

# Part 5(d) – Protocol on Councillor / Officer Relations

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# Part 5(d) – Protocol on Councillor / Officer Relations

## 1. Introduction

### 1.1 Content

This Protocol has been developed for Southend-on-Sea Borough Council (“**the Council**”) by the Improvement and Development Agency for local government (IDeA). It sets out principles adopted by the Council for ensuring effective relations between Councillors and Officers.

### 1.2 Definitions

Unless the context indicates otherwise, references in this Protocol to the following terms shall have the following meanings.

- 1.2.1 **Councillor** includes a non-elected Co-opted Member as well as an elected Councillor.
- 1.2.2 **Councillor Body** includes the Council, the Cabinet, Scrutiny and Regulatory Committees, and all other Committees, Sub-Committees and Panels described in **Part 3, Schedule 2** of the Constitution.
- 1.2.3 **Cabinet Member** refers to the Leader and other members of the Cabinet under the Council’s Constitutional arrangements.
- 1.2.4 **Officer** means all persons employed by the Council.
- 1.2.5 **Chief Officer** means the Chief Executive, Deputy Chief Executives, Strategic Directors and Directors.
- 1.2.6 **Designated Finance Officer** means the Strategic Director (Finance & Resources) exercising the duties prescribed by law for the financial administration of the Council.
- 1.2.7 **Councillors’ Officer** means an officer who has been appointed to deal with Councillors and their enquiries on specific matters.
- 1.2.8 **Monitoring Officer** means the Strategic Director (Legal and Democratic Services) and is the officer with statutory responsibility for ensuring that the Council acts within the law and in accordance with its Constitution.
- 1.2.9 **Political Group** means any formally recognised group of elected Councillors who are either members of the same political party or independent Councillors.

## 2. Scope

- 2.1 This Protocol applies to relations between Councillors and its Officers.
- 2.2 It applies to Officers employed on a full time, part time or temporary basis and to agency staff. The Protocol does not apply to staff working for external organisations, such as South Essex Homes, although its general principles are recommended as good practice to Councillors in dealing with staff working for external organisations.
- 2.3 This Protocol does not apply to Councillors of Leigh-on-Sea Town Council unless they are also a Councillor of Southend-on-Sea Borough Council. It may, however, provide useful guidance to the Town Councillors.
- 2.4 This Protocol covers the main issues which may arise in Councillor-Officer relations, but it is not intended to be comprehensive. Councillors and Officers should seek advice from the Monitoring Officer on any matter not covered by this Protocol.

## 3. Purpose

- 3.1** Together, Councillors and Officers combine the essential skills, experience and knowledge to manage an effective public sector organisation. Councillors provide a democratic mandate to the Council whereas Officers contribute the professional expertise and experience to deliver the policy framework agreed by Councillors.
- 3.2** Whilst collaborative working is the accepted norm for Councillor and Officer relations at the Council, it is important to recognise and take account of their different roles. This is important for day-to-day interaction between Councillors and Officers and for the public perception of the Council, by ensuring transparency between the political role of Councillors and the professional, impartial role of Officers.
- 3.3** Mutual trust and respect between Councillors and Officers is at the heart of a council's good governance. They are essential if the partnership necessary for the effective running of a local authority is to succeed.
- 3.4** This may seem obvious. But what happens when relationships go awry? Where can Councillors and Officers turn for guidance? What mechanisms exist for addressing concerns? How can matters be improved?
- 3.5** Such questions point to the need for a written guide on the basic elements of the relationship between Councillors and Officers – a Protocol:
- To promote trust, openness, fairness and honesty by establishing some ground rules;
  - To define roles so as:
    - to clarify responsibilities
    - to avoid conflict; and
    - to prevent duplication or omission.
  - To secure compliance with the law, codes of conduct and a Council's own practices; and
  - To lay down procedures for dealing with concerns by Councillors or Officers
- 3.6** A Protocol should be recognised both as a central element of the Council's corporate governance and as a commitment to upholding standards of conduct in public life. It is one way of demonstrating to the public at large that local government is serious about protecting and enhancing its integrity and reputation. The Council has therefore adopted this Protocol governing relations between its Councillors and Officers as part of its governance arrangements in order to achieve the above objectives.
- 3.7** This Protocol seeks to maintain and enhance the reputation and integrity of local government in general and this Council in particular.

## **4.0 Status**

- 4.1** This Protocol establishes a set of principles to assist Councillors and Officers to work together.
- 4.2** Councillors and Officers must at all times observe this Protocol.
- 4.3** This Protocol is part of the Council's Constitution. Its importance is recognised by its adoption by full Council at its meeting on 26<sup>th</sup> February 2009, with the support of all political Groups represented on the Council.

## 5. Principles

5.1 Like all effective partnerships, Councillor-Officer relations are based on the following principles:

- Mutual trust and respect of the different roles of Councillors and Officers;
- A common purpose; providing the best possible service to the residents and other stakeholders of the Borough of Southend-on-Sea; and
- A commitment to non-adversarial resolution of disputes.

5.2 At the Council, mutual respect between Councillors and Officers is an essential part of the way we work. Conflict and challenge are inevitable and necessary parts of the democratic process in a local authority. Demonstrating mutual respect in instances where Councillors disagree with specific Council policies or actions demands the highest standards of personal conduct.

5.3 Mutual respect is based upon an understanding of the distinct contributions Councillors and Officers make and respect for the boundaries between those roles. A key principle for Officers is their political impartiality; they serve the whole Council and not particular groups or Councillors. This is particularly important for Chief Officers and other senior Officers, who are prevented by law from political activities beyond party membership.

5.4 Further, some Chief Officers hold posts with mandatory statutory responsibilities notably the Chief Executive, the Strategic Director (Finance & Resources) (the Designated Finance Officer) and the Strategic Director (Legal & Democratic Services) (the Monitoring Officer). Further information about this is provided in Article 12 in **Part 2** of the Constitution. Councillors must respect these duties and recognise that these Officers may be required to give advice or make decisions which Councillors may not agree with or support.

5.5 Councillors and Officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.

5.6 Whilst Councillors and Officers are indispensable to one another, their responsibilities are distinct. Councillors are accountable to the electorate and serve only as long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to Councillors (individually and collectively) and to carry out the Council's work under the direction of the Council.

5.7 To carry out their duties effectively, Councillors must have broad access to Council information. The following principles apply here:

- Councillors' enquiries will be dealt with promptly and effectively and within corporate time scales;
- Councillors' access to information will be compliant with their statutory and common law rights (see the Access to Information Procedure Rules in **Part 4(b)** of the Constitution);
- Officers will not, without good reason, withhold information from a Councillor who is entitled to receive it;
- Where confidential, personal or otherwise sensitive information is provided to a Councillor, that Councillor will not disclose it to any other person, without authorisation.

5.8 The Council has adopted a Members' Code of Conduct which is set out in **Part 5(a)** of the Constitution and an Employee Code of Conduct which is set out in **Part 5(c)**. The Members' Code is based on the general principles governing Councillors' conduct enshrined in law, vis:

- Selflessness – serving only the public interest
- Honesty and integrity – not allowing these to be questioned; not behaving improperly

- Objectivity – taking decisions on merit
- Accountability – to the public, being open to scrutiny
- Openness – giving reasons for decisions
- Personal judgement – reaching one’s own conclusions and acting accordingly
- Respect for others – promoting equality; avoiding discrimination; respecting others (Councillor / Councillor, as well as Councillor / Officer).
- Duty to uphold the law – not acting unlawfully
- Stewardship – ensuring the prudent use of a council’s resources
- Leadership – acting in a way which has public confidence

**5.9** The same principles underpin this Protocol. They will also be reflected in a new national Employee Code of Conduct which the Government consulted on in 2008.

**5.10** Until such time as a new national code appears, Officers are bound by the Council’s own Employee Code of Conduct and, in some cases, by the codes of their professional associations.

## **6. Roles**

### **Quick Guide to Councillor and Officer Roles**

<b>Councillors</b>	<b>Officers</b>
Democratically elected and accountable to the electorate	Employees accountable to the Council
Community leader for their ward	Serve the whole Council
Add a political dimension	Impartial
Set policy and strategy	Ensure operational delivery and provide advice
Bound by a statutory Code of Conduct	Bound by their contract of employment
Involved in Chief Officer appointments / disciplinary action only	Day to day management of staff

### **6.1 The Role of Councillors**

**6.1.1** Councillors have a number of different roles and need to be alert to the potential for conflicts of interest which may arise between them. Where such conflicts are likely, Councillors may wish to seek the advice of senior colleagues, the relevant Chief Officers, and / or the Monitoring Officer.

**6.1.2** Collectively, Councillors are the ultimate policy-makers, determining the core values of the Council and approving the Council’s Policy Framework, strategic plans and Budget.

**6.1.3** Councillors represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.

**6.1.4** Every elected Councillor represents the interests of, and is an advocate for, his / her ward and individual constituents. He / she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.

- 6.1.5 Councillors are responsible for the decisions taken by Councillor Bodies which they sit upon.
- 6.1.6 Some Councillors may be appointed to represent the Council on local, regional or national bodies.
- 6.1.7 As politicians, elected Councillors will make statements as representatives of the Political Groups to which they belong.
- 6.1.8 The role of Opposition Councillors in offering alternative policies and holding the Administration group to account will inevitably involve those Councillors sometimes criticising decisions taken by the Cabinet and Officers. All Councillors should take care to direct public criticisms at the Cabinet Members responsible for the service and not at the Officers who have implemented it. This applies irrespective of whether a decision has been delegated to Officers.

## **6.2 The Role of Officers**

- 6.2.1 Officers are responsible for giving advice to Councillors to enable them to fulfil their roles. In doing so, Officers will take into account all available relevant factors.
- 6.2.2 Under the direction and control of the Council (including, as appropriate, the Cabinet, committees and sub-committees), Officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 6.2.3 Officers have a duty to implement the lawful decisions of the Councillor Bodies and which have been properly approved in accordance with the requirements of the law and the Council's Constitution, and duly minuted.
- 6.2.4 Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
- 6.2.5 Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the Council.
- 6.2.6 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Councillors, the media or other sections of the public.
- 6.2.7 Officers have the right not to support Councillors in any role other than that of an elected councillor, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on Officers' involvement in political activities for those Officers employed in politically restricted posts.

## **7. Conduct**

### **7.1 Behaviour and Attitude**

- 7.1.1 The conduct of Councillors and Officers should be such as to instil mutual confidence and trust.
- 7.1.2 The key elements are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.

- 7.1.3 Councillors should be aware that Officers are constrained in the response they may make to public comments from Councillor. Councillor should not criticise Officers personally in public or through the press nor seek to undermine their position by abuse, rudeness or ridicule. This in no way reduces the right of Councillors to criticise, in a constructive manner, the report or actions of a department or section of the Council where they believe such criticism is well-founded.
- 7.1.4 Discussions and correspondence between Councillors and Officers should at all times be well mannered and professional.
- 7.1.5 Informal and collaborative two-way contact between Councillors and Officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection.
- 7.1.6 Councillors and Officers should inform the Monitoring Officer of any personal relationship between each other which might be seen as unduly influencing their work in their respective roles.
- 7.1.7 It is not enough to avoid actual impropriety. Councillors and Officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Councillor should not sit on a body or participate in any decision which directly affects the Officer on a personal basis.

## **7.2 Conduct of Scrutiny Reviews**

- 7.2.1 Chairs of Scrutiny Committees should maintain regular contact with the Officer(s) providing the principal support to the overview and scrutiny function. In consultation with chair, it shall be the responsibility of the latter to ensure that those who need to know of matters being considered or for possible future consideration are so informed.
- 7.2.2 A Scrutiny Committee or its chair acting on its behalf may require Officers to attend scrutiny meetings. Councillors should not normally expect junior Officers to give evidence but Chief Officers will be expected to comply with the Scrutiny Procedure Rules. All requests should be made to Chief Officers in the first instance.
- 7.2.3 When making requests for Officer attendance, members of Scrutiny Committees shall have regard to the workload of Officers.
- 7.2.4 It is recognised that Officers required to appear before a Scrutiny Committee may often be those who have advised the Cabinet or another part of the Council on the matter under investigation. In these circumstances, an Officer may have a conflict of interest, though not a personal interest. Both Councillors and Officers need to consider the severity of the conflict. If deemed appropriate, research and advice may be sought elsewhere.
- 7.2.5 Subject to 7.2.4 above, Officers should be prepared to justify advice given to a Councillor Body even when the advice was not accepted.
- 7.2.6 Officers must also be prepared to justify decisions they have taken under delegated powers.
- 7.2.7 In giving evidence, Officers must not be asked to give political views.
- 7.2.8 Officers should respect Councillors in the way they respond to their questions.
- 7.2.9 Councillors should not question Officers in a way which could be interpreted as harassment. Neither should they ask about matters of a disciplinary nature.



- 7.2.10** Scrutiny proceedings must not be used to question the capability or competence of Officers, Scrutiny Chairs and Councillors need to make a distinction between reviewing the policies and performance of the Council and its services, and appraising the personal performance of Officers. The latter is not an overview and scrutiny function.
- 7.2.11** In exercising the right to call-in a decision of the Cabinet, members of Scrutiny Committees must seek Officer advice if they consider the decision is contrary to the Council's approved Budget or Policy Framework, or is unlawful.

## **8. Decision making**

### **8.1 Decisions Made by Councillors**

- 8.1.1** All decisions made by Councillors are taken collectively in meetings of Councillor Bodies. Even Cabinet Members do not have individual decision making powers.
- 8.1.2** Councillor decisions will normally be taken on the basis of a written report containing recommendations. The recommendations in Officer written reports will reflect only the professional opinion of the Officer. Councillors shall not direct Officers in the framing of recommendations or seek to apply pressure to change the recommendations.
- 8.1.3** An individual Cabinet Member who is minded to write or commission a report must ensure that those other Councillors and Officers who need to know of the matter are informed. There is a particular requirement to involve other Cabinet Members on cross-cutting issues.
- 8.1.4** Councillors can be involved in taking decisions affecting individual members of the public (e.g. appeals panels) and individual Chief Officers and Officers. Councillors should ensure that they do not participate in any decision which affects an individual Officer with whom they have a close relationship and must be aware of the following obligations in the Members' Code of Conduct:
- 5(a) – You 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.
  - 6-11 – The rules on Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests.
- 8.1.5** Councillors serving on Councillor Bodies responsible for administrative and quasi-judicial matters such as planning and licensing decisions, should be aware of the laws and regulations affecting those decisions. Officers should ensure that Councillors of these Councillor Bodies have access to suitable training and Councillors should take up training which is offered.
- 8.1.6** Councillors are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
- 8.1.7** Chief Officers have the right to present reports and give advice to Councillor Bodies.
- 8.1.8** In taking decisions, Councillors must:
- Remain accountable to the whole electorate of the Borough and must balance the interests of the electorate as a whole, including those members of the public who did not vote for them.
  - Have regard to any advice provided by the Chief Executive, Designated Finance Officer or the Monitoring Officer.

- Avoid taking actions which are unlawful, financially improper or likely to amount to maladministration.
- Ensure decisions do not go beyond the terms of reference of the relevant Councillor Body as set out in **Part 3, Schedule 3** of the Constitution and in accordance with the Officer Delegations in **Part 3, Schedule 3**.

**8.1.9** At some Councillor Body meetings, a resolution may be passed which authorises a named Officer to take action between meetings in consultation with a Councillor. In these circumstances it is the Officer, not the Councillor, who takes the action and is responsible for it. (The same situation applies to action under Standing Order 46.) A Councillor has no power to take decisions on behalf of the Councillor Body, neither should he / she apply inappropriate pressure on the Officer.

## **8.2 Decisions made by Officers**

**8.2.1** Officers are responsible for implementing Councillor decisions and in the case of Cabinet decisions, Chief Officers will be responsible for instructing staff to implement decisions.

**8.2.2** Apart from the formal decision-making process, Officers work to the instructions of their managers and not individual Councillors. Officers will try to comply with all reasonable requests from Councillors but Councillors cannot instruct Officers to do any piece of work or take any course of action.

**8.2.3** Officers must observe the requirements set out in the Officer Delegations in **Part 3, Schedule 3** of the Constitution when taking decisions and ensure that decisions falling outside it are referred to the appropriate Councillor Body for decision, unless action is to be taken under Standing Order 46.

**8.2.4** When taking decisions under their delegated powers, Officers should be aware of decisions which are likely to be sensitive or contentious. In such cases, Officers should inform the relevant Cabinet Member(s) and where appropriate Ward Councillors of their intentions in advance. (See Section 9.5 for details of how Officers should support Ward Councillors.)

**8.2.5** Officers should also keep Cabinet Members informed in advance of any decisions which they take that have wider policy implications.

**8.2.6** While Officers will support, advise and respond to Councillors' requests, they must not be asked to exceed the bounds of authority they have been given by their managers.

## **8.3 Decisions affecting Council Staff**

**8.3.1** The roles of Councillors in employment matters are limited to:

- Determining significant Human Resources policies and conditions of employment; and
- The appointment and discipline of Chief Officers:

**8.3.2** Councillors shall not act outside these roles.

**8.3.4** If participating in the appointment of Chief Officers, Councillors should:

- Respect the confidentiality of the process and in particular the identity of candidates;
- Remember that the sole criterion is merit;
- Never canvass support for a particular candidate;
- Not take part where one of the candidates is a close friend or relative;
- Not be influenced by personal preferences; and
- Not favour a candidate by giving him / her information not available to the other candidates.

**8.3.5** Officers will not seek any support from a Councillor in any employment matter.

**8.3.6** When discussing or making decisions about industrial relations matters, Councillors must remember that they represent the Council as an employer and are not a representative of the employees. If a Councillor considers that they cannot undertake this task from this perspective, they should withdraw from this role.

## **9. Support for Councillors**

### **9.1 Councillors' Enquiries and Access to Officers**

**9.1.1** Councillors' enquiries may be made by any means, including verbally, email or in writing.

**9.1.2** Councillors should normally direct their requests and concerns in relation to policy, spending and other major issues to the relevant Chief Officer or to the Councillors' Officer. Failure to do so would have the effect of depriving Councillors of formal, informed and accountable advice they have a right to expect from Chief Officers, and which they have a duty to consider.

**9.1.3** Approaches by Councillors to other Officers are proper when they are seeking clarification of a response from that Officer or where the nature of the enquiry is routine and requires a detailed knowledge of the issue.

**9.1.4** Councillors' enquiries will be dealt with promptly and effectively. A substantive response to a Councillor enquiry should be sent within 10 working days of receipt.

**9.1.5** Officers receiving Councillors enquiries should ensure that if they are absent or unavailable for more than one working day that their email is checked by a colleague. Out of office email replies should always give an alternative contact.

**9.1.6** If it is not possible to respond within 10 working days, Officers must explain in writing:

- The reason for the delay;
- What action is being taken to pursue the enquiry; and
- A deadline by which a substantive response will be sent.

**9.1.7** Councillors' enquiries, which are in fact constituent complaints, will be handled under the Council's Complaints Procedure.

- 9.1.8** The Chief Executive, Deputy Chief Executives and Strategic Directors are responsible for ensuring that Councillor enquiries are dealt with promptly and accurately by their Departments / service areas.
- 9.1.9** In seeking to deal with constituents' queries or concerns, Councillors should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Councillors in the requested timescale and may need to seek instructions from their managers.
- 9.1.10** Where an enquiry imposes a disproportionate burden on Officers' work, this should be explained and discussed with the Councillor concerned and Chief Officers to agree an alternative deadline and / or response.
- 9.1.11** This Councillors' enquiry procedure supplements but does not replace the statutory and common law rights of Councillors to information.
- 9.1.12** Co-opted Members' rights of access to information will be limited to those areas that fall within the remit of the body to which they are appointed and their statutory rights.
- 9.1.13** An Officer should not copy correspondence which he / she has had with a Councillor to any other Councillor unless:
- That Councillor agrees; or
  - The other Councillor is entitled to the information under the Freedom of Information Act 2000 or the Data Protection Act 1998; or
  - The correspondence from the Councillor includes a circulation list with other Councillors names on it – when the response can be copied to the persons on the list; or
  - A response is being given to a question raised at a meeting of a Councillor Body – when the response can be copied to other Councillors.

The above does not prevent an Officer copying correspondence to other Officers, unless there are confidentiality issues.

A Councillor may copy correspondence which he / she has had with an Officer to other Councillor and third parties unless it contains confidential, personal or otherwise sensitive information. For the avoidance of doubt, correspondence containing such information should state that it is confidential (see Sections **5.7** and **9.3.5**).

## **9.2 Briefings for Political Groups**

- 9.2.1** Chief Officers may be asked to contribute to deliberations of matters concerning Council business by Political Groups.
- 9.2.2** Chief Officers have the right to refuse such requests, and will normally not attend a meeting of a Political Group where some of those attending are not Councillors.
- 9.2.3** Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Chief Officers must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.

- 9.2.4** Political Group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions. The presence of a Chief Officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.
- 9.2.5** Where Chief Officers provide factual information and advice to a Political Group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.
- 9.2.6** It must not be assumed that a Chief Officer is supportive of a particular policy or view considered at a Political Group meeting simply because he / she has attended or provided information to the meeting.
- 9.2.7** Chief Officers will respect the confidentiality of any Political Group discussions at which they are present and, unless requested to do so by that Political Group, will not relay the content of such discussions to another party group or to any other Councillors. This shall not prevent a Chief Officer providing feedback to other Chief Officers.
- 9.2.8** In their dealings with Political Groups, Chief Officers must treat each group in a fair and even-handed manner.
- 9.2.9** Councillors must not do anything which compromises or is likely to compromise Chief Officers' impartiality.
- 9.2.10** The duration of a Chief Officer's attendance at a Political Group meeting will be at the discretion of the group, but a Chief Officer may leave at any time if he / she feels it is no longer appropriate to be there.
- 9.2.11** A Chief Officer accepting an invitation to the meeting of one Political Group shall not decline an invitation to advise another group about the same matter. He / she must give substantially the same advice to each.
- 9.2.12** Only a Chief Officer shall be invited to attend a Political Group meeting.
- 9.2.13** A Chief Officer should be given the opportunity of verifying comments and advice attributed to him / her in any written record of a Political Group meeting.
- 9.2.14** No Councillor will refer in public or at meetings of the Council to advice or information given by Chief Officers to a Political Group meeting.
- 9.2.15** At Political Group meetings where some of those present are not Councillors, care must be taken not to divulge confidential information relating to Council business. Persons who are not Councillors are not bound by the Members' Code of Conduct. They do not have the same rights to Council information as Councillors.

### **9.3 Access to Information**

- 9.3.1** To carry out their duties effectively, Councillors must have broad access to Council information. This is a complex area which is subject to a wide range of legislation (particularly S.100 Local government Act 1972 as amended) as well as the common law and the detailed rules are set out in the Access to Information Procedure Rules (**Part 4(b)** of the Constitution) and Standing Order 28. The remainder of this section deals with some specific points.
- 9.3.2** Councillors' access to information will be compliant with their statutory and common law rights.

The common law right of Councillors is based on the principle that any Councillor has a prima facie right to inspect Council documents so far as his / her access to the documents is reasonably necessary to enable the Councillor properly to perform his / her duties as a member of the Council. This principle is commonly referred to as the “need to know” principle.

The exercise of this common law right depends therefore upon the Councillor’s ability to demonstrate that he / she has the necessary “need to know”. In this respect a Councillor 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 particular Chief Officer whose Department holds the document in question (with advice from the Monitoring Officer).

In some circumstances (e.g. a Committee member wishing to inspect documents relating to the functions of that Committee) a Councillor’s “need to know” will normally be presumed. In other circumstances (e.g. a Councillor wishing to inspect documents which contain personal information about third parties) a Councillor will normally be expected to justify the request in specific terms.

**9.3.3** Officers will not, without good reason, withhold information from a Councillor who is entitled to receive it.

**9.3.4** Any disputes relating to access to information will be referred to the Monitoring Officer for determination.

**9.3.5** Where confidential, personal or otherwise sensitive information is provided to a Councillor, they will not disclose it to any other person, without authorisation.

#### **9.4 Access to Premises**

**9.4.1** In order to fulfil their duties, if a Councillor wishes to have access to land or buildings in the occupation of the Council (to which the public do not have access and to which Councillors do not regularly have access) he / she shall apply to the relevant Chief Officer. Unless the relevant Chief Officer considers there are good reasons to deny access, permission shall be given, but it may be subject to conditions e.g. that the Councillor is accompanied by an Officer.

**9.4.2** No Councillor shall have access to any Council operated Homes, Childs Day Centres or Duty Services in Children & Young Peoples Services unless he / she has been DBS checked – and generally such inspections should be left to the Dignity in Care Establishments Visiting Panel.

**9.4.3** When making visits to Council land / buildings to which they do not regularly have access, Councillors should:

- Comply with any conditions imposed;
- Notify and make advance arrangements with the relevant Chief Officer or Officer in charge and report to the Officer in charge on arrival;
- Comply with health and safety, security and other workplace rules;
- Not interfere with the services or activities being provided at the time of the visit;
- If outside his / her own ward, notify the Ward Councillor(s) beforehand; and
- Take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

- 9.4.4** No Councillor may exercise any power of the Council to enter or inspect other land or buildings (i.e. not owned by the Council) unless specifically authorised by the Council (Standing Order 29).

## **9.5 Support for Ward Councillors**

- 9.5.1** To enable them to carry out their ward role effectively, Councillors need to be kept informed about matters affecting their ward. Chief Officers must ensure that all relevant staff are aware of the requirement to keep Ward Councillors informed, thus allowing Councillors to contribute to the decision-making process and develop their representative role.

- 9.5.2** This requirement is particularly important:

- During the formative stages of policy development, where practicable;
- 
- In relation to significant or sensitive operational matters;
- 
- Whenever any form of public consultation exercise is undertaken, and
- 
- During a scrutiny investigation.

- 9.5.3** Issues may affect a single ward. Where they have a wider impact, a number of local Councillors will need to be kept informed.

- 9.5.4** Whenever a public meeting is organised by the Council to consider a local issue, all the Councillors representing the wards affected should be invited to attend the meeting as a matter of course.

- 9.5.5** If a Ward Councillor intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he / she should inform the relevant Chief Officer. Provided the meeting has not been arranged on a party political basis:

- An Officer may attend, but is not obliged to do so; and
- The meeting may be held in Council-owned premises.

- 9.5.6** No such meetings should be arranged or held in the immediate run-up to Council elections. Further advice on this should be obtained from the Monitoring Officer.

## **9.6 Use of Council Resources**

- 9.6.1** The Council provides all Councillors with services such as typing, printing and photocopying, and goods such as stationery and computer equipment, to assist them in discharging their role as a Councillor. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities:

- Where facilities are provided in Councillors' homes at the Council's expense; and
- Regarding ICT use and security.

- 9.6.3** Councillors should not put pressure on Officers to provide resources or support which Officers are not permitted to give. Examples are:

- Business which is solely to do with a political party;
- Work in connection with a ward or constituency party political meeting;
- Electioneering;

- Work associated with an event attended by a Councillor in a capacity other than as a member of the Council;
- Private personal correspondence;
- Work in connection with another body or organisation where a Councillor's involvement is other than as a member of the Council; and
- Support to a Councillor in his / her capacity as a councillor of another local authority.

## **10. Public Relations**

### **10.1 Relations with the Media**

**10.1.1** The Media & Communications Team is responsible for:

- Making official press / media statements relating to the functions and business of the Council, consulting with the relevant Cabinet Member, Committee Chair or Officer as appropriate; and
- Dealing with day to day media enquiries.

In making a press / media statement regard must be had to the law on local authority publicity and the relevant Code of Practice.

**10.1.2** Cabinet Members and Committee Chairs may also make statements to the press / media on Council matters and may represent the Council in media interviews. If a Cabinet Member or Committee Chair wants to speak to the press / media in a personal capacity or as a representative of their political group they should make this clear at the outset.

**10.1.3** If other Councillors wish to speak to the media then they will do this in a personal capacity or as a representative of their political group.

**10.1.4** Chief Officers (or their nominees) may deal with any request for information or questions asked by the press / media and may represent the Council in media interviews.

**10.1.5** Any Councillor or Officer who speaks to the press / media on an issue should:

- Be sure of what he / she wants to say or not to say;
- Consider the likely consequences for the Council of his / her statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions);
- Never give a commitment in relation to matters which may be subject to claims from third parties and / or are likely to be an insurance matter;
- Consider whether to consult other relevant Councillors; and
- Take particular care in what he / she says in the run-up to local or national elections to avoid giving the impression of electioneering, unless he / she has been contacted as an election candidate or political party activist.

**10.1.6** Press releases or statements made by Officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.

**10.1.7** Before responding to enquires from the media, Officers shall ensure they are authorised to do so.



**10.1.8** Likewise, Officers will inform the Council's Media & Communications Team of issues likely to be of media interest and when they have been contacted by the media, since that unit is often the media's first point of contact.

## **10.2 Correspondence**

**10.2.1** Official letters written on behalf of the Council should normally be in the name of the relevant Officer. It may be appropriate in some circumstances (e.g. representations to a Government Minister) for letters to appear in the name of a Cabinet Member or the chair of a Committee.

**10.2.2** The Mayor may initiate correspondence in his / her own name.

**10.2.3** Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a Councillor.

**10.2.4** Councillors should not include criticisms of Officers in correspondence (including e-mail). Similarly Officers should not include criticisms of Councillors or other Officers in correspondence.

**10.2.5** Copying Officer / Councillors correspondence to others – see Section **9.1.13**.

## **11. Ceremonial Events**

**11.1** Ceremonial events would normally be attended by the Mayor or Deputy Mayor of the Council unless specifically related to initiatives led by the Cabinet in which case the relevant Cabinet Member would attend.

**11.2** In addition, Ward Councillors should be informed and where possible and appropriate, invited to participate.

## **12. What to do when things go wrong**

### **12.1 Informal resolution of disputes under this Protocol**

**12.1.1** The key principle for dispute resolution is that both Councillors and Officers are committed to informal, non-adversarial solutions. Where a dispute arises, the first step should be for both parties to seek to resolve any differences informally between themselves or, where necessary, with the assistance of a Chief Officer.

**12.1.2** When an informal resolution is not possible, the following processes will apply.

### **12.2 Submitting a formal complaint alleging a breach of this Protocol**

**12.2.1** If any Councillor or Officer wishes to make a formal complaint about another Councillor or Officer alleging a breach of this Protocol, they should submit the complaint in writing to the Chief Executive.

**12.2.2** In the case of a complaint against a Councillor, the Chief Executive will determine, in consultation with the Monitoring Officer, whether the complaint also indicates a breach of the Members' Code of Conduct and if so the complaint lies to the Standards Committee. All other allegations that there has been a breach of this Protocol will be dealt with by the Chief Executive who will resolve the matter as he / she thinks fit.

**12.2.3** In the case of a complaint against an Officer, the Chief Executive will determine, in consultation with the Strategic Director (Transformation), whether the complaint indicates a breach of the disciplinary rules and if so the matter shall be dealt with in accordance with the disciplinary policies. All other allegations that there has been a breach of this Protocol will be dealt with by the Chief Executive who will resolve the matter as he / she thinks fit.