SECTION 21

21. Protocol On Member / Officer Relations

21.1 Introduction

The purpose of this Protocol is to guide Members and Employees of the Council in their relations with one another.

21.2 Mutual respect between Members and Employees is essential to good local government. However, close personal familiarity between individual Members and Employees can damage this relationship and prove embarrassing to other Members and Employees.

21.3 The relationship has to function without compromising the ultimate responsibilities of Employees to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that Employees can legitimately provide to Members. The Protocol seeks to set a framework that assists the working relationships between Members and Employees.

21.4 Members and Employees are subject to their respective Codes of Conduct which are available in this Constitution. This Protocol provides guidance on work relations between Members and Employees. It is essential that both are familiar with the detailed obligations in their individual Codes of Conduct which will be the overriding factor should there be any conflict between the Codes and this Protocol.

21.5 Roles of Members

Members undertake many different roles. Broadly these are:

21.5.1 Members express political values and support the policies of the party or group to which they belong (if any).

21.5.2 Members represent their electoral division and are advocates for the citizens who live in the area.

21.5.3 Members are involved in active partnerships with other organisations as community leaders.

21.5.4 Members contribute to the decisions taken in Full Council and in its various bodies on which they serve, as well as joint committees, outside bodies and partnership organisations.

21.5.5 Members help develop and review policy and strategy.

21.5.6 Members monitor and review policy implementation and service quality.

21.5.7 Members are involved in quasi-judicial work through their Membership of Environment committees.

21.6 Conduct of Members

Member conduct is controlled by the Code of Conduct for Members which states:

"You must -

(a) undertake your duties and responsibilities by giving due attention to the principle that everyone shall have an equal opportunity regardless of their gender, race, disability, sexual orientation, age or religion;

(b) show respect to others and be mindful of them;

(c) not behave in a bullying or harassing manner towards any person; and

(d) not do anything which compromises or which is likely to compromise the impartiality of those who work for the council or on its behalf."

21.7 Roles of Employees

Briefly, Employees have the following main roles:

21.7.1 Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services.

21.7.2 Providing advice to the Council and its various bodies and to individual Members in respect of the services provided.

21.7.3 Initiating policy proposals.

21.7.4 Implementing agreed policy.

21.7.5 Ensuring that the Council always acts in a lawful manner.

21.8 Conduct of Employees

Employee conduct is controlled by the Code of Conduct for Employees which states:

"Contact with members, the public and other employees.

4. Joint respect between qualified employees and members is essential for good local government, and work relationships should remain on a professional level.

5. The competent employees of the relevant authorities should deal with the public, members and other employees in a sympathetic, efficient and impartial manner."

21.9 Respect and Courtesy

21.9.1 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Employees. This plays a very important part in the Council's reputation and how it is seen in public. It is very important that both Members and Employees remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of other Members, or other Employees, in public places.

21.9.2 Undue Pressure

(a) It is important in any dealings between Members and Employees that neither should seek to take unfair advantage of their position.

(b) In their dealings with Employees (especially junior Employees) Members need to be aware that it is easy for them to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold senior official and/or political office.

(c) A member should not place officers under inappropriate pressure to act in accordance with the member's wishes and an officer shall retain the right to offer a professional opinion that is contrary to the views of the member.

(d) A Member should not apply undue pressure on an Employee either to do anything that he is not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.

(e) Similarly, an Employee must neither seek to use undue influence on an individual Member to make a decision in his favour, nor raise personal matters to do with their job, nor make claims or allegations about other Employees. (The Council has formal procedures for consultation, grievance and discipline, and Employees have the right to report possible wrongdoing under the Council's Confidential Reporting Code.)

21.9.3 Bullying or harassment

It is unacceptable for a member to bully or harass an officer. Any act against an officer is deemed to be bullying or harassment if it was intended to have an inappropriate or unfair influence on his/her views or actions. There is no room for disparaging personal remarks during discussions between members and officers and it is not considered appropriate for either party to voice a complaint against the other publicly in a committee or in the press, without first referring to the Council's internal procedure in an attempt to resolve that complaint.

21.9.4 Familiarity

(a) Close personal familiarity between individual Members and Employees can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.

(b) Such familiarity could also cause embarrassment to other Members and/or other Employees and even give rise to suspicions of favouritism.

(c) For these reasons close personal familiarity must be avoided.

21.10 Provision of Advice and Information to Members

21.10.1 Employers are employed by the Council as a whole. They service the Council and are accountable to the Chief Executive and their relevant Director/Heads of Service and not to individual members of the Council whatever their role.

21.10.2 Members are free to approach Employees of the Council to provide them with such information 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.

21.10.3 Employees should always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any appreciable delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed ie either a full response or, if this is not possible, an acknowledgement that fully explains what is happening within [five] working days of the receipt of the enquiry.

21.10.4 The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law.

21.10.5 The Access to Information Procedure Rules of this Constitution explain the position with regard to access to papers relating to the business of a Council body.

21.10.6 The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a Member has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.

21.10.7 The information sought by a Member should only be provided by the respective Service as long as it is within the limits of the Service's resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.

21.10.8 It is important for Services and their staff to keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the area that he represents. Local Members should be informed about proposals that affect their electoral division and should also be invited to attend Council initiated events within their electoral division.

21.10.9 If a Member asks for specific information relating to the work of a particular Service, and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate Cabinet Member or Committee Chair concerned should be advised about the information provided.

21.10.10 Officers have to advise Members from time to time that a certain course of action cannot be carried out. Members sometimes assume that this is a case of Officers deliberately obstructing the wishes of politicians. In fact this is hardly ever the case. Officers are employed to give unbiased professional advice even if it is not what Members want to hear. They do this as much for the protection of Members as for any other reason. However, the mark of an effective Officer is that if they do have to give negative advice, this will be accompanied by suggestions as to how Members might achieve some or all of their objectives in other ways. Such Officers are invaluable to any Council.

21.10.11 Members may be entitled under the Freedom of Information Act 2000 to receive information which falls outside their common law rights based on the "need to know". Employees are encouraged to supply documents to Members without the need for a

formal FOI request if it is apparent from the Member's enquiry that any individual would be entitled to receive such documentation. The Council's Information Manager will be able to advise in consultation if necessary with the Monitoring Officer on whether any request would fall within the Freedom of Information Act.

21.10.12 It is important to have a close working relationship between the Council Leader, Cabinet Member and the director, heads of service and the senior officers of any department that deals with the relevant portfolio. Nevertheless, these relationships should never be allowed to develop to be too close, or to appear that way, so that it throws doubt on the officer's ability to deal impartially with other members and other political groups.

21.10.13 It must be borne in mind that officers are accountable to their head of service and although officers should always seek to assist the chair, portfolio leader (or indeed any member), in doing so they must not venture beyond the limits of whichever authority they have been granted by their chief officer.

21.11 Confidentiality

21.11.1 In accordance with the Code of Conduct for Members, a Member must not disclose information given to him/her in confidence by anyone, or information acquired which he/she believes, or ought reasonably to be aware, is of a confidential nature, except where:

(a) he/she has the consent of a person authorised to give it;

(b) he/she is required by law to do so;

(c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(d) the disclosure is:

(i) reasonable and in the public interest; and

(ii) made in good faith and in compliance with the reasonable requirements of the authority.

21.11.2 Confidential Committee papers (pink papers) are to be treated as confidential information unless the relevant Committee resolves not to exclude press and public. Members are reminded that the author of the report makes the initial decision as to whether or not the papers are to be treated as confidential. The decision as to whether they remain confidential is for the Committee. Other information may be confidential because to disclose it would be against the Council's or the public interest. Information may also be confidential because of the circumstances in which it was obtained.

21.11.3 Information and correspondence about an individual's private or business affairs will normally be confidential.

21.11.4 Officers should make it clear to Members if they are giving them confidential information. If a Member is not sure whether information is confidential, he or she

should ask the relevant Officer, but treat the information as confidential in the meantime.

21.11.5 Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council.

21.11.6 If a Member receives confidential information and considers it should be disclosed to another person because it is reasonable and in the public interest to do so then he or she must first consult with the Monitoring Officer and shall not disclose the information without having regard to any advice given by that Officer.

21.12 Provision of Support Services to Members

21.12.1 The only basis on which the Council can lawfully provide support services (eg stationery, word processing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

21.12.2 Correspondence

Official letters on behalf of the Council should be sent in the name of the appropriate Employee, rather than over the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to that Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

21.12.3 Usually, an officer should not send a copy of correspondence between an individual member and that officer to any other member. When there is a specific case where a copy of correspondence needs to be sent to another member, this should be explained clearly to the original member. In other words, a system of "blind carbon copies" should not be used.

21.12.4 Media

Communication with the media can be an important part of a Member's workload. In general, Members provide comment and views while Employees provide factual information. If a Member is unsure about the circumstances of a particular issue he should contact the appropriate Director or Head of Service concerned or ask the Press Office to do so.

21.13 The Council's Role as Employer

In their dealings with Officers, Members should recognise and have regard to the Council's role as employer. Members should be aware that Officers could rely on inappropriate behaviour of a Member in an employment case against the Council.

21.14 Political Activity

21.14.1 There are a number of constraints that apply to an employee who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989.

21.14.2 In summary, such employees are prevented from:

(a) being a Member of Parliament, European Parliament or local authority;

(b) acting as an election agent or sub-agent for a candidate for election as a Member of any the bodies referred to in;

(c) being an Officer of a political party or any branch of a political party or a Member of any committee or sub-committee of such a party or branch, if his duties would be likely to require him to:

(i) participate in the general management of the party or branch; or

(ii) act on behalf of the party or branch in dealings with persons other than Members of the party;

(d) canvassing on behalf of a political party or a candidate for election to any the bodies referred to in;

(e) speaking to the public with the apparent intent of affecting public support for a political party; and

(f) publishing any written or artistic work of which he is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party.

21.14.3 Officers will provide advice to committees, member forums etc., rather than to political groups. Nevertheless, from time to time it may be unavoidably necessary to advise a political group. In such circumstances, it is appropriate for political groups to call on Employees to assist and contribute to their considerations provided that they maintain a stance that is politically impartial. Employees are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Directors/Heads of Service, and not to individual Members of the Council whatever office they might hold.

21.14.4 Both Members and Employees are subject to their own Codes of Conduct which can be found in the Constitution. This Protocol provides guidance on working relationships between Members and Employees. It is essential that both are familiar with the detailed obligations in their respective Codes of Conduct which will prevail in the event of any conflict between the Codes and this Protocol. You should always register with the Monitoring Officer each occasion when an officer (except for the political assistant) attends a meeting of a political group.

21.15 Breach of the Protocol

(a) If a Member is of the opinion that he/she has not been treated with appropriate respect or courtesy he/she may raise the matter with the line manager of the employee. If direct discussion with the manager does not resolve the complaint, it should be redirected to the Head of Service or the Director who has responsibility for the employee in question. A breach of the Protocol could lead to disciplinary action against the employee if the circumstances justify that.

(b) If an employee is of the opinion that a Member has breached the Protocol he/she should consult with the Head of Service or the Director if required. In some cases a case of breaching the Protocol would also involve a breach of the Code of Conduct for Members. If the matter is serious enough there may be justification for redirecting the matter to the Monitoring Officer as a complaint to be considered under the local resolution procedure which could ultimately lead to a hearing before the Standards Committee. It will be possible to resolve many complaints informally. The Monitoring Officer or the Chief Executive will assist with this process if required.

21.16 Conclusion

It is hoped that, by following good practice and securing sensible and practical working relationships between Members and Employees, we can provide one of the cornerstones of a successful local authority and thereby enhance the delivery of high value quality services to the people of the area. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Employees.