered by the public liability policy as a member of the public. Thus, to claim, it would be necessary to prove that the accident/injury arose due to negligence of the Council or its officers.
- 7.4 **Building work** At sites where building work is in process, the contract conditions in force will specify that the site is in possession of the contractor and only certain officers (eg the supervisor) have right of entry. Anyone else must make contact with the contractor (through the relevant director or head of service) before going on site.
- 7.5 **Planning application sites** If they want to inspect a planning application site, members should make arrangements with the relevant planning officer who has statutory rights under Town & Country Planning law to enter the site. There are various situations where an occupier may be liable for injury sustained by someone on his or her premises, but the liability is reduced if the person was not invited by the owner so could be termed a trespasser.

8. WORKING WITH GROUP REPRESENTATIVES

- 8.1 **Why?** It is helpful for each political group to appoint a 'group representative' for each main service/subject area to make clear, for each group:
- who officers should inform about policy/service developments
 - who officers should consult, for advice and views about a policy/service
 - which contact names may be given to the media, when news releases are issued or if a media request is received;
 - who will respond to the various informal processes related to decision-making (such as agreeing meeting dates), with fair involvement of all political groups.
- 8.2 **Who?** A group representative is usually appointed for each committee. The chairman is automatically their group's representative. Groups may organise their group representation in other ways. If the designated representative is not clear, officers should ask the group leader or secretary who to contact. For cross-cutting/corporate issues, officers will usually inform and consult group leaders, unless they are asked to do otherwise by the group.
- 8.3 **How?** Directors and heads of service should have regular contact with each group representative for their service area. Where there is a vice-chairman relevant to the service area, they should also be kept informed, particularly if they are likely to cover for the chairman at a meeting. The members should, in turn, ensure that they maintain regular contact with the relevant director/heads of service. Each should build up a regular working relationship with the other. Confidentiality should be respected.
- 8.4 **When** Formal group representatives' meetings are usually arranged by Democratic Services. There should be regular briefings between group representatives and relevant senior managers, whether jointly or separately. They may include the cabinet member. The method chosen should be agreed between the director and representatives, to suit the subject matter

and time and other constraints of all parties concerned.

9. SUPPORT FOR THE WARD MEMBER ROLE

All members play an important role in their ward, providing community leadership at local level and acting as advocates for their constituents. Officers should be open and supportive, providing information and briefings both upon request and through the officer's initiative.

Ward members are entitled to:

- Briefing about local issues to help them represent the Council to the community and vice-versa.
- Find out about new issues from the Council first, not the media or other local sources.
- Help and advice about their ward. If their request cannot be met, they should be told why and the officer should suggest an alternative approach to meet their aims where possible.
- Notice of any Council consultative exercise that affects their ward, with an opportunity to submit views in time to have an influence, and also to be informed of local responses.
- Notice of public meetings arranged by the Council affecting their ward.
- Draft reports or decision notices, from the author, and any views shown in the final report/notice.
- All final Cabinet or committee reports affecting their wards, sent by Cabinet/Scrutiny officers with an invitation to submit written comments directly to the meeting.
- Attend the relevant meeting, at which the chairman of the meeting may invite them to speak.
- Raise ward issues through question times at Council meetings and at Cabinet.
- Notice, from the officer organising the event, of any official engagements by the Mayor in their area where these are ward specific. This only applies to events arranged by the Council and not to the whole range of the Mayor's numerous engagements within the community, notice of which is publicly available on the mayors' page on the Council website.
- An invitation to any ward meeting or site visit initiated by officers - either one joint meeting for all the ward councillors, or an equal opportunity for each to have a separate meeting.

Ward members should:

- Tell officers about local concerns, perspectives and ideas.
- Take complaints or service requests from local people to officers informally first. The issue will often be a misunderstanding rather than service failure, which can be resolved without escalation through formal channels. If a member is not happy with the response received, they should then generally contact the relevant head of service or director.
- Refer any constituent's specific formal complaint straight to the central Complaints Officer so that it can be logged and the Council's response can be arranged.
- Not 'jump the queue' for service delivery, for their residents and enquirers. Members should respect the Council's policies and service procedures.
- If receiving a request for help from a resident outside their ward, tell the resident who their local councillors are and only take up the request if the resident still asks them to.
- Not ask officers to attend a meeting or site visit in their ward where the public is expected to attend, without inviting the other local ward councillors. This does not apply to private meetings/site visits with officers or a ward 'walkabout' with an officer.

10. MEMBER AND OFFICER ROLES**Members**

- Responsible to the Peterborough electorate. Serve up to a four-year term of office.
- Give political direction for the Council's services. Determine policy for providing the Council's services. Carry out 'Best Value' reviews of council services.
- Scrutinise the effectiveness of council and local health services, monitoring performance against plans and targets. Actively contribute valuable local knowledge and experience.
- Hear applications and appeals about council services, where not decided by officers.
- Help residents, organisations or businesses to access services, acting as advocates for them.
- Lead the community, at council-wide and local levels. Speak for Peterborough in regional, national and international arenas.
- Work together across political divides as far as possible, for the benefit of the Council's services and Peterborough's diverse community.
- Promote partnership working with other service providers and local organisations, where appropriate.
- May be appointed to represent the Council on external organisations, such as a local health service management board or a community centre management committee. Attend regularly and keep the Council briefed about the organisation.

More detail about the role of members who take on special responsibilities is shown in the member roles at Appendix A.

Officers

- Employed by, and accountable to, the Chief Executive as 'head of paid service'.
- Serve all members, acting impartially. Support them in their work as ward members, as Executive or committee members and as Council representatives on other organisations.
- Make managerial and operational decisions about service delivery and enforcement, within delegated authority. Carry out the decisions made by members.
- Give professional advice about policy development and decision-making. Be aware of the political and sensitive nature of much of their work, and take steps to understand the political and media implications of their recommendations.
- Support and advise the Administration. While all members must be treated equally, officers must support the Administration's objectives and implement the Executive's policies. This inevitably means that a considerable amount of officer time is spent upon Executive business.
- Day-to-day partnership working and liaison with service users, residents, communities, public service providers, businesses and organisations. Inform and consult about council services.
- Liase with regional, national and international organisations, especially governmental organisations, in the interests of Peterborough.
- Advise appropriate cabinet member(s) of the results of the above consultations.

11. WORKING RELATIONSHIPS, IMPARTIALITY AND CONFLICT RESOLUTION

Dilemmas	Approaches
<p>Balancing time and priorities</p> <p>Members and officers have to balance many competing priorities, and may not always be able to respond to requests immediately</p>	<ul style="list-style-type: none"> • Members should explain their preferred timescale at the time of any request, especially if it is urgent, so officers can make informed judgements about competing requests and priorities. • Officers should take into account other demands (Council, work, other public appointments, etc) upon members. • Officers should not swamp members with written material. • Reports and letters should be concise and jargon-free. • Officers should not expect members to routinely respond to requests at short notice. Reasonable deadlines should be set and highlighted on the front of correspondence.
<p>Familiarity</p>	<p>Members and officers need open working relationships, but should treat close personal familiarity with caution. It could cause difficulties in terms of conflicts of interest, inadvertently passing on confidential information, or giving rise to suspicions of influence or favouritism.</p> <p>Members should not apply undue pressure on officers to undertake work outside their normal duties, procedures or working hours.</p> <p>Officers should not use their working relationship with a member to influence a decision in their favour, raise personal matters connected with their job or make allegations about other employees.</p>
<p>Proper conduct</p> <p>Members and officers are expected to →</p>	<ul style="list-style-type: none"> • perform their duties effectively and efficiently; • give timely responses to enquiries and complaints; • keep each other updated; • participate in briefings and training, to keep up to date with changing legislation, circumstances and roles; • understand and respect each others' roles and pressures; • not use their position to advance personal interests or influence decisions improperly; • comply with the Members' and Officers' Codes of Conduct.
<p>Conflict resolution</p>	<p>If a member feels they have not been treated with respect and courtesy, or their requests are being frustrated or dealt with inadequately, they should ideally first raise this with the officer concerned. If matter is not then resolved, they should then raise it with the director (or, if the director is the cause of the concern, the Chief Executive) either directly or through their group leader/group secretary. The senior officer will consider whether there has been a breach of the officer code of conduct, and any appropriate action.</p> <p>If an officer feels a member has been rude or placed unreasonable demands upon them, or a representative is not working with the lead officer, they should ideally raise this first with the member concerned. If the matter is not then resolved, they should raise it with their director (or the Chief Executive, if it is a director who is concerned), who will raise it with the member and/or the member's group leader, as appropriate. If it there may have been a breach of the members' code of conduct then the Monitoring Officer's advice will be taken.</p>

12. MEETING PROTOCOLS

- 12.1 **Meetings schedule** Council sets an annual schedule of dates for Council, the Cabinet and standing committees. This is confirmed at each annual council meeting for the municipal year just starting, and is rolled forward to a provisional Year 2 schedule at the same time.
- 12.2 **Variations to the schedule, and other meeting dates** Variations to the schedule, and dates and times of other committees or working groups not listed in the schedule, will be determined by the chairman, after prior consultation with group representatives. (In the case of Cabinet, there is no need for such consultation). The Cabinet/Scrutiny Officer will consult the group representatives (or, if time is short, another member of that group if the representative cannot be contacted) and the relevant lead officers. Chairmen will try to ensure that meetings are timed to be accessible to all members and officers who are required to attend. The Mayor determines any variation to the Council schedule, in consultation with group leaders.
- 12.3 **Timing** For a committee meeting, if there is disagreement about timing between the chairman and group representatives, the meeting will start at 5pm. If there is an unresolved dispute for a working group this will be determined by the parent body.
- 12.4 **Meeting cancellation** Any meeting may be cancelled if there is insufficient business. For Council this will be determined by the Mayor in consultation with the group leaders; for Cabinet meetings, by the Leader of the Council; and for all committees and working groups, by the chairman in consultation with the group representatives.
- 12.5 **Meeting conduct** The chairman's role is to maintain order, a business-like approach, an atmosphere of respect and a good flow of debate, following constitutional rules and also the common law of meetings wherever the Council's procedural rules are silent upon an issue. The chairman will allow adjournments for comfort breaks where reasonable, especially during the hearing of applications or appeals when any member who leaves the meeting may not participate in the vote at completion of the hearing.
- 12.6 **The meeting room** Most meetings take place at the Town Hall, but other venues can be used with the committee's agreement. The layout of seats and tables may be varied to create a more or less formal atmosphere, depending upon the nature of the business. When members of the public are participants (for example, at question and answer sessions or when speaking for or against an application), efforts will be made to ensure the layout is not intimidating. The aim is to help the person make a positive contribution.
- 12.7 **Refreshments** Soft drinks are made available at all meetings. Food will not usually be eaten at meetings which are open to the public and when decisions are being made, to avoid detracting or distracting from the seriousness of the business at hand. Refreshments may be appropriate where participants have been asked to attend across a meal-time.

13. ALL PARTY POLICY PLANNING BRIEFINGS (APPP)

- 13.1 These cross-party meetings are held regularly, usually on the last Thursday of each month excepting May, August and December. They allow the full Council membership to receive briefings, and ask questions and discuss points arising both informally and confidentially.
- 13.2 In general, one presentation per meeting will be arranged by Members Services Unit (in consultation with the APPP chairman) about contemporary, significant service and corporate issues. This may include external presenters.
- 13.3 Council will determine the date and time of APPP meetings, usually through the annual meetings schedule. The meeting itself will appoint its chairman.

14 OFFICERS' MANAGEMENT ARRANGEMENTS

14.1 **Corporate Management Team (CMT)** meets weekly to consider strategic issues affecting the Council. Formal meetings are serviced by Democratic Services, and chaired by the Chief Executive or a nominated director. The agenda is agreed with the Chief Executive or meeting chairman. Action points/minutes are made available within the Council. Typical issues discussed:

- draft Cabinet/committee reports and work programmes;
- new initiatives from government or other agencies and the likely impact on the Council;
- items requested by members, directors or heads of service;
- the outcomes and expectations of best value and other inspections;
- a workshop to discuss specific issues or as part of overall organisational development.

The Group usually sees all draft Cabinet reports before they are issued. It may request sight of draft overview and scrutiny committee reports based upon forward examination of the work programme. This allows strategic management of the authority's business.

14.2 **Departmental management teams (DMTs)** comprise the director and the heads of service for each division within a department, with other officers as necessary to give legal, financial, constitutional or other advice. They meet regularly to discuss strategic and operational matters. These meetings may include:

- meetings with the cabinet member and/or group representatives;
- organised training sessions about specific issues;
- feedback from the Executive, committee meetings and Directors' Group;
- inspection reports;
- Cabinet/committee work programmes and draft reports;
- service planning and employee related matters;
- contributions to and responses to corporate initiatives.

14.3 **Communications:** Consistent two-way communication between members, managers and other employees, is important, avoiding duplication. Communication channels include:

- Chief Executive's regular briefings open to all employees;
- service specific briefings – as and when necessary;
- weekly Members' Information bulletin and Members' Digest - officers should use these to reduce the reading burden for members and printing and distribution costs;
- newsletters for all employees and members and per department;
- information passed from CMT to DMTs to team meetings;
- one to one meetings with employees or councillors;
- shared computer databases.

14.4 **Politically restricted posts** All officer posts are impartial, but the following have a special political restriction by law: the Chief Executive; directors; the Monitoring Officer (i.e the Solicitor to the Council); and officers on a list which the Council must maintain of all posts which *either* have annual pay equivalent to or above pay spinal column point 44, *or* involve the officer in regularly giving advice to Council, the Executive, a committee or sub-committee, *or* regularly speaking on the Council's behalf to journalists and broadcasters.

Officers whose posts are "politically restricted" may not:

- hold office in a political party, act as an election agent or canvass on behalf of a political party or candidate for election;
- stand for election to a local authority (except to a parish council);
- speak in public, give interviews or publish any written work with the intention of affecting public support for a political party.

These restrictions do not affect the employee's family. They do not prevent the officers from, for example, displaying an election poster in a window of their home if they so wish.

15. SUPPORT SERVICES PROVIDED FOR MEMBERS

The Council may only help members to discharge their role as councillors, and may not use its resources for party political activity. Members will not ask officers to publish material that appears to seek public support for a political party, or to do work that would compromise their impartiality. Any such requests are referred back to the member for they or their party office to undertake.

Secretarial and administrative support for ward casework Provided by the Members Services Unit ('the Unit'). Carried out strictly in date order of receipt unless marked as 'urgent', and completed within three working days where possible.

May not refer to membership of/support for political parties. Local newsletter titles may be mentioned unless this places the impartiality of the Unit at risk. Political views may be expressed, if the correspondence includes a statement that it may not reflect the Council's views.

The Unit may interview constituents who phone or visit the Town Hall, take and record appropriate action on members' behalf. The constituent is kept informed of action taken and the member notified in writing, with copies of any correspondence instigated on their behalf. Correspondence is not be copied to another member, without prior consultation.

Member details Maintained by the Unit and Democratic Services secretaries. Published on the web, if the member's permission has been given.

Casework generated by ward surveys and feedback forms Can be undertaken by the Unit. Information such as service requests is taken from the survey form and forwarded to the relevant officer, to avoid circulating any material showing political bias. Officer replies are recorded and the ward resident contacted on the member's behalf. The Unit will not, however, produce or otherwise be involved in the implementation of the survey itself.

Ward profiles Available to members, on request to the Unit.

Members' post Despatched every Monday, Wednesday and Friday; only urgent mail sent on other days. The Unit will tell members about bulky items, to be collected from Group Rooms where possible to save postage. Members return envelopes to the Town Hall for reuse.

Multiple copies of sealed mail are checked by the Unit to see if they should be posted at the Council's expense. Inappropriate items (advertising, political material and junk mail, etc) are logged and placed in Group Rooms for collection by members. Political groups correspondence relating specifically to Council policy and business may be mailed in members' post.

Photocopying Each request judged on its merits. Maximum 250 copies per member per month or 3,000 per year. Members collect/distribute bulk copies; they are not mailed by the Council.

E-mail A *peterborough.gov.uk* address for all members, routed automatically where the member has a private e-mail facility available, and otherwise forwarded hard copy by the Unit. Hard-copy forwarding should not be used to conduct personal or party political business.

Ward surgeries Arranged by the member, but advertised by the Unit. The Unit pays invoices for surgery venues. Officers are not expected to attend members' surgeries.

Office supplies Reasonable supplies of letter-head paper, business cards and office stationery. Dictaphones, fax machines and replacement fax cartridges for Council use. Provided in Group Rooms, and for home use upon request from the Unit. Shredding available for council papers. (Allowances and ICT support are described in the Members Allowances Scheme.)

Car parking An annual bulk request to renew members' car parking permits.

16. POLITICAL GROUPS

- 16.1 Councillors may give notice of membership of a political group. Each group appoints a leader and secretary, may appoint a deputy leader and otherwise arranges its own affairs.
- 16.2 Private **political group meetings** may be held at the Town Hall. Members Services Unit will arrange, providing a secretariat service if requested, up to one meeting each month. These will usually follow the All Party Policy Planning meeting.
- 16.3 Officers may attend political group meetings on Council business. Any request for an officer to attend a Group meeting should be directed to the Chief Executive or relevant director, stating the subject matter. The Chief Executive or director will determine which officer(s) should attend, usually a second-tier officer or above. If they believe officer attendance would be inappropriate, they will discuss this with the group leader.
- 16.4 Officers must not advise group meetings about political or party business. Members and officers should avoid any conduct that could compromise officers' impartiality. Special care is needed if the meeting includes party representatives/observers who are not councillors. These people will not have signed the statutory Code of Conduct and do not have members' rights to information, so officers may not be able to provide the same level of advice. The meeting chairman will tell officers if there are observers present.
- 16.6 Confidentiality: the content of discussions will not be relayed directly or indirectly to members of another group or officers without the consent of the political group.
- 16.7 A **public political group meeting** may not be held at the Town Hall, to avoid any confusion in public perception as to the Council's official views about an issue.

17. MEMBERS' OFFICES

- 17.1 **Group Rooms** All Members have access to their 'political group room', which is not open to other members or officers. These are supported by Members' Services Unit.
- 17.2 **Members' Lounge** This is open to all members. It can be used when meeting visitors to discuss ward related issues and other council business. It may also be used by members to hold small meetings where it is not appropriate to hold these within the group rooms.
- 17.3 **Leader's office** The Leader of the Council is provided with an office, supported by Members' Services Unit.

18. MEMBER APPRAISAL, TRAINING AND DEVELOPMENT

- 18.1 **Service-specific briefing and training** This is arranged and funded by the service department. Attendance at external events should be approved in accordance with the Delegations Document. Any expenses incurred on behalf of an individual councillor must be notified to the Head of Democratic Services, both to track overall training provision and to ensure that legal requirements (see the Members' Allowances Scheme) are followed.
- 18.2 Members should receive appropriate training in order to sit on regulatory committees and also to undertake best value reviews.
- 18.3 **Corporately arranged briefing and training** A central budget is provided for corporately arranged members' training, managed by Democratic Services and advised by the Organisational Development section within Human Resources Division. A framework for allocating the central funds is overseen by Standards Committee to ensure that there is provision for the following categories: executive development; overview and scrutiny development; generic/cross-party skills development; and individual member requests

supported by their political group.

- 18.4 The Peterborough **Guide to Training and Development** for City Councillors highlights the skills needed to be a ward councillor, carry out scrutiny or serve on the Executive. It suggests a method for members to identify their training and development needs in a personal development plan. It can be used for a self- assessment with officers, on request.
- 18.5 The Chief Executive will maintain a database of members' training. This is used to develop an **annual training plan** for members.
- 18.6 Members attending an external training event/conference should feed back to the relevant director or head of service, to consider how the information learnt can be disseminated.
- 18.7 **Member roles** (Appendix A) have been drawn up to advise the independent remuneration panel. These can be used alongside the training guide, to help clarify learning needs, and also help members of the public to know what they can expect of elected members.
- 18.8 The Council does not operate a formal **performance appraisal** scheme for members. Standards Committee agreed that this would be impractical to operate. Members are ultimately held accountable by their electorate through local elections. Residents can find out about their councillors by means of contact details and explanatory information about members' roles provided in leaflets and on the Council's website.

19. OFFICER APPRAISAL, TRAINING AND DEVELOPMENT

- 19.1 The Council's learning policy recognises that all employees need to learn and develop. Each department is encouraged to have a training plan, reflecting the Council's and services' objectives and action plans. Officer attendance at briefings, courses, seminars and conferences is arranged and funded by the department's budget in line with their training plan and service plans.
- 19.2 Afterwards, the officer and line manager should evaluate whether the learning objectives were met and share learning, to maximise benefit from the investment in the event.
- 19.3 All employees should have a personal development plan reviewed at least annually through the appraisal (Staff Review and Development) process. Annual appraisal includes at least six-monthly meetings where the officer and manager review job description, achievements, progress with meeting current objectives, new objectives, learning needs and any other ways in which support could be given to improve the person's job and or performance.

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Wigan MBC

Member/Employee Protocol

This protocol is an attempt to codify the existing good practice in Member / Employee relations in Wigan, it is not intended as a prescriptive checklist. It also draws on codes in place elsewhere – notably those of the London Borough of Camden, and Ellesmere Port and Neston. It forms an important part of our code of corporate governance.

1. Introduction

1.1 An effective working relationship between members and officers is crucial to the successful operation of the Council's business.

1.2 Councillors are responsible to the electorate and serve until their term of office expires.

1.3 Officers are employed to advise the Council and to implement its decisions. Officer advice must be full and impartial and should include all relevant options. It must not seek to second-guess the decisions of members, for example by excluding presumed unpalatable options, and must be clear and professional at all times. Members should respect officers' political neutrality at all times. But members are entitled to reject officer advice and to give effect to their lawful policies even if these are clearly at variance with the views of officers. And members are entitled to seek advice and to call for a report to a committee on any matter within its terms of reference. It is by this means that the majority group is able to implement the policies on which it was elected, and the opposition groups are able to challenge the majority group's policies and put forward their own.

1.4 Relations between members and officers - For the effective conduct of Council business there must be mutual respect in all meetings and contact between members and officers. The basic tenets of common courtesy apply in both formal and informal settings. Members should be aware that officers are constrained in the response they may make to public comment from members, and should not abuse officers in public or through the press, nor seek to undermine their position by abuse, rudeness or ridicule. This in no way reduces members' proper right and duty to criticise the reports actions and work of a department or section of the Council, where they believe such criticism is merited. If members believe they have reason to criticise the work of an individual junior officer, the proper approach should be through the senior manager of the section or Director of the Department. Equally, where officers feel they have good cause to criticise a member, an approach by the relevant Chief Officer to that member's Group Leader is a sensible first step.

1.5 It is widely accepted that there will be informal contact between party political groups and employees at a senior level, often of a sensitive nature. This protocol is designed to provide a framework for contact between members and employees, both formal and informal, and to ensure that members and employees are as clear as they can be as to their roles and responsibilities in relation to each other.

2. Specific Issues

2.1 Every appointment to paid local authority employment must be on merit.

2.2 Political impartiality - Senior officers cannot be local authority councillors or MPs, nor can they "speak or publish written work for the public at large or to a section of the public with the apparent intention of affecting public support for a political party". Such officers are nevertheless able to engage in such activity to "such extent as is necessary for the proper performance of their duties". (Sections 1-3 Local Government and Housing Act 1989 and Local Government Officers (Political Restrictions) Regulations 1990.)

2.3 Officers are employed by the Council, not by committees or individual councillors, and are subject to the Council's employment procedures. Officers cannot be required to advise any political group of the Council, either as to the work of the Group or as to the work of the Council, nor can they be required to attend any meetings of any political groups. This is without prejudice to any arrangements to the contrary which may be made with any officer and which includes adequate safeguards to preserve the political neutrality of the officer in relation to the affairs of the Council.

2.4 Group meetings - Normally, only the Chief Officer shall be expected to attend meetings or write reports for a party political group. At the appropriate Chief Officer's discretion, other senior employees may on occasions be invited to attend or write reports. However, neither the Chief Officer nor any other officer can be so instructed. Officers shall only attend such meetings to give report and give advice on major issues, they should attend for the relevant item, answer questions, and leave prior to any decision being taken. This provision covers meetings of or reports to a party political group, or meetings designated for one party only. It is of course open to any panel or Cabinet to require a report from a Chief Officer on a matter within its terms of reference.

The principle above does not obviate the necessity for regular contact on matters affecting the Council between Chief Officers, other senior officers, and the leadership of political groups, and between Chief Officers, other senior officers, Cabinet members and party spokespersons.

2.5 Preparation of reports - Any report to a party political group from a senior officer should be written as if the report was being prepared for the relevant panel, and should include appropriate legal and financial advice. Political groups and Cabinet Members will often receive draft versions of reports in order that they may give preliminary consideration to the issues raised in them. There is nothing improper in this but there should be no expectation that reports will then be re-written.

Reports contain officer advice and if this is at variance with the wishes of members, the correct course is for members to reject the advice in open committee and for the committee to decide upon an alternative course of action. However, there is equally nothing improper in reports being amended by the Chief Officer if this preliminary consideration discloses that key issues have not been adequately explained or that relevant options have not been properly addressed.

2.6 Authorship of reports - Reports to committee or panels should be written by the Chief Officer or another officer authorised by him or her. The report is the officer's and may not be amended by the Cabinet member or any other member. Nor can a Cabinet member or any individual member instruct an officer not to present a report if the officer considers it proper to do so. If the Chief Officer's report is not regarded as appropriate by the Cabinet member, the remedy is for the Cabinet or panel to reject its recommendations or refer it back. Exceptionally the Cabinet member may write his or her own report in addition to the report submitted by the Chief Officer. In this instance the member should under no circumstances pressure the Chief Officer to withdraw the original report.

2.7 Decision making and political groups - Members and officers must understand that Council decisions can only be made by full Council, Cabinet, or Chief Officers/Cabinet members acting under delegated authority. Members and officers should not act on group decisions. Representations by interested parties on any matter for Council decision should be made to the appropriate committee, and not exclusively to a political group, at which officer advice on the points raised is unavailable.

2.8 Proper communication between members and officers - Chief Officers must recognise that it is their duty to keep members of all political groups (and not just members of the majority party) fully informed about developments of significance in relation to Council activities. Chief Officers must also report promptly to the relevant committee any significant failure to implement a decision of that committee.

As indicated above, regular contact between members and senior officers is necessary to ensure the efficient working of the Council. In this context, it is the responsibility of Chief Officers to identify within each department the senior officers who should have regular contact with members, and this will depend upon the nature of the service they provide and the nature of the member contact envisaged. Members may, for example, need direct contact with relatively junior staff in Housing District Offices

when dealing with constituency casework presented by tenants. But members should always bring major concerns about issues affecting a Department directly to the attention of the Chief Officer concerned. Chief Officers may issue instructions to their staff to ensure that this is the case.

Approaches by members to junior officers are proper when casework is detailed and ongoing or matters are routine, but wherever appropriate members should keep Directors of departments informed by copying them correspondence, e-mails, etc., and routing general enquiries through them. Serious problems can arise if members by-pass appropriate lines of communication to Chief Officers and their senior colleagues and, for example, deal with more junior members of staff to seek views on policy issues, non-routine business, or attempt to give instructions to staff. This has the effect of depriving members of the formal, informed and accountable advice they have a right to expect from Chief Officers and which they have a duty to consider. It may also serve to undermine the formal accountability of staff to their line manager.

2.9 Courtesy and complaints - Contact between members and officers should always be courteous both in public and in private. If an individual member has a complaint about a junior officer, it should be raised with the appropriate Chief Officer. If the complaint concerns a Chief Officer it should be raised with the Chief Executive as Head of the Paid Service. A complaint about the Chief Executive should be raised with the Leader, who will consider whether the issue can be dealt with as part of routine liaison, supervision and appraisal, or should be referred for formal action in accordance with Council procedures and the statutory provisions governing disciplinary action against local authority chief executives. This does not however preclude a member from making public, at a Council meeting or in another appropriate way, a concern about the manner in which a Council Department has acted, or dealt with a constituent, or a service has performed generally. Nor does it prevent members at formal meeting being critical of officer advice or action or of the quality of reports before them.

2.10 Social contact between senior officers and members is beneficial in a public setting and a work related context. For example, a Departmental management team may wish to invite members of the relevant service committee to an office Christmas lunch. However, a professional relationship must be maintained at all times and officers must be careful not to socialise with members of one political group to the exclusion of others. Social contact between a member and a more junior officer may also be appropriate providing this occurs openly and does not result in breaches of confidence or of management instructions, or the reasonable suspicion of them. Officers must always take care in such situations to avoid casting doubt on their impartiality.

2.11 Canvassing and departmental visits- Councillors should be aware that it can be a disciplinary offence for members of staff to seek to circumvent agreed staff consultative procedures by lobbying councillors on matters which directly concern them as employees. Councillors should also remember that informal contacts with staff should not be used to promote their own personal interests.

Members will frequently come into contact with junior officers when visiting Council establishments. Such visits are encouraged as they increase member understanding of Council services, provide reassurance to service users of the involvement of their elected representatives in monitoring services, and will often also be welcomed by staff, especially in services which operate from remote buildings. However, relevant Chief Officers should normally be advised in advance of member visits to front-line services, unless the visits are of a statutory inspection nature in which case other well-established procedures apply. Special circumstances may warrant unannounced visits, but members should take care not to disrupt organisations unreasonably. Visits to schools should be arranged through the Headteacher.

2.12 Close personal relationships between members and officers with whom they have, or are likely to have, contact in the course of their duties as a councillor are to be avoided. This includes close friendships between members and Chief Officers or Assistant Chief Officers and applies with particular force to sexual relationships. If such a relationship arises, the member or officer should disclose this to the Chief Executive who will consult with the Group Leader on the appropriate course of action.

Both members and officers should also avoid establishing business or contractual relationships with each other, or entering into loans or other financial obligations.

2.13 Assistance to all members - Officers have a duty to offer the same assistance and facilities to all members. This particularly applies to briefings, at which officers provide oral advice and information to members outside the formal processes of the Council. It is also appropriate to provide briefings to minority party spokespeople, especially in advance of complex matters being considered by a committee. They may be requested by the relevant members or offered by the Chief Officer, and are confidential in the sense that officers should not disclose matters discussed at such briefings to members of other parties. Individual members may also request briefings from Chief Officers from time to time on general issues affecting the work of the Council. It is the duty of officers to comply with reasonable requests of this kind.

2.14 Correspondence and confidentiality - Frequently, Members and officers correspond, and where not obviously confidential, such correspondence may, subject to the rules below, be copied by either the sender or the recipient to others. Correspondence should be courteous. Wide circulation of it should not be employed as a means of administering a public rebuke to the Council officer or Member. Members should, wherever possible, keep Directors of Departments informed by copying their correspondence, e-mails, etc. or approaching them directly for replies to general queries.

If an officer has information relating to a Ward which is of public or general interest then the information should be given to all Ward Members. Queries about individual matters are dealt with below.

If a Member requires information about an individual matter it is up to the Member formally to request the information. Information given to a Member following such requests will not be circulated to other Ward Members. If the Member requesting such information wishes to share it with his or her colleagues in the same political party then it is up to him/her so to do. This does not preclude a Chief Officer advising a Portfolio Holder or Committee Chair of an issue relevant to his/her portfolio nor does it preclude a Chief Officer giving routine updates on the progress of a project to all Ward Members.

If a Member asks for information about or relating to another Member or asks for comment upon another Member's conduct then the Member requesting the information must be told in writing that any reply will be shared with the Member to whom the information relates. If the Member making the request does not agree to this then they will not be given the information.

2.15 Access to Information - Members have wide-ranging legal rights of access to documents in the possession or under the control of the Council and officers should implement requests for information from members who need that information for the fulfilment of their duties as a councillor.

a) Normally, officers will accept that members do not ask for information without good reason and will not question the member's "need to know". But in the words of relevant legal judgements, a member has no right to a "roving commission" and "mere curiosity or desire" is not sufficient. Nor can the member exercise the right for some improper motive, e.g. to assist someone in litigation with the Council, its staff, suppliers or service users.

b) In rare cases, therefore a Chief Officer may apply the "need to know" test. The member will need to show why the information is necessary to fulfil Council duties. Where an officer considers that a member has not established a "need to know" in support of a request for access to information and refuses to provide the information requested, the officer shall state reasons for doing so.

c) A member asking for complex or bulky information should be flexible in his or her demands if compiling and reproducing the documentation results in significant cost to a department. The member will normally be able to retain material for a reasonable time, and to copy individual documents, but may not make use of such information for an improper purpose or one unrelated to the member's duties as a councillor.

2.16 Press and public relations – in dealing with the press and public relations, members and officers should refer to the code of recommended practice on local authority publicity

3. Legal Rights

Legal rights of councillors - Nothing in this code shall derogate in any way from any right of a councillor enshrined in law and such legal rights override any conflicting provisions in this code.

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Telford and Wrekin BC

Section 3 – Protocol on Member/Officer Relations

1. INTRODUCTION

- 1.1 The relationship between members and employees is an essential ingredient that goes into the successful working of the organisation. This relationship within the Council is characterised by mutual respect, informality and trust. Members and employees feel free to speak to one another openly and honestly. Nothing in this Protocol is intended to change this relationship, it is rather to help members and employees to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. The Protocol also gives guidance on what to do on the rare occasions when things go wrong. Responsibility for the operation of this Protocol lies with the Head of Human Resources
- 1.2 The Protocol must be read and operated in the context of any relevant legislation and national and local Codes of Conduct and any procedure for confidential reporting.

2. ROLES OF MEMBERS AND EMPLOYEES

- 2.1 The respective roles of members and employees can be summarised as follows:

Members and employees 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. Employees 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 Council, the Cabinet, and relevant committees, boards, panels etc.

Mutual respect between Councillors and employees is essential to good local government

2.2 Members

Members have three main areas of responsibility: determining the policy of the Council and giving it political leadership, representing the Council externally, and acting as advocates on behalf of their constituents. It is not the role of members to involve themselves in the day to day management of Council services.

2.3 Members of the Cabinet, Chairmen and Vice-Chairmen

Members of the Cabinet and Chairmen and Vice-Chairmen of Committees, Boards, Panels etc have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from, and more complex than those of members without those responsibilities, and this is recognised in the expectations they are entitled to have.

2.4 Opposition Members

As individual members of the Council, all members have the same rights and obligations in their relationship with employees and should be treated equally. This principle is particularly important in the context of scrutiny and overview. However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between employees, particularly those at a senior level in the organisation, and the administration will differ from that with opposition groups.

2.5 Employees

The role of employees is to give advice and information to members and to implement the policies determined by the Council.

Certain employees e.g. Head of Paid Service, Monitoring Officer, Chief Financial Officer (Section 151 Officer) and the Statutory Chief Officers have responsibilities in law over and above their obligations to the Council and its Members that they must be allowed to discharge.

3 EXPECTATIONS

Members can expect from employees:

- A commitment to the Council as a whole, and not to any political group
- A working partnership
- An understanding of and support for respective roles, workloads and pressures
- Timely response to enquiries and complaints
- Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of employees.
- Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold
- Awareness of and sensitivity to the political environment
- Respect, dignity and courtesy
- Training and development in order to carry out their role effectively

- Integrity, mutual support and appropriate confidentiality
- Not to have personal issues raised with them by employees outside the agreed procedures
- That employees will not use their relationship with members to advance their personal interests or to influence decisions improperly
- That employees will at all times comply with the relevant Code of Conduct

Employees can expect from members:

- A working partnership
- An understanding of and support for respective roles, workloads and pressures
- Political leadership and direction
- Respect, dignity and courtesy
- Integrity, mutual support and appropriate confidentiality
- Not to be subject to bullying or to be put under undue pressure. Members should have regard to the seniority of employees in determining what are reasonable requests, having regard to the power relationship between members and employees, and the potential vulnerability of employees, particularly at junior levels
- That members will not use their position or relationship with employees to advance their personal interests or those of others or to influence decisions improperly
- That members will at all times comply with the relevant Code of Conduct

4 WHEN THINGS GO WRONG

Procedure for employees

- 4.1 From time to time the relationship between members and employees may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or member, employees will have recourse to the Grievance Procedure or to the Council's Monitoring Officer, as appropriate to the circumstances. Within each portfolio, one male and one female manager will be identified to whom an initial approach may be made by a concerned employee. In the event of a grievance or complaint being upheld, the matter will be referred to the Chief Executive, who, having advised the Leader of the Council and the appropriate Group Leader will decide on the course of action to be taken, following consultation with the Chairman and Vice-Chairman of the Standards & Audit Committee.

Procedure for members

- 4.2 In the event that a member is dissatisfied with the conduct, behaviour or performance of an employee, the matter should be raised with the appropriate Head of Service. A member may choose to express their concern specifically to a male or female manager. Where the employee concerned is a Head of Service or Corporate Director, the matter should be raised with the appropriate Corporate Director or with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with the Head of Human Resources. If the matter cannot be resolved informally, it may be necessary to invoke the Council's Disciplinary Procedure.



PART 5 - CODES AND PROTOCOLS

PART 5C – PROTOCOL FOR MEMBER/OFFICER RELATIONS

1. Introduction - Respective Roles of Members and Officers

- 1.1 The purpose of this protocol is to guide members and officers of the Council in their relations with one another.
- 1.2 This protocol reflects the principles underlying the Code of Members' Conduct. The object of that Code is to enhance and maintain the integrity (real and perceived) of local government and demands high standards of personal conduct.
- 1.3 The Code of Members' Conduct (part 3 General Obligations) provides, inter alia, that :
 1. *You must treat others with respect*
 2. *You must not:*
 - (a) *do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006).;*
 - (b) *bully any person; and*
 - (c) *do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Council.*
6. *You:*
 - (a) *must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;*
7. (1) *When reaching decisions on any matter you must:*
 - (a) *have regard to any relevant advice provided to you by the authority's Officers – in particular by:*
 - (i) *your authority's chief finance officer; or (ii) your authority's monitoring officer,*

where that officer is acting pursuant to his or her statutory duties.

1.4 In line with the Code's reference to "respect" it is important that in any dealings between Members and Officers the parties should be courteous and that neither party should seek to take unfair advantage of his or her position.

1.5 The fundamental principles essential for ensuring proper relationships between Members and Officers are:

- (i) the political neutrality of Officers; and
- (ii) a clear understanding of, and respect for, their distinct roles.

2. **Political Neutrality**

2.1 The primary responsibility of any Officer is to serve the Council as a corporate body. Where this duty conflicts with any duty to individual Members of the authority then the duty to the Council shall prevail.

2.2 Officers must act apolitically, whether or not they hold politically restricted posts, and Members must try to avoid putting Officers, whether intentionally or otherwise, in situations where their political neutrality might be compromised or appear to be compromised. This would include actions such as applying pressure on an Officer to alter the presentation or substance of their advice in reports.

3. **Officers as Employees**

3.1 Officers are employed by the Council as a corporate body.

3.2 The Employment Rules (Part 4F of the Constitution) deal with the appointment, disciplining and dismissal of officers. In general terms members shall not be involved in such matters other in respect chief officers, deputy chief officers, statutory officers and political assistants.

3.3 Members can expect Officers to:

- Maintain confidentiality where necessary and lawful
- Perform their duties effectively, efficiently and with political neutrality
- Behave in a professional and courteous manner
- Be helpful to Members and respect their role
- Avoid close personal familiarity with Members and not use their relationship with Members to advance their personal interests or to influence decisions improperly
- Report to the Strategic Director any time a Member asks or pressurises the Officer to deal with a matter outside of Council Procedure or policy
- Demonstrate an understanding of and support for respective roles, workloads and pressures
- Comply with any relevant code of conduct

3.4 Officers can expect from Members:

- Leadership within the political sphere and direction
- Respect, dignity and courtesy
- An understanding of and support for respective roles, workload and pressures
- Not to be subjected to bullying or undue pressure, including through written and verbal communications
- Not to use their position or relationship with officers to advance their personal interests or those of others to improperly influence decisions
- Compliance with the relevant code of conduct

4. **Relationship between the Leader and Officers**

- 4.1 The Leader will be at the centre of the Cabinet and will need the close working support of a number of Officers, including, perhaps, a political assistant.

The relationship between the Leader and those Officers must never be, or give the appearance of being, so close as to bring into question the Officers' ability to deal impartially with other Members, especially those belonging to other party political groups.

- 4.2 If the Cabinet chooses to appoint a political assistant, he will be, and will remain, an employee of the Council, not of the Cabinet, and he will be subject to the same corporate obligations and conditions of service as all other Council employees, except where variations are specifically provided in his conditions of contract reflecting the particular nature of his post.

5. **Relationships between Members of the Cabinet and Chairmen and Officers**

- 5.1 It is clearly important that there should be a close working relationship between members of the Cabinet (whether or not they exercise personal executive powers), chairmen of overview and scrutiny committees and of other committees and the Strategic Directors, Assistant Directors and other senior Officers who support them in their respective roles.

However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party political groups.

- 5.2 Where a Director, Assistant Director or a senior Officer submits a report to the Cabinet, an overview and scrutiny committee or a committee, he will always be fully responsible for any part of its contents submitted in his name.
- 5.3 Whilst Officers should always seek to assist members of the Cabinet, a chairman or, indeed, any Member, they must not in so doing go beyond the limits of the authority they have been given by their Strategic Director.

6. **Area Committees, Partnerships et cetera**

- 6.1 The increasing involvement of the Council in various forms of partnerships with other bodies, and possibly Area Committees, creates situations where Members and Officers are drawn into new non-traditional working relationships. These could pose difficulties if Members and Officers lose sight of the fundamental principles which define their different roles.

7. **Officer Advice to Party Political Groups**

- 7.1 Party Political Groups are a recognised part of the local government structure and their role is recognised and facilitated by statute.

Officers may properly be called upon to support and contribute to deliberations by party political groups of matters likely to come before the Council, the Cabinet or committees. They must do so in ways which do not compromise their political neutrality.

- 7.2 The support provided by Officers can take many forms, ranging from a briefing meeting with a Cabinet member or a chairman to a presentation to a full party group meeting.

Whilst in practice such Officer support is likely to be most in demand from whichever party group forms the administration of the Council, such support is available to all party political groups.

- 7.3 Any request for an officer to attend a party group meeting should be made through the Chief Executive or the appropriate Strategic Director.

- 7.4 The following matters must be understood by all those participating in party political group meetings, Members and Officers alike -

- (a) Officer support 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 ;

- (b) party group meetings, whilst they may 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 can not in any way bind the Council;

- (c) where officers provide information to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for the obligation to provide all necessary information and advice to the Cabinet or the committee when the matter in question is considered;

- (d) any strategy or policy which may emerge from the meeting is that of the party group alone ;
- (e) 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 Code of Conduct and the statutory and other provisions concerning the declaration of interests and confidentiality, and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a Member only meeting.

- 7.5 Officers must respect the confidentiality of any party group meetings at which they are present in the sense that they should not relay the content of any such discussion to another party. Officers should not be requested to answer questions on such matters by Overview & Scrutiny Committees.

8. Support Services to Members and Party Political Groups

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

9. Members' Access to Information and to Council Documents

- 9.1 Members are free to approach the Chief Executive's Directorate or any other Directorate to provide them with such information, explanation and advice, especially about the functions of the Directorate concerned, 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 Directorate's activities to a request for specific information on behalf of a constituent. Such approaches should only be made to the Strategic Director or the relevant Assistant Director, unless they have agreed otherwise.
- 9.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 9.3 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Cabinet or committee meeting. These rights are summarised in the Access to Information Procedure Rules (Part 4D) and extend not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not however apply to documents relating to certain items which may appear as exempt items on the agenda (pink papers), to the advice of any

political advisor or to documents which are in rough draft or evolution and have not been finalised.

9.4 The common law right of Members is broader; it is based on the principle that any Member has a prima facie right to inspect Council documents so far as his or her access to the documents is reasonably necessary to enable the Member properly to perform his or her duties as a Member of the Council. This principle is commonly referred to as the “need to know” principle.

9.5 The exercise of this common law right depends therefore upon the Member’s ability to demonstrate that he or she has the necessary “need to know”.

In this respect a Member has no right to “a roving commission” to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the “need to know”. This question must initially be determined by the Strategic Director holding the document in question, with advice, if necessary, from the Monitoring Officer.

9.6 In some circumstances (e.g. a committee member wishing to inspect documents relating to the functions of that committee or a member of an overview and scrutiny committee wanting to be informed about a matter within the remit of that committee) a Member’s “need to know” will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms. It is unlikely that a Member will ever have a “need to know” in respect of personal details about individual officers.

9.7 Whilst the term “Council document” is broad and includes for example, any document produced with Council resources, it is accepted by convention that a member of one party political group will not have a “need to know”, and therefore a right to inspect, a document which forms part of the internal workings of another party political group.

9.8 A Member is not entitled to inspect any document, or have access to any information, about a matter in which he or she has a pecuniary interest or is acting in a professional capacity, for example, on behalf of a client negotiating with the Council or involved in litigation against the Council.

9.9 A Strategic Director or Assistant Director may refuse a Member access to a document for these or other good reasons such as the request being frivolous, vexatious or where a reasonable amount of information has already been provided. He must inform the Member in writing of the actual reason.

9.10 If a Member is not satisfied with a decision by a Strategic Director or Assistant Director, he or she may refer the matter to the Chief Executive, who having sought such advice as he considers appropriate, shall determine finally whether or not the Member should be given the access requested.

If the original request had been made to the Chief Executive and a Member is not satisfied with his decision, the matter shall be referred to the Monitoring Officer for determination.

9.11 Members also have the same rights as any member of the public to access to information under the Freedom of Information Act 2000 and the Environmental Information Regulation 2004.

9.12 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer.

10. **Involvement with Ward Councillors**

10.1 Wherever a public meeting is organised by the Council to consider a local issue, all the Members representing the ward or wards affected must 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 ward Members must be notified at the outset of the exercise.

11. **Public Meetings called by Individual Councillors or Party Political Group**

11.1 If an individual Member or a party political group convenes a public meeting, publicity for the meeting must clearly state the basis on which it is being held and should not state or imply it is a Council meeting.

11.2 Any request for an Officer to attend such a meeting must be made through the Chief Executive or the appropriate Strategic Director.

It must be made clear to those attending such a meeting that any Officer is there in his or her official capacity, is politically neutral and that his or her presence does not signify support for a particular political proposal or initiative. This is essential because of the need for Officers to act, and to be seen to act, impartially and to comply with any political restrictions under which they operate.

12. **Member/Officer Dealings and Correspondence**

12.1 Members should normally only deal with the Chief Executive, Strategic Directors and Assistant Directors unless they have specifically agreed that direct approaches can be made to specified officers. In this respect it is important that members should not take advantage of an officer's junior status in order to make demands which are inappropriate to that status. Members should also appreciate that junior officers may need to discuss with their line managers any requests made, or information (confidential or otherwise) provided, by the member.

12.2 Similarly Members should normally only address correspondence to the Chief Executive or the Strategic Director or the Assistant Director most concerned with the subject and those officers will normally reply personally. It is open to those officers to agree other arrangements such as enabling direct correspondence with their service managers or team leaders.

- 12.3 Correspondence between an individual Member and an officer should not normally be copied by the Officer to any other Member, unless the Member has himself or herself sent copies to other Members; in this case copies will normally be sent to those Members as well.

Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original member.

- 12.4 Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. in respect of executive matters or representations to a Government minister) for a letter to appear in the name of a Member, but this should be the exception rather than the norm.

Letters which create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

13. **Complaints**

- 13.1 Should a Member have cause to complain about the actions or failings of any Officer of the Council below Assistant Director level, he or she should lodge their complaint in writing with the Assistant Director responsible for that Officer. If the complaint is against an Assistant Director, the complaint must be lodged in writing with the Strategic Director. If the complaint is against a Strategic Director, the complaint must be lodged in writing with the Chief Executive. If the complaint is against the Chief Executive personally the complaint must be lodged in writing with the Monitoring Officer.
- 13.2 An Officer having cause to complain about the actions or failings of any member should lodge his or her complaint in writing with the Chief Executive and, where the complaint appears to involve an allegation of a breach of the Code of Members' Conduct, the Chief Executive will consult the Monitoring Officer.
- 13.3 Complaints should not be raised or referred to during council, committee or cabinet meetings, except for those expressly called for that purpose.

2008/2009 Work Plan for Standards Committee

Ongoing Activities

Local assessment of complaints
Standards Board Guidance
Member and Officer Training

Programme of New Work

<u>Programme of New Work</u>	<u>Meeting Date</u>	<u>Notes</u>
Follow-up on ethical governance workshops – Review of Member / Officer Protocol	14 November 2008	As discussed at meeting on 18 July 2008
Review of the profile and operation of the Standards Committee within the Council, and raising the profile of ethical issues generally.	14 November 2008	As discussed at meeting on 18 July 2008
Review of the Officer Code of Conduct	23 January 2009	As discussed at meeting on 18 July 2008

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THE BULLETIN



DECEMBER 2008

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Welcome to Issue 41 of the *Bulletin*.

The local government ethical framework has changed a great deal this year.

The standards agenda is now successfully embedded at the local level, with standards committees taking responsibility for the initial assessment of Code of Conduct complaints. Local case handling is in place for all complaints except for those the Standards Board has taken back in the public interest. Your commitment and hard work has ensured that the transition to the locally-based system has been smooth and successful.

In this, our final *Bulletin* of the year, we look back – with a review of the Standards Board's online monitoring system, and feedback from the Seventh Annual Assembly of Standards Committees. And we reveal the high performing authorities shortlisted for the Standards and Ethics category at the Local Government Chronicle Awards 2009.

We also look forward – at the new authority annual return that forms part of the Standards Board's online monitoring system, and to the forthcoming amendments to the Code currently under consultation by Communities and Local Government. In addition, we examine the work on governance and partnerships that the Standards Board is undertaking to help us provide guidance to authorities on ensuring high standards of conduct in partnerships.

Other articles in this *Bulletin* address some key issues arising from the first few months of local case handling. These include a summary of the submissions received in response to *Bulletin 40's* request for views on adjourning local assessment decisions.

Finally, I wish you all the very best for 2009.

Glenys Stacey
Chief Executive

Consultation on proposals for changes to the Code

Communities and Local Government (CLG) launched a Code consultation in October 2008. The consultation is on CLG proposals for changes to the Code of Conduct for members and the introduction of a model code for local government employees.

In the 2006 ruling in *Livingstone v Adjudication Panel for England*, the High Court decided that Section 52 of the Local Government Act 2000 required members to comply with the Code in their official capacity only, and that it could not govern the private conduct of members.

In issuing his judgement in the *Livingstone* case, Collins J invited Parliament to be explicit about whether it wanted private conduct to be covered by the members' code. Parliament took this opportunity and passed the Local Government and Public Involvement in Health Act 2007. The 2007 Act amended the 2000 Act to allow for the application of the members' Code to cover some conduct in a private capacity, where this has led to a criminal conviction.

The Standards Board for England supports CLG proposals for the new Code for members to cover the conduct of members in their non-official capacity, where that conduct would be a criminal offence. It is proposed that a 'criminal offence' shall be defined as any criminal offence which has led to a conviction in a criminal court, but for which the member does not have the option of paying a fixed penalty notice.

We have also made a number of suggestions for changes to the drafting of the Code, which we believe will make it easier to interpret and apply.

The Standards Board has long advocated the introduction of a standardised national officers' code, and supports CLG's proposals to do so.

The proposed model code is likely to operate a 'two tier' approach. Broadly speaking, the first tier would apply to all local government officers, and would be similar to the general obligations that members have under part one of the current members' Code. The second tier, which would include obligations to register and declare interests, would either apply to officers who are delegated to discharge functions on behalf of the authority or those in politically restricted roles.

CLG proposes that any code for officers should extend to officers of parish councils. We strongly believe that the code should be extended to employees of parish councils.

We recognise that this may be seen as overly bureaucratic for small parishes. However, they are a key component of local democracy and some of the more difficult cases that the Standards Board has dealt with in the past have involved issues with the clerk's conduct.

The consultation document can be found at www.communities.gov.uk. Anyone wishing to respond to the consultation – and we would urge you to do so – must respond by 24 December 2008. A copy of our response will be available on our website once it has been submitted.

New regulations laid before Parliament

On 18 November 2008, the Case Tribunals (England) Regulations 2008 were laid before Parliament. These complement the Standards Committee (England) Regulations 2008 and make provision about the sanctions available to a case tribunal of the Adjudication Panel for England. They will come into force on 12 December 2008.

In particular, these regulations ensure that from 12 December, case tribunals will have the power to censure a member, require them to apologise, attend training, or enter into a process of

conciliation. These sanctions are currently available only to councils' standards committees. Making these sanctions available to case tribunals will allow them to deal proportionately with cases that are referred to them, for example, because they are seen as very serious, but which the tribunals conclude are not so serious. It will also enable tribunals to deal appropriately with cases referred to them because a standards committee is conflicted out.

The regulations also make provision about certain administrative procedures to be followed in relation to cases before the Adjudication Panel and its case tribunals.

The regulations are available from the website of the Office of Public Sector Information, at: <http://www.opsi.gov.uk>.

The government intends to complete its reform of the standards framework in January 2009 by making further regulations following consultation, which will allow councils to establish joint standards committees. These regulations will also enable the Standards Board to suspend a standards committee's powers to assess Code of Conduct allegations, in certain circumstances where we consider this to be in the public interest. They will also revise the existing dispensation regulations.

What's the alternative?

Delegates were given advice on how to use alternative action appropriately at this year's Annual Assembly of Standards Committees, held in Birmingham.

The **Alternative Action Masterclass** considered the advantages of using alternative action when appropriate and also discussed its potential challenges.

Referral to a monitoring officer for alternative action (or other action) is an option open to an

assessment sub-committee when considering a new complaint or complaints – though it must consult its monitoring officer before doing this. Alternative action is a useful tool in specific circumstances where the allegations being made may be symptomatic of systemic problems within the council, which are more significant than the allegations in themselves.

In such cases, the assessment sub-committee needs to be satisfied that even if the specific allegation had occurred as alleged, it would not be in the public interest to investigate with a view to sanctioning. The assessment sub-committee must also be satisfied that other action could assist the proper functioning of the council. If alternative action is used, there is no investigation, no findings of fact and consequently there should be no conclusions drawn about whether members have complied with the Code of Conduct.

Delegates at the Annual Assembly were given examples of situations where alternative action might be appropriate. These included where there is evidence of poor understanding of the Code. They also included situations where there has been a breakdown of relationships within a council to such an extent that it becomes difficult to conduct the business of the council.

Speakers mentioned that if the assessment sub-committee decides on alternative action, then all involved in the process will need to understand that the purpose of alternative action is not to find out whether the member breached the Code. It is not appropriate for the assessment sub-committee to suggest an apology as a satisfactory form of alternative action. This implies that there has been a breach of the Code without there having been an investigation. Rather, the decision is made as an alternative to investigation. In addition, the purpose of using alternative action should be made clear, as should the time when the action is concluded.

Standards committees were told that once alternative action is initiated, they cannot go back and ask the monitoring officer to conduct an investigation. Furthermore, it should be seen as a way of moving forward constructively, rather than reiterating issues that have caused conflicts in the past.

Speakers advised delegates of the potential limitations of using alternative action – especially that it should not be seen as a ‘quick fix’. It is not always a cheaper substitute for investigation and requires resources for training, mediation and other steps that could be carried out.

During a Q&A session, perceived disadvantages of alternative action were highlighted. These include the feeling among those involved that their issues may have been “swept under the carpet”.

For more information on alternative action, please refer to our *Local Assessment of Complaints and Local investigations and Other Action guidance*, which are available on our website.

Annual Assembly materials online

More than 800 delegates attended the Standards Board’s Seventh Annual Assembly of Standards Committees. Delegate feedback has been extremely positive.

The presentations and handouts from the event are available from www.annualassembly.co.uk. We are also developing a web version of the materials from the popular **Planning Ahead** session, which will be available on our website from December.

The Eighth Annual Assembly will be held on 12 and 13 October 2009 and we are currently establishing the steering committee for the event. The committee will help us to develop ideas for session content and generate examples of best practice to share with delegates.

Introducing the annual return

The Standards Board for England will be collecting information from standards committees on their activities and on their arrangements for supporting ethical conduct each year, starting in April 2009.

This information will enable us to drive up the performance of standards committees and of ethical conduct generally by identifying and then sharing notable practice. We will also be able to identify and offer support to those authorities experiencing problems.

The annual return will complement the quarterly return. Maintaining an ethical environment not only requires processes and protocols, such as codes of ethics, but also a culture that supports them. Therefore, while the quarterly return for the most part focuses on case handling, the annual return will collect information that will allow us to understand the culture and wider ethical governance arrangements in authorities.

As well as drawing on existing research, we have also been consulting with several groups of monitoring officers and chairs of standards committees for their thoughts on what information we should request.

We are now developing the specific questions that will make up the annual return. In the meantime, we will be undertaking further consultation and piloting to ensure that we get these questions right.

For further information about the annual return, please contact Hannah Pearson, Research and Policy Adviser: **0161 817 5417** or email hannah.pearson@standardsboard.gov.uk.

Feedback on adjourning local assessment decisions

In *Bulletin 40* we produced an article about adjourning local assessment decisions to seek cooperation with other action from the subject member. We invited your views on what you think should constitute the most appropriate practice. A total of 29 authorities responded to this article. We would like to thank those who participated.

Of the responses received, 14 were strongly against adjournment and eight were in favour. In addition, three authorities felt that the alternative suggested in the article would be preferable. The alternative suggested was that when the standards committee sends the case for investigation, it lets the monitoring officer know that it might not consider the case to be as serious, if the member is willing to comply with other action. This would mean that if the member indicated they would comply with other action, then the monitoring officer should feel free to ask that the case be returned to the standards committee.

The remaining four responses expressed the view that either adjournment of the assessment decision or this alternative approach would be acceptable.

Feedback from the responses received indicated that the concerns stated in the article about adjourning a local assessment decision far outweighed the advantages. For those against adjournment, the main concerns were:

- There is a danger that contacting the subject member before a decision has been made could ultimately suggest that the member has breached the Code, without there being a finding of fact.
- A member who refuses to engage with proposed alternative action could undermine confidence in the standards committee and public perceptions of justice.
- Adjournment would risk not meeting the 20 working day target for decision.
- Significant costs could be involved even if the matter was relatively trivial.

Those in favour of adjourning before making a decision gave the following reasons:

- The member may be more likely to cooperate if they were made aware of the options available.
- The standards committee would be more confident when making a decision in the knowledge that the member would/would not engage in other action.
- Other action allows the monitoring officer to seek resolution locally without a formal investigation or public hearing and may therefore prove more cost effective. Adjourning an assessment decision to seek cooperation from the subject member may increase the chances of other action succeeding.

The Standards Board is very grateful to everyone who responded. We intend to issue further guidance on other action in 2009, incorporating the issue of adjournment.

References to the Adjudication Panel for England by a standards committee

The President of the Adjudication Panel for England has recently issued guidance on the circumstances in which the Adjudication Panel would consider accepting a reference from a standards committee.

This guidance is now available on the Adjudication Panel's website and can be downloaded from the 'Guidance and Procedures' section at www.adjudicationpanel.co.uk.

Review of online monitoring system

In August 2008, we conducted a review of the Standards Board's online monitoring system. This formed part of a programme of work to assess how well our new systems are working.

We conducted telephone interviews with a random sample of monitoring officers or those nominated by the monitoring officers to make the online submission. A total of 24 out of a potential 50 interviews were successfully completed. Thank you to all who participated.

As this was the first time that monitoring officers or nominated staff were asked to submit an online return, we were expecting some 'teething problems'. What we actually found was that the majority of comments received were positive. The simplicity of the form was valued, with the majority experiencing minimal or no difficulty in making their online submission. This was confirmed with 98% of authorities submitting their return on time.

A large majority (83%) of monitoring officers or nominated staff interviewed expressed the view that the system is working effectively. We asked interviewees if they had contacted the Standards Board for assistance with the completion of the online form. A proportion of those interviewed (25%) had contacted the Standards Board for assistance. We invited those that had made contact to rate the response received in terms of speed, politeness, helpfulness and clarity of advice provided. All respondents rated the response for all categories as very good.

Respondents were also asked how the Standards Board can improve the support we provide. We received some useful suggestions – such as having a confirmation receipt upon completion of the submission and receiving a reminder when the submission is due. We were also interested in finding out about any technical issues that you may have experienced and were

glad to hear that there were only minor technical problems.

We are now working to make improvements. The review does not end here and we will continue to carry out a review following the end of each quarter. We hope that this will ensure that we quickly pick up any problems you may be experiencing. We also look forward to speaking to some of you as part of the review of the second quarter of online monitoring.

If you have any questions about this review or future reviews of the system please contact Cara Afzal, Deputy Research and Monitoring Manager: 0161 817 5414 or email cara.afzal@standardsboard.gov.uk.

Six councils achieve top standards

The following local authorities are all in with a chance of winning the Standards Board-sponsored Standards and Ethics category at the Local Government Chronicle (LGC) Awards 2009:

- Ceredigion County Council
- Leeds City Council
- Lincolnshire County Council
- Newark & Sherwood District Council
- Newcastle City Council
- Rossendale Borough Council

The authorities were shortlisted, from a total of 22 entries, for their dynamic approach to improving and promoting ethical standards among members while boosting public confidence in local democracy. The judges were Glenys Stacey, Chief Executive of the Standards Board, Nick Raynsford MP, and John Tizard, Director of the Centre for Public Service Partnerships at the University of Birmingham.

Dr Robert Chilton, Chair of the Standards Board, said:

“All the authorities shortlisted have been committed and innovative in achieving or maintaining high standards of member conduct. They’ve done this with methods like training, member support and partnership work, and promotional initiatives among councillors, officers and the public.

“The Standards Board is pleased to lend its support to this award and it was great to see such an encouraging response to the call for entrants. Following the changes in the standards system back in May, it’s clear that plenty of authorities have embraced the chance to take ownership of ethical standards, and have begun to work proactively to endorse and promote the standards framework as well as managing their own complaints and investigations.

“We hope that many other authorities will follow suit.”

The winner will be selected from the shortlist and announced at the LGC Awards at the Grosvenor House Hotel in London on 25 March 2009.

Governance and partnerships – work with Manchester City Council

The Standards Board for England is currently undertaking research on how to ensure that authority partners are working to high standards of behaviour. This will enable us to provide guidance to local authorities and their standards committees.

Partnership-working is a growing and important way of operating. It could present a risk to public confidence if individuals and bodies involved in decision-making are not operating to a consistent and agreed standard of conduct.

Previous research undertaken for the Standards Board by the University of Manchester (Greasley et al, *The Components of an ethical environment*,

Institute for Political and Economic Governance, University of Manchester, May 2006) highlighted the problems of organisations when they come to work together. The research found differences in organisational culture, openness and transparency, inconsistencies in the codes of conduct that partners work to and differences in how codes of conduct are enforced.

We firmly believe that citizens should both expect and experience high standards of behaviour and probity wherever decisions are taken, or resources allocated, that affect lives and communities. Working in partnership should not compromise this.

As a minimum, local authorities should agree some shared values and standards of conduct with their partners at the outset of any joint working. These may be different for each and every partnership.

Our partnerships project aims to encourage high standards in partnership working. This will be done by creating a level playing field based on commitment to a set of agreed values and a description of appropriate behaviour.

It will achieve this through producing a description of appropriate behaviour in partnership with Manchester City Council and in consultation with the council’s partner organisations in the region. The description will illustrate appropriate behaviour in day-to-day partnership working based on the Nolan Principles of Standards in Public Life, and the experiences and needs of Manchester City Council and its partner organisations.

We intend that the work and learning from this project will be used as a basis for providing guidance nationally.

For further information on the governance and partnerships project, please contact Hannah Pearson, Research and Policy Adviser: **0161 817 5417** or email hannah.pearson@standardsboard.gov.uk.

Complaints about standards committees: Role of the Local Government Ombudsmen

Standards committees are within the jurisdiction of the Local Government Ombudsmen (LGO). Therefore it is possible to make a complaint to the LGO of maladministration causing injustice, as a result of some action or inaction by a standards committee or authority monitoring officer around the handling of a Code of Conduct complaint.

Parish councils are outside the LGO's jurisdiction. However, there is no jurisdictional bar to the LGO investigating the actions of a standards committee of a responsible authority regarding the committee's actions, which relate to a complaint about a parish councillor.

The LGO recognise that the Standards Board for England is the body established by statute to oversee member conduct. However, in some circumstances the LGO may wish to consider allegations of administrative fault where the complainant can claim to have suffered an injustice as a result of that fault.

A complaint to the LGO may only be made by, or on behalf of, a member of the public or a body other than a local authority or other public service body. A complainant must be able to claim a personal injustice. An elected member may only complain to the LGO about something which affects them personally as a member of the public. This can include actions of the authority's standards committee and officers carrying out functions in relation to the standards committee.

The Standards Board and the LGO have just signed a revised Memorandum of Understanding setting out our relevant jurisdictions and how we will work together effectively.

Further information about the work of the LGO is available at: www.lgo.org.uk.

NALC 'Stepping Stones' regional conferences

The Standards Board will be exhibiting at the National Association of Local Councils (NALC)'s Stepping Stones regional conferences which take place in spring 2009. The conferences aim to share good practice and provide a regional networking opportunity for councillors and officers in all tiers of local government. More information on our activity at these events will be available from our website soon.

The dates for the events are:

Wednesday 11 February

The Oak Tree Conference Centre, Coventry

Saturday 21 February

The Hospitium, York

Tuesday 10 March

The Council Chamber, Congress Centre, London