

**COUNCIL BUSINESS
COMMITTEE**

6.00 P.M.

27TH JUNE 2013

PRESENT:- Councillors Paul Aitchison (Chairman), Janet Hall, Tim Hamilton-Cox (substitute for Melanie Forrest), Billy Hill, Roger Mace and Geoff Knight

Apologies for Absence

Councillors Melanie Forrest and Vikki Price

Officers in attendance:-

Debbie Chambers

Democratic Services Manager

Peter Baines

Senior Democratic Support Officer

1 APPOINTMENT OF VICE-CHAIRMAN

The chairman requested nominations for the position of vice-chairman.

It was proposed by Councillor Knight and seconded by Councillor Hamilton-Cox:

“That Councillor Mace be appointed Vice-Chairman of the Council Business Committee for the 2013/14 municipal year.”

There were no further nominations and the chairman declared Councillor Mace appointed.

Resolved:

That Councillor Mace be appointed Vice-Chairman of the Council Business Committee for the 2013/14 municipal year.

2 MINUTES

The minutes of the last meeting were approved as a correct record.

3 ITEMS OF URGENT BUSINESS AUTHORISED BY THE CHAIRMAN

There were no items of urgent business.

4 DECLARATIONS OF INTEREST

There were no declarations of interest at this point.

5 RECORDING OF COUNCIL MEETINGS

The Democratic Services Manager introduced a report based on a request from Council, to consider making recordings of meetings publicly available on the council's website.

In the course of asking questions, members expressed the view that purchasing

recording or webcasting equipment would be too costly in an era of austerity, and that being recorded could stifle debate as some members may not feel comfortable under such conditions. Conversely, it was suggested that recording meetings would provide an accurate record of what was said in the course of debates.

Councillor Mace proposed the following motion, seconded by Councillor Hamilton-Cox:

“Recognising support for the recent motion in Council in a recorded vote, this committee requests that speakers in Council meetings declare their names before speaking, always use a microphone and that sound recordings be prepared on an experimental basis and made available to members and officers on request, prior to further consideration of the subject in budget discussions for 2014/15”.

On being put to the vote, the motion was passed.

Resolved:

Recognising support for the recent motion in Council in a recorded vote, this committee requests that speakers in Council meetings declare their names before speaking, always use a microphone and that sound recordings be prepared on an experimental basis and made available to members and officers on request, prior to further consideration of the subject in budget discussions for 2014/15.

6 REQUEST FOR VERBATIM MINUTES OF MEETINGS OF THE TAXI FORUM AND THE TAXI LIAISON GROUP

The Democratic Services Manager introduced a report on whether the council should produce a verbatim transcript of Taxi Forum and Taxi Liaison Group meetings, following a request from hackney carriage and private hire proprietors.

It was agreed that, because of data protection implications and the informality of the meetings, verbatim records of the Taxi Forum and Taxi Liaison Group meetings would be inappropriate. However, should any forum or Group member present request that something said at the meeting be recorded in the notes, the Committee suggested that this request be granted so long as all the other members of the Forum or Liaison Group present agreed to the request. The suggestion was made subject to legal advice.

Resolved:

- (1) That the request for a verbatim transcript of Taxi Forum and Taxi Liaison Group meetings be refused.
- (2) Subject to legal advice, the committee requests that individual statements be recorded in the notes of the meeting if requested by a member of the Taxi Forum or Taxi Liaison Group provided all other members present at the meeting agree to the request.

7 MEMBER DEVELOPMENT STRATEGY

The Senior Democratic Support Officer introduced a report on the updated Member Development Strategy, which had been tabled for approval by the committee.

In the course of discussion, members agreed on the need for further training on email etiquette. It was felt that councillors could potentially bring the council into disrepute with inappropriate email use, and that training may help to reduce that risk.

In addition, training was also requested on new planning regulations relating to wind turbine farms. Whilst those regulations had not yet been published, it was suggested that training be arranged once they were in place.

Resolved:

- (1) That the draft Member Development Strategy 2013/14 be approved;
- (2) That suitable training courses be researched into email etiquette for councillors using the council's email system
- (3) That training be arranged on forthcoming changes to the planning system, relating to wind turbines, once the new regulations had come into force.

8 BETTER CARE TOGETHER - CONSULTATION

The Democratic Services Manager introduced a request from the Overview and Scrutiny Committee, which sought permission to carry out preparatory work in response to the Better Care Together consultation. This represented a variation to the approved consultation policy.

The final response would still be considered by Council Business Committee, in line with the standard procedure.

Resolved:

That the request be approved.

9 ELECTORAL REVIEW – FURTHER CONSULTATION ON WARDING ARRANGEMENTS

The Democratic Services Manager introduced a report which asked the committee to decide whether or not to respond to a further consultation by the Local Government Boundary Commission for England, on warding arrangements for the district.

Following a debate on the merits of responding on behalf of the council, Councillor Aitchison, seconded by Councillor Mace, proposed: "that the council should not respond to this further consultation on the revised warding proposals". Individuals, political groups and town and parish councils would be able to make their own responses.

On being put to the vote, the motion was carried.

Resolved:

That the council should not submit a response to the further consultation from the Local Government Boundary Commission for England.

10 MEMBER CHAMPIONS - ROLE AND REMIT (Pages 7 - 11)

The committee considered a report on member champions, noting that although there was no legislative requirement to appoint them, initiatives at national level had encouraged their appointment to promote specific areas of interest.

The report set out a model protocol and role definition for the committee to consider recommending to Council for inclusion in the constitution. The committee also considered the issue of travel and subsistence costs for champions and agreed to refer the issue to the Independent Remuneration Panel.

Resolved:

- (1) That Council be recommended to add the attached model protocol and generic member champion role definition to the constitution, under section five, part six;
- (2) That Council be recommended to confirm that member champions be appointed at each Annual Council, and that this item be included in the business for Annual Council, shown in council procedure rule 1.1 (part four, section one of the constitution);
- (3) That Council be recommended to appoint only non-cabinet members as member champions, and to approve the attached generic role definition;
- (4) That the Independent Remuneration Committee be asked to consider amending the Members' Allowances Scheme to permit reasonable travel and subsistence claims for member champions carrying out their role.

11 CONSTITUTION – MEMBERS' QUESTIONS ON NOTICE AT COUNCIL MEETINGS

Prior to consideration of this item, Councillor Hill declared an interest as the councillor who had raised this issue.

The Democratic Services Manager introduced a report following a request from a councillor to review the rules regarding members' questions on notice at Council.

The councillor had raised concerns with the current rules, and expressed the view that it was not fitting for the Chief Executive to make the decision about whether a question was relevant to the council's powers or duties, or whether it affected the district. The councillor perceived this as an 'officer filter' for members' questions.

In the course of debate, it was felt that the current rules gave a broad framework within which members could phrase questions, and that a filter of some description was desirable in ensuring that time was not taken up at Council with issues that had no relevance.

It was felt, however, that members whose questions had been rejected by the Chief Executive should have the right of appeal to the mayor, as chairman of the Council meeting, in the interests of fairness.

Resolved:

The committee recommends that the council procedure rules be amended to allow any member whose question on notice to Council has been refused by the Chief Executive, on the grounds that it did not satisfy procedure rule 13.4 (b), the right of appeal to the mayor.

12 REVIEW OF THE PROTOCOL ON MEMBER/OFFICER RELATIONS (Pages 12 - 18)

The Democratic Services Manager introduced a report on the amended Protocol On Member / Officer Relations, which had been recommended by the Standards Committee for inclusion in the constitution.

Resolved:

That the amended Protocol On Member / Officer Relations, appended to the minutes, be approved for inclusion in the constitution.

13 APPOINTMENTS TO COMMITTEES AND CHANGES TO MEMBERSHIP

It was reported that the Labour group would like to replace Councillor Denwood with Councillor Gardner on the Standards Committee.

Councillor Aitchison would replace Councillor Gardner as a substitute member on that committee.

Resolved:

That the request be approved.

Chairman

(The meeting ended at 7:30pm)

**Any queries regarding these Minutes, please contact
Peter Baines, Democratic Services - 01524 582074 or email pbaines@lancaster.gov.uk**

MEMBER CHAMPIONS A Model Protocol

Member Champions have evolved in this Council as a result of Initiatives taken by this Council in wishing to focus on member activity on certain aspects of the Council's business and functions. The role and remit is set out below and a generic job description is appended.

THE APPOINTMENT AND ROLE OF A MEMBER CHAMPION

1. A Champion is a non-executive councillor appointed by the Council to provide a focus on a specific area of the Council's business or where a community group needs to ensure it is given due regard in relation to the activities of the Council and of its partners in local governance.
2. Member Champion must not be Members of the Council's Cabinet.
3. The Council will identify interests to be championed and will appoint named Councillors to champion a specific interest at its Annual Meeting or during the year for the rest of the municipal year and thereafter appointed for each municipal year at Annual Council.
4. Champions may be re-appointed and there is no limit to their term of office.
5. Within the context of the interest being championed, and as part of their overall and individual community leadership responsibilities, a Champion will:
 - Work with Members and Officers within the Council to maintain efficient, effective and relevant services and policies.
 - Exert influence on relevant external partners and bodies in their decision-making and planning.
 - Act as a catalyst for change and improvement.
6. By appointing a member as a Champion, the Council is empowering that member to act in that capacity. It follows, therefore, that the Council should put in place such arrangements as it thinks appropriate to support the Champion in that capacity.

THE PARAMETERS OF THE CHAMPION ROLE

7. The above role is set in the context of the specific interest or theme. The following parameters apply to the role:
 - All Champions must act reasonably in the role.
 - All Champions must recognise and work effectively within the political management and working arrangements agreed by the Council.

8. A Champion

- Is effectively given authority by the Council to take all reasonable actions judged by the member as being necessary to perform the role of Champion.
- Cannot commit the Council in any way that is contrary to established policy, budget and practice, but may confirm a Council position, as stated in published policy.
- Cannot make decisions that bind the Council.
- Is a recognised media contact on matters relating to the interest being championed, but is expected to keep the relevant Cabinet Member and/or Chairman informed of such contact.
- Is entitled to have access to information held by the Council relating to the interest being championed and access to a reasonable amount of officer time to discuss that information.
- The Champion's programme of activities should reflect the Council's overall priorities, but the Champion may include such aspects as seem to him/her to be relevant for immediate attention, as long as overall priorities are not directly prejudiced by those aspects.

SUPPORT FOR CHAMPIONS IN THEIR ROLE

9. Taking all the above into account, the Council will:

- Take steps to promote understanding within the Council of the role of a Member Champion and describe how it relates to other member level functions.
- Promote similar understanding among its working partners, external bodies and the local community.
- Arrange for a support officer in the Democratic Support team be designated to support the Council's Champions. This support will be for the functionality of the role – administration and research - not the professional input.
- Ensure that the professional lead officer(s) relating to each championed interest are aware of the Champion roles that affect them and the rights of Champions to access/discuss information about the service.
- Require each Champion to report annually to the Council about their programme of activity and how they have contributed to the achievement of the Council's overall priorities and to report to the Overview and Scrutiny Committee, as and when required, upon any issues arising.
- Put in place appropriate skills development opportunities for Champions within the Council's Member Development function.

- Keep under review the relevance of the role of member Champions in the context of the Council's Scheme of Member Allowances and to make a request to the Independent Remuneration Panel to consider this at such time in the future, should it be felt to be appropriate.

INTERNAL WORKING RELATIONSHIPS

10. The Champion will:

- Liaise regularly with Cabinet members whose portfolios are relevant to the role (for some generic interests this will be all or many of them).
- Monitor the notice of key decisions and seek information from the relevant officers and Cabinet members about forthcoming business and exert influence on behalf of the interest.
- Monitor Overview and Scrutiny work plans and activity and seek information and offer views on relevant review subjects and exert influence on behalf of the interest.
- Take advice from the appointed lead functional officer and the relevant lead professional officer(s).
- Seek to place appropriate items on relevant Council meeting agendas.
- Keep other councillors up to date with activities within the interest.
- Generally promote the interest.

11. Cabinet members will:

- Acknowledge the right of Champions to be consulted on matters relating to their interest.
- Ensure there is appropriate engagement or consultation with Champions in the formulation of policy and other Executive matters and that any views are contained in the information provided to decision-makers.
- Consider inviting the relevant Champion to represent the Council at any relevant conference/seminar on the subject matter of the interest on the basis that the Champion will report back to the Cabinet member.
- Take full account of any views offered by Champions prior to any Cabinet taking decisions on matters within the interest, and demonstrate this in the record of the decision.

12. Overview and Scrutiny members will:

- Acknowledge the right of Champions to be consulted and to participate in discussion on matters relating to their interest.
- Ensure there is appropriate engagement or consultation with Champions in the formulation of policy and in service review activity.

- Ensure Champions are specifically invited to be contributors to any reviews that have a direct bearing on the interest (recognising the right of a Champion to attend as an observer at any such session).
 - Ensure that opportunity is provided for Champions to contribute to, or comment on, the work programme of the relevant Overview and Scrutiny body.
13. Officers will:
- Ensure there is appropriate engagement or consultation with relevant Champions where the issue clearly relates to the interest.
 - Co-operate fully with Champions in enabling them to perform their functions and to discuss directly with Champions and Cabinet members where proposed actions might prejudice Council or other priorities.

EXTERNAL WORKING ARRANGEMENTS

14. The Champion:
- Will need to acknowledge that there is no statutory authority for the member Champion role.
 - Will need to recognise that the Council does have some legal powers with regard to the scrutiny of external bodies and other working relationships with outside bodies arising from legal provisions.
 - Will monitor and work closely with partner bodies in the field of the interest being championed.
 - Will communicate on behalf of the interest group and the Council to outside bodies.
 - May be the Council's representative on certain relevant external bodies.
 - Will identify the most relevant community bodies whose work is associated with the interest and foster good working relationships with those groups.
 - Will take steps to promote within the wider community the specific issues on which the Champion is to focus and to provide opportunities for local engagement – involving Cabinet and Overview and Scrutiny Lead Members, as appropriate.

MEMBER CHAMPION

The principal purpose of the Member Champion role is to:

1. Promote the interest within the Council, having regard to the Council's overall corporate and service priorities.
2. Take a particular interest in the needs and wishes of any client group relevant to the interest being championed.
3. Ensure that decision-makers within the Council and externally are aware of issues and opportunities related to the interest.
4. Contribute to the continuous improvement of services and functions related to the interest and be a catalyst for change.
5. Ensure good practice within the authority relating to the interest is shared and that examples of good practice elsewhere are brought to the attention of members and officers.
6. Keep up to date with all relevant matters connected with the interest.

The primary functional responsibilities are as follows:

1. Engage with relevant local and national bodies and communities of place, culture and interest, to promote the interest, attending meetings as necessary.
2. Monitor the work programmes of the Cabinet and Overview and Scrutiny Committees in order to work proactively with lead members to advise, identify, challenge and exert influence.
3. Ensure all members of the Council, in particular Cabinet members, Overview and Scrutiny chairmen and the Council's officers are made aware of the needs, issues and support available relating to the interest.
4. Seek appropriate opportunities to promote the interest further with members and officers through seminars, other awareness raising events and personal attendance at meetings.
5. Liaise with relevant partner bodies on matters relating to the interest, and seek opportunities for direct participation in issues being considered, when appropriate.
6. Undertake personal development and training to ensure effective performance in the role of Member Champion.
7. Present an Annual Report to the Council on the work achieved during the previous reporting period and priorities identified for the future.
8. Report to the Overview and Scrutiny Committee as required.

Part 7, Section 6

Protocol on Member/Officer Relations

1. INTRODUCTION

- 1.1 The purpose of this protocol is to guide Members and Officers in their relations with one another, to define their respective roles and to provide guidance for dealing with particular issues that may most commonly arise or cause concern.
- 1.2 However, given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or exhaustive. It is hoped that the general approach set out in the protocol will serve as a guide in dealing with other issues that may not be specifically covered.
- 1.3 The protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these Codes is to enhance and maintain the integrity of local government and they therefore demand very high standards of personal conduct.

2. ROLE OF MEMBERS AND OFFICERS

- 2.1 Both Members and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council as a whole, and they are accountable to the Chief Executive. 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 and Cabinet, and the various Committees.
- 2.2 The Council's Constitution sets out the clear distinction between the roles of Members and Officers. Members will perform roles on the Cabinet, and on the Regulatory and Overview and Scrutiny and other Committees, in addition to sitting as members of the full Council. They may also represent the Council on outside bodies. Officers are employed by and serve the whole Council, and are accountable to the Chief Executive. They provide support to the executive, scrutiny and regulatory functions of the Council, providing impartial advice and implementing the decisions of the Council, the Cabinet and Committees. They may also make decisions under powers delegated to them.
- 2.3 Members should not get involved in the day to day operational management of services. Equally, Officers should not get involved in politics.
- 2.4 Officers are responsible for advising on and implementing policies, and for the delivery of services in the manner that they consider is most appropriate given their managerial and professional expertise. Members would not be expected to be involved in the detail of implementation, but can expect reports on progress, and in certain circumstances, at Overview and Scrutiny meetings, can require Chief Officers to account for their decisions.
- 2.5 It is appropriate, however, for Members to propose initiatives and ideas about how things can be done better. It is essential that existing ways of doing things are challenged and reviewed. This needs to be done in a professional and constructive environment. The Constitution sets out the procedures for both the Cabinet and Overview and Scrutiny to review existing policies and bring forward new policy initiatives. The procedural rules also set out the process for Officer involvement with the Cabinet, the Regulatory Committees and the Overview and Scrutiny.

- 2.6 Mutual respect between Members and Officers is essential to good local government. It is important in all dealings between Members and Officers that both should observe reasonable and consistent standards of courtesy and that neither party should seek to take advantage of their position. Close personal familiarity between individual Members and Officers can damage this relationship and prove embarrassing to other Members and Officers.
- 2.7 The general obligations in the Members' Code of Conduct include a requirement to treat others with respect, and not to do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of the authority. There is also a requirement for Members in making decisions to have regard to any advice provided by the Council's Section 151 Officer and the Monitoring Officer. Any allegation by an officer that a Member has failed to comply with the Code of Conduct will be dealt with under the Standards Committee's procedure for dealing with Code of Conduct complaints. As with any such complaint, the first stage will be for the Monitoring Officer to seek to resolve the matter informally.

3. OFFICER ADVICE TO GROUPS OF MEMBERS

- 3.1 It is common practice for political groups to give preliminary consideration to matters of Council business in advance of such matters being considered. As an example, the Council's monthly Notice of Forthcoming Key Decisions will identify the Key Decisions that the Cabinet will be considering. Individual Members and/or groups of Members may properly call upon Officers to support and provide factual advice to their deliberations. The support provided by Officers can take many forms, ranging from a briefing meeting prior to a committee meeting, to a presentation to a full group meeting. Briefing of political groups should only be undertaken by the Chief Executive or Service Heads, or otherwise with the approval of the Chief Executive and any information provided to the group will not as a matter of routine be passed on to other groups. However, briefing information provided to a political group, whether or not it contains confidential information, may, at the written request of that group, be passed on by the relevant officer to other groups also.
- 3.2 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
- (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of a 'political' nature. Officers are not expected to be present at meetings, or parts of meetings, where matters of political business are to be discussed.
 - (b) Similarly, where Officers provide information and advice to a group of Members meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Cabinet, Overview and Scrutiny or other Committee meeting when the matter in question is considered.
- 3.3 Officers must respect the confidentiality of any group discussions at which they are present in the sense that they should not relay the content of any such discussion to another group of Members, unless specifically asked to do so.
- 3.4 Any particular cases of difficulty or uncertainty in this area of Officer advice to groups of Members should be raised with the Chief Executive or, in his absence, the Council's Monitoring Officer, who will discuss them with the relevant Group Leader(s).

4. OFFICER/MEMBER RELATIONSHIPS

- 4.1 It is clearly important that there should be a close working relationship between Cabinet members and Committee members, including their Chairmen, and the relevant Chief Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question an Officer's ability to deal impartially with other Members.
- 4.2 Whilst the Cabinet Leader and Committee Chairmen will routinely be consulted as part of the process of drawing up agenda items for a forthcoming meeting, it must be recognised that in some situations an Officer will consider it his/her duty to submit a report on a particular matter. In these circumstances, an Officer will always be fully responsible for the contents of any report submitted in his/her name. Similarly, a Member will also be fully responsible for that part of any report submitted in his/her name. Any issues arising between a Member and an Officer in this area should be referred to the Chief Executive for his resolution. Where individual Members wish to place an item on a Cabinet agenda, they should notify the Chief Executive in accordance with Part 4 Section 4 of the Constitution.
- 4.3 In relation to action between meetings, it is important to remember that the Council's Constitution allows not only for decisions (relating to the discharge of any of the Council's functions) to be taken by the Cabinet, other Committees of Council or an Officer, but also allows for an individual Cabinet Member to take a non-key decision.
- 4.4 It must be remembered that Officers within a Service are accountable to their Service Head and ultimately to the Chief Executive, and that whilst Officers should always seek to assist any Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Service Head. Officers should also refer to Part 3 (Responsibility for Functions) and Part 7, Section 1 (Officers' Code of Conduct) in the Council's Constitution for clarification about the bounds of their responsibility.

5. UNDUE PRESSURE

- 5.1 A Member should not apply undue pressure on an Officer to do anything which he/she is not empowered to do, or which is against the Officer's professional judgement, or to undertake work outside normal duties or normal hours.
- 5.2 Similarly, an Officer must not seek to influence an individual Member to make a decision in his/her favour, nor raise personal matters relating to his/her job, nor make claims or allegations about other employees, except in accordance with any agreed Council procedure or in accordance with law. Members who receive any such approach from an Officer should advise the Chief Executive immediately.

6. CRITICISM / COMPLAINTS

- 6.1 It is important that there should be mutual courtesy between members and officers.
- 6.2 Members and officers should not criticise or undermine respect for each other at Council meetings or at any other meeting they attend in their capacity as a Member or officer, or in any other public forum.
- 6.3 Members should not raise matters relating to the conduct or capability of an individual officer or officers collectively at meetings or in any other public forum. Any such complaints should be made to the Chief Executive.

7. SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS

- 7.1 Previously, the only basis on which the Council could lawfully provide support services (e.g. stationery, typing, printing, e-mail, internet, photocopying, transport, etc.) to Members was to assist them in discharging their role as Members of the Council. However the current Code of Conduct does allow limited private use of Council resources by Members provided that when using or authorising the use by others of the resources they must -
- (i) act in accordance with the Authority's reasonable requirements; and
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes)

Any uncertainty about compliance with these requirements should be referred to the Council's Monitoring Officer for determination.

- 7.2 The Democratic Support Section in Governance should be the first point of contact in all aspects relating to Member support.

8. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

- 8.1 Members are free to approach the appropriate Service to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent. Such approaches should be directed to the Service Head, Service Manager or other nominated representative. If Members wish to visit officers, they should contact the Service Head or Service Manager to make arrangements whenever possible.
- 8.2 With respect to the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 8.3 Under Section 100F of the Local Government Act 1972, any Member may inspect any document in the possession or control of the Council which contains material relating to any business to be transacted at a meeting of the Council, Cabinet, a Committee or Sub-Committee. This right applies irrespective of whether the Member is a member of the relevant committee, and extends not only to reports but also to background papers.

However, the right does not apply if a document discloses "exempt" information as defined in Schedule 12A of the Local Government Act 1972, unless the information falls within paragraph 3 (the financial and business affairs of any particular person), except to the extent that it relates to any terms proposed by or to the authority in the course of negotiations for a contract, or within paragraph 6 (that the authority proposes to give a notice or order under any enactment, by virtue of which conditions or requirements are imposed on a person). These exceptions mean that a Member's right of access to information under the Local Government Act 1972 is slightly wider than the public right under that Act.

Further details, including information about the particular rights of Overview and Scrutiny members, are set out in the Access to Information Procedure Rules in Part 4, Section 2, of the Constitution.

- 8.4 The common law right of Members is much broader and is based on the principle that any member has a prima facie right to inspect council documents so far as his/her access to the documents is reasonably necessary to enable the member to carry out his/her duties as a

member. This is referred to as the “need to know” principle. If a Member is a member of Cabinet or a committee, then he/she has the right to inspect documents relating to the business of Cabinet or the committee. If a Member is not a member of the relevant Committee, then he/she has to demonstrate why sight of the document is necessary to enable the performance of his/her duties as a member. This could be by reference to the role as ward Member. Members have no right to a “roving commission” to examine documents of the Council. Mere curiosity is not sufficient. If the Member’s motive for seeing the documents is indirect, improper or ulterior, then there would be no right of access at common law.

- 8.5 A Member has the same rights of access to information under the Freedom of Information Act 2000 as any member of the public. A request must be in writing and describe specifically the information requested. The exemptions set out in the Act would be applied whoever is requesting the information. Once information has been made available in response to a Freedom of Information request, it becomes public.
- 8.6 From a procedural point of view, if a Member makes a request for information that is not routine, the request should be made to the relevant Service Head, who will consider first whether all the information would be made available as a matter of course to a member of the public making a similar request. If so, the information will be provided to the Member.
- 8.7 If the request is such that the information would not automatically be provided to a member of the public, the Service Head will consider whether the information can be provided under Section 100F of the Local Government Act 1972 or under the common law “need to know”. The Service Head should consult with the Monitoring Officer. The final determination as to whether there is a “need to know” will be made by the Monitoring Officer. The Overview and Scrutiny Committee may hold the Monitoring Officer to account in accordance with Rule 14 of the Overview and Scrutiny Procedure Rules.
- 8.8 If neither Section 100F nor the “need to know” are met, then the request will be dealt with as a Freedom of Information Act request, but without the need for the Member to make a specific FOI request. The FOI request will be dealt with in the normal way with advice from Legal Services. This may result in the information being provided in part, with an exemption applying to the remainder, or the request being refused in its entirety as a result of an exemption. The Member will be informed that the request has been considered under the Freedom of Information Act and that there is a right of internal review which will be carried out by the Monitoring Officer. Following such a review, the Member will be advised of the right to pursue the matter with the Information Commissioner.
- 8.9 Any information provided under the Freedom of Information Act can be made public by the Member. Information provided under the “need to know” will be provided with the caveat that it is provided to the Member in his/her capacity as Member, and is only to be used for the purpose of exercising his/her functions, and should not be made public.
- 8.10 The Code of Conduct provides that a Member must not disclose information given to the Member in confidence by anyone, or information which the Member believes, or ought reasonably to be aware, is of a confidential nature except where
- the Member has the consent of a person authorised to give it;
 - the Member is required by law to do so;
 - the disclosure is made to a third party for the purposes of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

- the disclosure is reasonable and in the public interest and made in good faith and in compliance with the reasonable requirements of the authority. These are set out in Part 7 Section 3 of the Constitution.

9. CORRESPONDENCE

- 9.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member.
- 9.2 Official letters on behalf of the Council should normally be sent out over the name of the appropriate Officer, rather than over the name of a Member. It may be appropriate in certain circumstances (eg representations to a Government Minister) for a letter to appear over the name of a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out over the name of a Member.

10. INVOLVEMENT OF WARD COUNCILLORS

- 10.1 Whenever a public meeting is organised either by the Council or where the Council has been invited to attend, to consider a local issue, all the Members representing the ward or 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, whenever significant Council organised events or works or other activity are taking place in a locality, all the Members representing the ward or wards should as a matter of course be notified.
- 10.2 If an individual contacts the Council about a general Council service, for example leisure, food safety, taxi licensing or a housing benefit or council tax issue, such contact is unlikely to be a ward issue, as the address of the individual is unlikely to be significant to the particular contact or complaint. In these circumstances, officers will not generally involve the ward councillor.
- 10.3 If an individual contacts the Council about a location related issues, for example, noise from particular premises, difficulties with refuse collection in a particular street, an overhanging tree, or uneven access to council housing accommodation, then, unless the issue is 'de minimis' and can be resolved at once, the ward councillors will be advised of the problem and what action is being or has been taken to resolve it. It should be possible to do this on a general basis and without revealing the identity of the individual who has raised the issue. The details of the individual will not be passed on to ward councillors without the individual's consent.
- 10.4 In no circumstances will correspondence from an individual, or from a third party representing an individual, be disclosed to a ward councillor if it is marked confidential or contains personal data. If, in these circumstances, an officer is of the view that a ward councillor's involvement would be valuable or that there is a need for the ward councillor to know of the issue, and it is not possible to do so in general terms without disclosing confidential or personal information, then the relevant individual's consent will first be obtained.
- 10.5 If an individual has sought assistance from one ward councillor in a multi-member ward, and an officer is in contact with that ward councillor who is acting on the individual's behalf, information about the issue will not be shared with another ward councillor without the consent of the individual or the ward councillor who first raised the issue.

11. MEETINGS WITH THIRD PARTIES

- 11.1 On occasions, Members may be approached by individuals or companies who have proposals affecting the area or functions of the Council, and which they wish to discuss with Members. Members are reminded that, as individual Members, they cannot commit the Council to any contract or other agreement or course of action. Members are advised to make this clear to any third party with which they may have contact. Should Members be asked to attend a meeting with third parties, they are recommended to arrange for the meeting to take place at Council offices and with a relevant officer present. This will enable the officer to explain to the third party the proper decision making process, and will protect Members against any subsequent claim by the third party. Normal routine activities are not intended to be subject to this recommendation.
- 11.2 More detailed guidance about meetings relating to planning issues is set out in the Protocol on Planning in Part 7 Section 5 of the Constitution

12.. MEDIA RELATIONS

- 12.1 The Council has agreed Press and Media Guidelines which set out the Council's procedures for dealing with the press and media. The guidelines are subject to review from time to time, and can be found in Part 7 Section 7 of the Constitution.

13. ARBITRATION

- 13.1 The Protocol is intended to act as a guide for both Members and Officers. The relevant Service Head should deal with difficulties that arise in the first instance with the Member(s) concerned. The Monitoring Officer and then the Chief Executive should then consider any continuing difficulties.
- 13.2 Serious difficulties or breakdowns in relations that cannot be resolved through the above route should be referred to the Standards Committee for determination in accordance with the protocol. This will be very much a last resort. Every effort should be made to resolve difficulties at any early stage.

14. REVIEW OF PROTOCOL

- 14.1 The protocol is intended to provide Members and Officers with guidelines to determine their roles and their relations with each other.
- 14.2 It is intended to be a "live" document and will be reviewed from time to time to reflect changing circumstances. The Standards Committee is the lead Committee.
- 14.3 Members or Officers with queries about the Protocol should contact the Council's Monitoring Officer.