

Cheshire East Council

New Constitution

Part 4

Codes and Protocols

This part of the Constitution covers the following areas:-

Part	Title	Contents
A	Member Code of Conduct	<p>This sets out the ways in which elected Members of the Council must conduct themselves. It covers such things as:</p> <ul style="list-style-type: none"> • General obligations • Registering and declaring interests • Pre-determination and bias
B	Officer Code of Conduct	<p>This sets the ways in which all employees of the Council must conduct themselves. It covers such things as:</p> <ul style="list-style-type: none"> • The Values of the Council • The Council's Core Principles • The Council's Core Standards • Additional standards relevant to particular groups of employees • Guidance on compliance with the Code • Associated forms and referral points
C	Member / Officer Relations Protocol	<p>This Protocol is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.</p>
D	Whistleblowing Policy	<p>Although not a formal part of the Council's Constitution, it is considered useful to provide a link to the Whistleblowing Policy in this document.</p>

Part A – Member Code of Conduct

MEMBER CODE OF CONDUCT

Cheshire East Council has adopted this Code of Conduct to promote and maintain high standards of conduct and underpin public confidence in the authority and its members and co-opted members (referred to collectively in this Code as “Members”).

The Code has been adopted under the Localism Act 2011 and is based on the following core principles of public life:-

- 1) Selflessness
- 2) Integrity
- 3) Objectivity
- 4) Accountability
- 5) Openness
- 6) Honesty
- 7) Leadership

The Code sets out general obligations about the standards of conduct expected of members and co-opted members of the authority, together with provisions about registering and declaring interests.

Part 1 – General obligations

Whenever you are acting as a member or co-opted member of this authority you must act in accordance with the following obligations:

Selflessness

- 1 You must act solely in the public interest and must never use or attempt to use your position improperly to confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, friends or close associates.

Integrity

- 2 You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

You should not deliberately mislead.

Objectivity

- 3 When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending

individuals for rewards or benefits, on merit.

You should remain objective, listen to the interests of all parties appropriately and impartially and take all relevant information, including advice from the authority's officers, into consideration.

You should exercise independent judgement. Although you may take account of the views of others (including a political group), you should reach your own conclusions on the issues before you and act in accordance with those conclusions.

Accountability

- 4 You are accountable to the public for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your office, including appropriate scrutiny by local residents.

Openness

- 5 (a) You must be open and transparent where possible about your decisions and actions and the decisions and actions of your authority. You should be prepared to give reasons for those decisions and actions.

Honesty

- 6 (a) You must declare any personal, pecuniary and non-pecuniary interests that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests as set out in Part 2 below.

(a) You must only use or authorise the use of the authority's resources in accordance with the authority's requirements. You must, when using or authorising the use of such resources, ensure that they are used for proper purposes only. Resources must not be used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity in force from time to time.

Leadership

- 7 You must promote and support high standards of conduct when serving as member of the authority, by leadership and example, championing the interests of the community.

You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.

Respect for others

- 8 (a) You must treat others with courtesy. You should engage with colleagues and staff in a manner that underpins mutual respect and courtesy, essential to good local government.

You must not:-

- i) do anything which may cause your authority to breach any equality laws.
- ii) compromise or attempt to compromise the impartiality of anyone who works for, or on behalf of, the authority.
- iii) bully¹ any person, including other councillors, officers of the authority or members of the public.
- iv) intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct

Information

- a. You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except² where –
 - i. you have the written consent of a person authorised to give it;
 - ii. you are required by law to do so;
 - iii. the disclosure is made to a professional 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
 - iv. the disclosure is reasonable, in the public interest; and made in good faith and in compliance with the reasonable requirements of the authority; or

You must not prevent another person from gaining access to information to which that person is entitled by law.

¹ "Bullying" may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour and includes "cyber bullying". It may happen once or be part of a pattern of behaviour. It can be contrasted with the legitimate challenges a member may make in challenging policy or scrutinising performance. You may challenge others as to why they hold their views but must take care to raise issues in the appropriate forum and in an appropriate way. Ideas and policies may be robustly criticised but individuals should not be subject to unreasonable or excessive personal attack.

² It is your responsibility to ensure that any judgement you make in relying on any exception will stand up to rigorous objective scrutiny. In the case of any doubt advice should be sought from the Monitoring Officer or an independent qualified legal advisor.

Gifts and Hospitality

- b. You must within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a member from any person or body other than the authority. The Monitoring Officer will place your notification on a public register of gifts and hospitality.

Part 2 – Registering and Declaring Interests

Registering and Declaring Interests – General Requirements

- 1 You must, within 28 days of:-
 - a) the adoption of this Code
 - b) taking office as a member
 - c) becoming aware of any new interest not already registered
 - d) becoming aware of any change to any interest already registerednotify the monitoring officer in writing of any disclosable pecuniary interest, or other type of interest as defined by this Code.
- 2 If you become aware of any such interest not already registered (or the subject of pending notification) during the course of any meeting of the authority at which you are in attendance then you must disclose the interest to meeting, take the action required by the Code depending on the nature of the interest and notify the monitoring officer of the interest in accordance with the provisions of this Code.

Sensitive Interests

- 3 A 'sensitive interest' is described in the Localism Act 2011 as an interest the nature of which is such that the member and the authority's monitoring officer consider that disclosure of the details of the interest could lead to the member or a person connected with the member being subject to violence or intimidation.
- 4 Where you consider that you have a sensitive interest, and the monitoring officer agrees, that part of the register recording that interest will be will not be published or made available for public inspection. A declaration of interests must still be made a meetings where relevant, but the sensitive information need not be disclosed.

Disclosable Pecuniary Interests

- 5 A disclosable pecuniary interest is defined by statute and is subject to change from time to time. The current statutory definition is [here](#).
- 6 Unless dispensation has been granted, if you are present at any meeting of the authority and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting, you must leave the meeting while any discussion or voting on that matter takes place. You may not participate in any discussion of the matter at the meeting and you may not participate in any vote taken on the matter at the meeting.
- 7 You must not discharge or participate in the discharge of any function related to any matter in which you have a disclosable pecuniary interest.
- 8 Failure to comply with these requirements of the Code may amount to a criminal offence.

Other Interests – Personal Interests

- 9 In addition to disclosable pecuniary interests referred to above, you must also declare personal interests.
- 10 You have a personal interest in any business of the authority where the business of the authority relates to or is likely to affect any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority.
- 11 You will also have a personal interest in any business of the authority where the business of the authority relates to or is likely to affect any body exercising functions of a public nature, which is directed to charitable purposes or whose principle purposes includes influencing public opinion or policy where you are a member of that body or in a position of general control or management.
- 12 The Audit and Governance Committee may, from time to time, prescribe certain bodies the membership of which amounts to a personal interest.
- 13 You will also have a personal interest in any business of the authority where a decision in relation to that business might reasonably be regarded as affecting your wellbeing or financial position or the wellbeing or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers, or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

- 14 For the purposes of this Code, a relevant person is –
- (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
 - (c) any person or body in whom such persons have a beneficial interest and a class of securities exceeding the nominal value of £25,000 or one hundredth of the total issued share capital of that body.
- 15 Unless your personal interest also amounts to a prejudicial interest, a disclosable pecuniary interest or pre-determination, you may remain in the meeting and take part in the debate and vote.

Other Interests – Prejudicial Interests

- 16 You will have a prejudicial interest if you have a personal interest in any business of the authority and where that personal interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business:-
- (a) affects your financial position or the financial position of a relevant person or body described in paragraph 10 or 11 above; or
 - (b) relates to the determination of any approval, consent, licence, permission or registration in relation to you or any relevant person or body described in paragraph 10 or 11 above
- 17 Where you have a prejudicial interest, you may not participate in any discussion of the matter at the meeting or in any vote taken on the matter at the meeting. You are also required to leave the room where the meeting is taking place during the discussion and vote. However you may attend the meeting and make representations, answer questions or give evidence provided that the public are also allowed to attend the meeting for the same purpose and you leave the meeting immediately after having done so.

Part 3 – Pre-Determination and Bias

- 18 Separately from considerations as to personal, prejudicial or disclosable pecuniary interests, members must be mindful of falling foul of the general obligations of this code by taking part in decisions where they are biased or have pre-determined the matter in question.
- 19 Simply put, a member will be biased or will have pre-determined a matter if they have approach a matter with a closed mind. That is to say if they have made up their mind which way they will decide a matter before all of the relevant considerations are presented and debated in the appropriate decision making forum.
- 20 Previous actions or statements of a member will not be taken by themselves as proof of predetermination. A member may be predisposed to a certain point of view, however notwithstanding any predisposition, members need to be careful to ensure they approach and, insofar as is possible, are seen to approach decisions with an open mind.
- 21 Particular scenarios to be mindful of are where a member, in some other role, is seen to be a promoter or advocate for a proposal which later comes before them for decision. A risk arises when there has been significant personal involvement in preparing or advocating the proposal such that a member may become or may be perceived by the public as being no longer able to approach the decision with an open mind.
- 22 If you feel that you have pre-determined a matter you should say so. You should not speak or vote on the proposal. You may, however, make representations on the proposal if a member of the public also has the right to do so. You are not legally obliged to withdraw from the meeting for the remainder of the debate and vote but in most circumstances doing so will counter any suggestion that you influenced the remaining members by your continued presence. If you do not withdraw, as a minimum you must withdraw to the public area of the meeting room for the whole of the consideration of the matter, whether or not you are also exercising your right to speak.
- 23 If in any doubt you should seek advice from the Monitoring Officer.

Part 4 – Further Information

- 24 The Monitoring Officer, in consultation with the Chairman of the Audit and Governance Committee, will publicise from time to time arrangements for dealing with complaints made against members that their conduct has breached the requirements of this code. The arrangements currently in force are [here](#).
- 25 The Monitoring Officer will publicise from time to time a Monitoring Officer Protocol reflecting current trends in Member Conduct matters in order to

provide guidance on how emerging or common issues will be approached.

Part 5 – Dispensations

- 26 The Audit & Governance Committee may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a prejudicial or disclosable pecuniary interest.
- 27 A list of matters to which a dispensation has been granted to all members is available [here](#).

FOR INFO IN THE DRAFTING PROCESS AND TO ULTIMATELY BE
HYPERLINKED:-

Extract from the Relevant Authorities (Disclosable Pecuniary Interests)
Regulations 2012

- The following categories are Disclosable Pecuniary Interests
- “M” denotes the relevant Elected Member
- The regulations apply if the disclosable pecuniary interest is yours, your spouse’s or civil partner’s or is the pecuniary interest of somebody with whom you are living as a husband or wife or as if you were civil partners

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(1).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.

List of suggested dispensations to be hyperlinked (Note: this differs from the current list granted by council and differences have been highlighted.)

- (a) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
- (b) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (d) an allowance, payment or indemnity given to members;
- (e) any ceremonial honour given to members;
- (f) setting Council Tax or precept under the Local Government Finance Act 1992 (or any subsequent legislation);

- (g) setting a Local Council Tax Reduction Scheme or Local scheme for the payment of business rates (including eligibility for rebates and reductions) for the purposes of the Local Government Finance Act 2012 (or any subsequent legislation);
- (h) an interest arising from your membership of another local authority; and
- (i) To the extent that it may amount to a prejudicial or disclosable pecuniary interest, any allowance or other remuneration received from the Council in respect of council duties or directorships of council owned ASDVs.

Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Part B – Officer Code of Conduct

- 1. Code of Conduct - Core Principles**
- 2. Code of Conduct - Core Standards**
- 3. Code of Conduct - Core Standards - Guidance**
- 4. Code of Conduct - Associated Forms & Referral Points**
- 5. Other Standards relevant to different groups of employees throughout the Council**
- 6. Cheshire East Core Values**

1. CORE PRINCIPLES

The following core principles underpin the concept of public service and apply to all employees of the Council regardless of the nature of the job they do.

SELFLESSNESS

Employees should take decisions solely in the terms of the public interest. They should not do so nor use their position in order to gain financial or other material benefits for themselves, their family or their friends.

INTEGRITY

Employees should not place themselves under any financial or other obligations to outside individuals or organisations that might influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits, employees should make decisions on merit.

ACCOUNTABILITY

Employees are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Employees should be as open as possible about all decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.

HONESTY

Employees have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

RESPECT FOR OTHERS

Employees must treat other people with respect and not discriminate unlawfully or unfairly against any person. They must treat Councillors and other co-opted members of the authority professionally.

TRUST

Employees must, at all times, act in accordance with the trust that the public is entitled to place on them. Employees must use any public money or service users' money entrusted to or handled by them, in a responsible and lawful manner and not make personal use of the Council resources unless properly authorised to do so.

LEADERSHIP

Employees should promote and support these principles by leadership and example.

The Code of Conduct principles operate within the overall framework of the Core Values Our Values for Cheshire East are depicted by the acronym **FIRST** (Explained further in section 6 of the Guidance Notes).

2. CORE STANDARDS

Our customers, the general public, are entitled to expect the highest Standards of Conduct from us. The aim of this code is to tell you about the standards which are expected and to help you avoid any misunderstanding or criticism.

- 1. GIFTS AND HOSPITALITY**
- 2. SPONSORSHIP**
- 3. USE OF FINANCIAL RESOURCES**
- 4. USE OF COUNCIL FACILITIES**
- 5. INTELLECTUAL PROPERTY**
- 6. POLITICAL NEUTRALITY**
- 7. OTHER EMPLOYMENT AND EXTERNAL ACTIVITIES**
- 8. FINANCIAL AND NON-FINANCIAL INTERESTS**
- 9. RELATIONSHIPS**
- 10. APPOINTMENTS & OTHER EMPLOYMENT MATTERS**
- 11. TENDERING & CONTRACTS**
- 12. PRIVATE USE OF FIRMS DEALING WITH THE COUNCIL**
- 13. DISCLOSURE OF INFORMATION**
- 14. COMPLIANCE WITH THE CODE & CONFIDENTIAL REPORTING**

You should also be aware of and abide by Service specific Standards or Regulations, especially when working with vulnerable adults and children or working in a school. The rules within the Standards of Conduct, for staff in Community Services, for example, if you are offered a gift, are much stricter than those included in this standard Code of Conduct.

Please liaise with your Manager who should refer you to the appropriate Standards. At the end of the Code of Conduct Guidance notes, you will also find a matrix to help sign post you to other relevant Standards

3. CODE OF CONDUCT STANDARDS – GUIDANCE

1. GIFTS AND HOSPITALITY

1.1. If we accept gifts from people who are or may be dealing with the Council, the Council and its employees could be open to criticism. If you are declining hospitality please do so courteously and explain that the Council's rules do not allow you to accept.

1.2. You must refuse offers of hospitality where suggestions of improper influence is possible. Employees must be sensitive to the timing of any decisions being made between the Council and third party.

1.3. You should only accept hospitality where it is on a scale appropriate to the circumstances, and where it is apparent that no cause could reasonably arise for adverse criticism about the acceptance of the hospitality. Hospitality is usually acceptable when the invitation is corporate not personal.

1.4. Whatever gift/hospitality is provided to you, other than hospitality of nominal value only such as drink or small items of stationery, you should report the circumstances and the type of hospitality to your Head of Service. Small insignificant gifts of a value of less than £5, such as pens, diaries, calendars, mouse mats or mugs, may be accepted. However, in the case of those working in social care, no gift, however little the value, should be accepted in any circumstances.

1.5. It is a serious criminal offence to corruptly receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

! If you are presented with a gift or offer of hospitality you must seek authorisation in advance, where possible, from your Head of Service, who will record every request on the relevant form. (Consider the decision checklist in section 4 of the Guidance Notes)

All employees are required to complete an annual declaration of interest return, even if this is to confirm that they have nothing to declare, and then to report issues as and when they occur.

2. SPONSORSHIP - Giving and Receiving

2.1. If an organisation wants to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic rules about accepting gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

2.2. If the Council sponsors an event or service, you or anyone connected with you may not benefit from the sponsorship. Similarly, if the Council, gives financial support in the community, please ensure that impartial advice is given and that you have no conflict of interest.

! You must inform your Head of Service of any personal interest you may have and complete a declaration of interest form.

3. USE OF FINANCIAL RESOURCES

You must ensure that you use public funds entrusted to you in a responsible and lawful manner. Please try to ensure value for money to the local community and to avoid the risk of legal challenge to the Council.

! Employees must follow Standing Orders, Financial Regulations and operating procedures and advise management where they consider changes can be made to increase value for money.

4. USE OF COUNCIL FACILITIES

4.1 At work you have access to facilities which include office equipment, computers, stores, transport etc. These facilities are provided purely for work and you must not use them for your own purposes.

4.2 There are certain minor exceptions to these rules - the use of telephones, fax machines and photocopiers.

4.3. Telephones

Ideally, private telephone calls should not be made or received. In practice, you may need to make or receive essential calls but these should be kept to a minimum and costs reimbursed to the Council, unless it is an emergency.

4.4. Fax machines and photocopiers

If necessary, personal fax messages may be despatched to locations within Great Britain. Photocopies of personal documents (up to a maximum of 10 copies at any one time) may be taken and costs reimbursed to the Council.

! Costs must be reimbursed to the relevant person using the Council's reimbursement process.

5. INTELLECTUAL PROPERTY

Intellectual property mean products of the mind, for example inventions, designs, trade marks, creative writings, programs and drawings (referred to in short as 'inventions'). It will normally be the case that the ownership of all 'inventions' and the copyright of all written material created during work for the Council, belong to the Council.

! This is a complex area, further guidance must always be sought from Legal Services in any particular case.

6. POLITICAL NEUTRALITY

6.1. Employees work for the Council as a whole. You must therefore work for all the councillors and not just those of any controlling group or particular political party.

6.2 You must follow every lawful policy of the authority and must not allow your own personal or political opinions to interfere with your work.

6.3. Certain employees hold politically restricted posts (PoRPs). If your job is politically restricted, you will be notified. You are disqualified from membership of any local authority, other than a parish or community council or from being an MP or MEP.

! Employees who are politically restricted must observe the restrictions imposed. A register of PoRPs is maintained by HR.

7. OTHER EMPLOYMENT & EXTERNAL ACTIVITIES

7.1 As a general rule you must not undertake any type of private work which conflicts with the Council's interests or prevents you from fulfilling the terms of your employment contract.

7.2 If you are above NJC Grade 7 or equivalent, you must obtain the consent of your Head of Service before you do private work.

7.3 Whether or not you need to obtain consent before doing private work, **you must not**;

- Do private work during working hours nor on the Council premises nor use Council equipment.
- Undertake any private work which prevents you from carrying out your duties with the Council or including any requirements to do contractual overtime.
- Undertake private work for any person, firm or company if it will involve the Council.
- Prepare or assist with any applications, for example, planning or building, in any private capacity if you deal with these normally.
- Access Council Services, for example, if you want to make a planning application personally, unless you declare your employment in writing, in a covering letter with your application and submit this via your line manager.
- Undertake private work that needs approval or consent from the Council
- Undertake private work for any person, firm or company who have a contractual relationship with or who are commissioned by the Council for any type of work.
- Undertake private work for another employee responsible for supervising you or whom you supervise, or for an elected member of the Council.

7.4 Employees must ensure they understand and can comply with both Working Time and Health and Safety regulations before considering other employment.

! Employees must seek consent from their line manager before undertaking other work. All employees must declare an interest where a conflict may arise.

All employees are required to complete an annual declaration of interest return, even if this is to confirm that they have nothing to declare, and then to report issues as and when they occur.

8. FINANCIAL AND NON-FINANCIAL INTERESTS

8.1. The Local Government Act 1972, section 117, requires you to disclose any direct or indirect financial interest in any contract involving the Council. Failure to declare the interest may be a criminal offence.

8.2. If you have any direct or indirect interest in an organisation or company that is doing business with the Council, which you think conflicts with your job role, then you should inform your Head of Service.

8.3. You may have a conflict of interest even if you have no financial interest. For instance, relationships might be seen to influence judgements and give the impression of a personal motive E.g. a Council employee who is an Honorary Officer of an Association and who is involved in dealing with an application for a grant by the Association. In such a case, again you should inform your Head of Service.

8.4 Employees are able to act as a member of another local authority, a school governor, or member of a community organisation but may still be required to declare their interest if any potential conflict arises.

8.5 If, in connection with his/her employment with the Council, an employee uses his/her relationship with an organisation for his/her own or someone else's personal or financial gain, he/she will be regarded as being in breach of this Code of Conduct.

8.6 Employees who are members of other associations or bodies that have dealings with the Council should declare their interest, if there is any potential conflict.

8.7 Employees who during the course of attending a meeting believe they that may have a conflict with an item on the agenda should advise the Chair and leave the meeting for all or part of the meeting as appropriate.

! Declare an interest on the Declaration form if there is a potential conflict.

All employees are required to complete an annual declaration of interest return, even if this is to confirm that they have nothing to declare, and then to report issues as and when they occur.

9. RELATIONSHIPS

9.1 Councillors

Mutual respect between employees and councillors is essential. Close personal familiarity between employees and individual councillors can damage this relationship. You must be professional at all times and not allow your work and private interests to conflict.

9.2 The Local Community and Service Users

You should always remember your responsibilities to the Community and give efficient and impartial service to all groups and individuals within that community as defined by the policies of the Council.

9.3 Contractors

If you have a business or private relationship with external contractors or potential contractors you should tell your manager. Orders and contracts must be awarded on merit, by fair competition against other tenders and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

9.4 If you engage or supervise contractors or work with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, you should declare that relationship to the appropriate manager.

! Declare an interest on the Declaration form if there is a potential conflict and do not take part in any related tendering or contract award processes.

10. APPOINTMENTS & OTHER EMPLOYMENT MATTERS

10.1. If you are involved in the recruitment and selection of employees, appointments should be made on the basis of merit and in accordance with our Recruitment and Selection Policy and Procedures obtainable from HR. To avoid any possible accusation of bias, you should not be involved in an appointment where you are related to an applicant, or have a close personal relationship outside work with him or her.

10.2. Similarly, you should not be involved in decisions about discipline, promotion or pay adjustments for any employee who is a relative, partner etc.

! Declare an interest on the Declaration form if there is a potential conflict.

11. TENDERING AND CONTRACTS

11.1. During the Tendering process, if you are involved in the 'in-house' bid (except Executive Directors and, apart from when their own service is tendered, legal, financial and professional advisers) you must not at the same time be involved in certain client tasks e.g. selecting tenderers. You should seek guidance from your Head of Service as to how the tendering process is to be conducted and how the 'in-house contractor' and client responsibilities are to be discharged.

11.2. Employees working for 'in-house' contractors or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

11.3. If you are privy to confidential information on tenders or costs for either internal or external contractors you should not disclose that information to any unauthorised party or organisation.

11.4. If you are responsible for selecting contractors to tender or supply quotations, you should ensure that you are not also responsible for the receipt and opening of the tender or quotation except where the sums involved are minor.

! Refer to the appropriate Corporate Procurement rules and guidance.

12. PRIVATE USE OF SERVICES OF FIRMS DEALING WITH THE COUNCIL

12.1 You should be cautious when using the services of firms you know have dealings with the Council. You should ensure that the goods or services bought from such firms are at a price readily available to the general public. This is a difficult and sensitive area. Please try to avoid offending anyone and if necessary, explain the Council's policy.

12.2 If you think that any offer of preferential terms is designed to promote a firm's interest, you should not deal with the firm.

12.3 You should not use your position with the Council to obtain a discount. However, you may purchase goods at discount terms under a scheme or arrangement which applies to e.g. your trade union.

! If you require further guidance please refer to the Corporate Procurement Team.

13. DISCLOSURE OF INFORMATION

13.1 You must not:

- Use information about work which is confidential, for personal gain or benefit or pass it on to others who might use it in this way.
- Give information to the media unless you are authorised to do so.
- Disclose confidential information to someone else, unless it is a request from an approved source, e.g. HMRC, Department of Social Security and, where authorised, from bank managers or building societies. It is normal practice to ask the person requiring the information to put their request in writing use advance knowledge of a Council decision, particularly about investment decisions or proposed developments to benefit yourself or someone else.

13.2 Data Protection Act (Disclosing information)

You must use personal data in accordance with the Data Protection Act. For example, the data must be held only for specified and lawful purposes and must not be used or disclosed for any other purposes.

! If you are unsure please seek guidance from the Data Protection Officer or Communications Team, depending on the nature of the request.

14. COMPLIANCE WITH THE CODE

14.1 It is important that local government employees are exemplary in their conduct at work. Non-compliance with this Code will be dealt with in accordance with our Disciplinary Code.

14.2 Employees who consider other employees to be guilty of misconduct must report this to their line manager or raise it through one of the other available procedures e.g. grievance.

14.3 Employees must not treat employees who report (or who intend to report or are suspected of reporting) potential misconduct any less favourably than other employees.

14.4 If, in some instances, the employee cannot make use of the existing procedures for any reason then they should raise complaints or genuine matters of concern with the relevant person through the Whistle Blowing Policy.

! This code is reviewed annually. Employees should therefore ensure they regularly familiarise themselves with the Code and its Guidance Notes.

4. ASSOCIATED FORMS & REFERRAL POINTS

The forms can be found on the HR website under the Code of Conduct.

Name	Action taken by :	Held By/Refer to
Declaration of interest form	Employee to Head of Service	
Ext. Gifts/Hosp/Spons form	Employee to Head of Service	
Reimbursement of Costs	Employee to Business Support	
Register of PoRP	N/A	HR
Whistle Blowing Policy	N/A	HR intranet

Checklist for Assessing Potential Conflict – Gifts and Hospitality

Employees should consider the following Checklist:

- (a) Have you obtained the prior approval of your Chief Officer?
- (b) Is the donor, or the event, significant in the community or in the Council's area?
- (c) Are you expected to attend because of your position in the Authority?
- (d) Will the event be attended by others in the Authority or in other Authorities?
- (e) Have you considered the motivation behind the invitation?

- (f) Would the acceptance of the invitation be, in any way, inappropriate or place you under pressure in relation to any current or future matter involving this Council?
- (g) Could you justify the decision to the Council, press and public?
- (h) Is the extent of the hospitality or the nature of the gift reasonable and appropriate?
- (i) How will you respond to the hospitality?

5. CODE OF CONDUCT – MATRIX OF REGULATIONS AND STANDARDS RELEVANT TO SPECIFIC DIRECTORATES

In determining acceptable standards, employees are asked to familiarise themselves not only with those included in the Code of Conduct but also those included in Service specific Codes, corporate policies or operational procedures used by their own Services.

You will find an up-to-date list of those documents on the Human Resources section of the intranet.

6. CHESHIRE EAST CORE VALUES “FIRST FRAMEWORK”

Values are the things in life that we consider to be important. In relation to work, values are what give purpose to our jobs; guiding our behaviours and the decisions we take. Values underpin the culture of our authority and the way we conduct ourselves at work.

Putting Residents First is about really listening and understanding what residents and businesses need and responding appropriately to provide the best possible Service.

This requires **Flexibility**, which means us all adapting quickly to changing circumstances and learning together from our experiences.

Innovation is about us being creative in our thinking and the way we approach our work and challenging convention where this no longer seems appropriate.

Taking personal **Responsibility** is at the heart of our values in delivering what we promise, and ensuring efficient use of resources, whether this is our people, funding, processes, information or technology.

Service ensures that we listen and respond appropriately enabling others to be empowered, independent and self-reliant.

Bringing this together is **Teamwork**, respecting and working well with others to collectively achieve the best outcomes for residents and communities.

Part C – Member / Officer Protocol

Protocol on Member / Officer Relations

Introduction and Principles

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.
- 1.3 This Protocol seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive fair treatment, objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.
- 1.4 It 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 (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.5 This Protocol is a local extension of the Members' and Employees' Codes of Conduct. Consequently, a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 1.6 This Protocol should be read in conjunction with the Members' and Employees' Codes of Conduct, the Council's Constitution and any guidance issued by the Audit & Governance Committee and/or Monitoring Officer.

Allegations of Member or Officer Misconduct: Responses by Members or Officers as appropriate

- 2.1 In a situation where a Member identifies that an Officer may have committed a breach of the Council's disciplinary rules and procedures, s/he shall draw the issue to the attention of the Chief Executive (Head of Paid Service) who will ensure that the appropriate action is taken. Thereafter the Member should not discuss or disclose the matter with any other person.
- 2.2 In respect of an Officer who believes a Member has breached the Members' Code of Conduct, they should:
 - a. not offer any opinion or judgement upon that conduct to the Member;

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- b. they must advise the Monitoring Officer immediately of the circumstances, facts, their belief and the rationale behind it, including supplying all and any documentation; and
- c. they should not comment further on the issue to any other Officer or Member without the prior consent of the Monitoring Officer.

These provisions are to protect both the Member and Officer, avoid Officers and Members from becoming unduly involved in allegations of misconduct at an inappropriate level or in inappropriate fora, and to ensure that any investigation that may need to be carried out by the Monitoring Officer or other agency, is not in any way fettered or damaged.

The Relationship: General Points

- 3.1 Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, the Executive, their committees and subcommittees.
- 3.2 At the heart of the Code, and this Protocol, is the importance of mutual respect.

Member / Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

- 3.3 Inappropriate relationships can be inferred from language / style. To protect both Members and Officers, Officers should address Members as “Councillor XX / Mr or Madam Mayor/Chair ” save where circumstances clearly indicate that a level of informality is appropriate, eg a one to one between a Head of Service and their respective Cabinet Member.
- 3.4 A Member should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with the objectives of this Protocol. This is a long-standing tradition in public service. An Officer has no means of responding to such criticisms in public. If a Member feels s/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, s/he should raise the matter

with the respective Head of Service. The Head of Service will then look into the facts and report back to the Member. If the Member continues to feel concern, then s/he should report the facts to the Director who heads the Directorate concerned, or if, after doing so, is still dissatisfied, should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint, will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.

- 3.5 An Officer should not raise with a Member matters relating to the conduct or capability of another Officer or department. Such concerns should be raised through appropriate officer reporting lines.
- 3.6 Where an Officer feels that s/he has not been properly treated with respect and courtesy by a Member, s/he should raise the matter with his/her Head of Service, Director or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Head of Service, Director or Chief Executive will take appropriate action either by approaching the individual Member and/or group leader or by referring the matter to the Monitoring Officer.

The Relationship: Officer Support to Members: General Points

- 4.1 Officers are responsible for day-to-day managerial and operational decisions within the authority and will provide support to both the Executive and all Councillors in their service areas.
- 4.2 Certain statutory officers – the Chief Executive, the Monitoring Officer and the Chief Financial Officer – have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members.
- 4.3 The following key principles reflect the way in which the officer core generally relates to Members:
 - ◆ all officers are employed by, and accountable to the authority as a whole;
 - ◆ support from officers is needed for all the authority's functions including Full Council, Overview and Scrutiny, the Executive, individual Members representing their communities, etc;
 - ◆ day-to-day managerial and operational decisions should remain the responsibility of the Chief Executive and other officers;
 - ◆ the authority will seek to avoid potential conflicts of

interest for officers arising from the separation of the Executive and Overview and Scrutiny role; and

- ◆ all officers will be provided with training and development to help them support the various Member roles effectively and to understand the new structures.

- 4.4 On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Member or Members. It must be recognised that it is the Officer, rather than the Member or Members, who takes the action and it is the Officer who is accountable for it.
- 4.5 It is important that all Members, in exercising their functions as a Councillor, take appropriate legal, financial and professional officer advice, particularly about contractual matters. In order to ensure the highest standards of conduct are maintained at all times in relation to this important area of the Council's functions, additional guidance on Best Practice for Member Conduct during a Procurement Exercise is laid out in [Appendix](#)
- 4.6 Generally, all Members – whether Executive or otherwise – should consider, when invited to / attending a meeting, whether or not minutes should be taken and/or an officer should be present. It is a matter for Members' judgement whether this is necessary / appropriate, but factors such as whether any commitment is likely to be given on behalf of the Council and/or whether any complex financial, legal or procurement issues may be discussed will be relevant in deciding that. In such situations, Members are generally recommended to have an officer present and to ensure that contemporaneous minutes are taken and, where appropriate, shared with the other parties present to ensure that an accurate record is maintained. It will, however, be a case of judgement on each and every occasion as to how and when this principle is applied.
- 4.7 Finally, it must be remembered that Officers within a Service are accountable to their Head of Service and Director and that whilst Officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Head of Service or Director.

The Relationship: Officer Support: Members and Party Groups

- 5.1 It must be recognised by all Officers and Members that in

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discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.

- 5.2 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.
- 5.3 The support provided by Officers can take many forms. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups
- 5.4 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
 - 5.4.1 Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not present at meetings or parts of meetings, when matters of party business are to be discussed;
 - 5.4.2 party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
 - 5.4.3 similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.
- 5.5 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by Codes of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons,

Officers may not attend and/or give advice to such meetings.

- 5.6 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.
- 5.7 Whilst any Member may ask a relevant Head of Service, Director or the Chief Executive for written factual information about a Directorate or service, such requests must be reasonable and not seek information relating, for instance, to case work of a similar nature, eg Social Services, employment, etc. Requests will be met subject to any overriding legal considerations (which will be determined by the Director of Legal Services), or if the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If a Member requesting such information is dissatisfied by such a response, s/he should raise the matter in the first place with the relevant Director, and if still dissatisfied should raise the matter with the Chief Executive who will discuss the issue with the relevant Group Leader(s).
- 5.8 Requests for information about generic group employee matters such as Service structures, the overall cost of service provision for a group of employees etc should be considered in the normal way as set out above. Heads of Service, Directors or the Chief Executive should ensure that any information supplied does not contain any personal information (within the meaning of the data Protection Act 1998) relating to individual employees such as salary, grade, Trade Union affiliation etc.
- 5.9 Requests for personal information about specific employees or where the group of employees is so small that individual employees personal details are likely to be revealed should only be considered where a Member has a demonstrable need for such detailed personal information in order to carry out the business of the Council and they could not carry out that business without the information being supplied in a redacted form. Any such request must be accompanied by the Members reasons for requiring the information and must be forwarded to the Head of HR for determination (following consultation with the Council's Data Protection Officer and / or Monitoring Officer as appropriate).
- 5.10 All information held by the Council, in whatever form, is confidential to the Council unless and until such confidentiality is waived by the Proper Officer and subject to the requirements of the Data Protection Act 1998. Officers and elected Members are responsible for ensuring that personal information and data is only handled and processed in accordance with the provisions of the Act and to familiarise themselves with their obligations under the Act accordingly. Officers or Members who require advice or assistance in relation to their duties under the Data Protection Act 1998

should take advice from the Director of Legal Services.

5.11 In relation to budget proposals:

- a. the Administration shall be entitled to confidential information / discussions with Officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of Committee / Council meetings, whichever is the earlier; and
- b. the opposition groups shall also be entitled to confidential information / discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee / Council meetings, whichever is the earlier.

5.12 As part of the Budget process, Officers may be called upon to give advice on budgetary proposals, wherever they may emanate from (once political confidentiality has been lifted). This is in addition to the "normal" rights that any member has to seek advice "in confidence" from Officers. In addition, Officers may feel it appropriate to offer advice to individuals, groups or all Members. In doing so, they should be aware of the need to remain impartial. It is appropriate and indeed, in certain circumstances, necessary that as a matter of professional judgement, if a proposed course of action is imprudent, that Officers should advise the Members of the Authority that this is so. It would, however, be for the Officer to decide how and when to do so, subject to the general rules outlined in paragraph 5.10 below. This is without prejudice to issues of legality and financial administration which are covered by specific duties placed on the Chief Financial Officer and Monitoring Officer.

5.13 In view of the need to ensure that the professional integrity of Officers is not impugned, deliberately or inadvertently, the following principles will be applied (although they may be departed from by the Chief Executive, Monitoring Officer or Chief Financial Officer as and when appropriate given their specific statutory duties):

- a. any advice or information provided to any Member(s) in writing will be marked 'strictly confidential, signed and dated by the responsible Officer.
- b. generally, such advice / information will be provided to the Group Leaders, unless there are over-riding considerations associated with the statutory responsibilities of the Head of Paid Service / Chief Financial Officer / Monitoring Officer which would warrant the advice being shared with all Members;
- c. Group Leaders and Members who received such advice will treat such advice as strictly confidential to the Council and will ensure that, if such advice is further shared or disseminated within their groups, their groups understand that the advice is confidential to the Council and not to be disclosed further under any circumstances.

- d. Officers will also provide, as appropriate, briefings for either Group Leaders and/or all Members as requested by the Group Leaders and/or determined by the Chief Executive, Chief Financial Officer and/or Monitoring Officer prior to the Budget on any particular issues or matters which those Officers, as a matter of professional judgement, consider should properly be drawn to Members' attention.

The over-riding obligation will be to ensure that the integrity of the administration of public affairs is maintained. The prime responsibility of Officers in the matter of any challengeable decision arises in advising Members of the Council before decisions are reached. It is incumbent, in these circumstances, for Councillors to be fully advised on the legal and financial consequences of any proposed course of action.

- 5.14 It must not be assumed by any party group or Member that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.
- 5.15 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

The Relationship: Officer Support: The Executive

- 6.1 It is clearly important that there should be a close working relationship between Executive Members and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups.
- 6.2 Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a professional duty to submit a report. Similarly, a Head of Service or other senior Officer will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between an Executive Member and a Head of Service in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.
 - 6.3 The Executive and its members have wide ranging leadership roles. They will:
 - ◆ lead the policy formation process with input and advice from Overview and Scrutiny Committees and any other persons as appropriate;

- ◆ lead the preparation of the local authority's budget;
- ◆ take in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Full Council; and
- ◆ be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

6.4 Where functions which are the responsibility of the Executive are delegated to Officers or other structures outside the Executive, the Executive will nevertheless remain accountable to the Council, through Overview and Scrutiny Committees, for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out.

6.5 Under Executive Arrangements individual Members of the Executive are allowed to formally take decisions. The Executive and Cabinet members must satisfy themselves that they are clear what exactly they can and cannot do.

6.6 The Council has put in place mechanisms / protocols which ensure that (as with the Council, its Committees and Sub-Committees, and the Executive and its Committees) an individual Executive Member seeks advice from relevant Officers before taking a decision within her or his delegated authority. This includes taking legal advice, financial advice and professional officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is doubt about vires.

6.7 As a result of the particular issues arising during contractual discussions, particular guidance has been provided for all Members at [Appendix](#) to this Officer / Member Protocol. Whilst this guidance is predominantly aimed at Executive Members, who may largely be the Members directly involved in discussions with potential tenderers / contractors / sub-contractors during the course of a procurement exercise, it is not exclusively aimed at Executive Members – it is specifically aimed at all Members, and for that reason, all Members should be aware that their conduct during a procurement exercise should follow the guidance in [Appendix](#).

6.8 Decisions taking by individual Members of the Executive give rise to legal and financial obligations in the same way as decisions taken collectively. Therefore, Members of the Executive should always be aware of legal and financial liabilities (consulting the Monitoring Officer and Chief Financial Officer as appropriate) which will arise from their decisions. To ensure effective leadership for the local authority and the communities it serves, there are arrangements to ensure co-ordination of and sharing

responsibility for Executive decisions including those made by individuals.

6.9 Officers will continue to work for and serve the local authority as a whole.

Nevertheless, as the majority of functions will be the responsibility of the Executive, it is likely that in practice many Officers will be working to the Executive for most of their time. The Executive must respect the political neutrality of the Officers. Officers must ensure that, even when they are predominantly supporting the Executive, that their political neutrality is not compromised.

6.10 In organising support for the Executive, there is a potential for tension between Chief Officers and Cabinet Members with portfolios. All Members and Officers need to be constantly aware of the possibility of such tensions arising and both Officers and Members need to work together to avoid such tensions and conflicts existing or being perceived.

The Relationship: Officer Support: Overview and Scrutiny

- 7.1 Overview and Scrutiny is an important constituent part of effective democracy and the Council’s constitutional arrangements. Officers have significant roles in making it effective. However, it is not Overview and Scrutiny’s role to act as a disciplinary tribunal in relation to the actions of Members or Officers. Neither is it the role of Officers to become involved in what would amount to disciplinary investigations on a Panel’s behalf. This is the Chief Executive’s function alone in relation to staff, the Monitoring Officer’s and Audit and Governance Committee as regards the conduct of Members. This means:
- ◆ Overview and Scrutiny’s questioning should not be directed to the conduct of individuals, not in the sense of establishing the facts about what occurred in the making of decisions or implementing of Council policies, but with the implication of allocating criticism or blame;
 - ◆ in these circumstances, it is for the Chief Executive to institute a formal enquiry, and Overview and Scrutiny may ask (but not require) him or her to do so.
- 7.2 Overview and Scrutiny should not act as a “court of appeal” against decisions or to pursue complaints by individuals (Councillors, Officers or members of the public) as other procedures exist for this. These are internal, eg the Corporate Complaints Procedure, and external / statutory, eg Local Government Ombudsman or appeal to the Courts. That said,
- ◆ Overview and Scrutiny may investigate the manner in which decisions are made but should not pass judgements on the merits of a decision in individual cases;
 - ◆ they can comment, however, on the merits of a particular policy affecting individuals.
- 7.3 It would be unfair to invite someone to appear before a Panel without telling them in general terms what they will be asked, or not giving them adequate time to prepare. Overview and Scrutiny ought to provide written questions (or indicative topics) beforehand, so that the answers can form the basis of the questioning and discussion. In addition, speakers ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Panel had previously indicated.
- 7.4 Consideration should be given to any Overview and Scrutiny guidelines as to the procedure at Evidence Meetings, and guidance for Members and Officers.
- 7.5 Overview and Scrutiny are, however, entitled to the following:
- a. the level and extent of questioning, and the depth to which Overview and Scrutiny Members may probe Officers is dependent upon the seniority of the Officers present –

accordingly when calling Officers to give evidence, Members may wish to consider the level and nature of the Officer they wish to have before them in the light of the line of questioning they wish to follow;

- b. Officers may be asked to give a professional opinion, and Officers may be asked to give alternative options. Officers may not confine themselves solely to justifying either the position of or the advice that they gave to the Executive, although in giving options, it is to be expected that they will explain the rationale for the advice that they gave and if the advice given to the Executive reflects, in their professional opinion, the best option, to justify that;
- c. it is appropriate for Members of Overview and Scrutiny to ask Officers to explain and justify advice given to Members, whether on the Executive or otherwise, prior to decisions being taken, and to justify decisions Officers have taken under delegated powers;

7.6 Officers are expected:

- a. to maintain political impartiality at all times when commenting on the Cabinet's / Council's policies and actions;
- b. to be prepared to explain and justify advice given to Members, including members of the Executive and the Council prior to decisions being taken and to justify decisions they themselves have taken under the Scheme of Delegation;
- c. to ensure that an Officer of sufficient seniority appears before the relevant meeting in the light of the indicative topics supplied by Overview and Scrutiny in advance;
- d. where requested to provide information to Scrutiny, eg on alternative options. to provide that information in as a comprehensive and timely fashion as if the request had come from the Executive.
- e. to respond to questions from Members in an open, constructive and helpful manner;
- f. not to mislead or be economical with the truth.

Support services to Members and Party Groups

8.1 The only basis on which the Council can lawfully provide support services (eg, stationery, typing, printing, photo-copying, 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.

Members' Access to Information and to Council Documents

- 9.1 Members have the ability to ask for information pursuant to their legal rights to information. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Head of Service or another senior Officer of the Service concerned. Requests for employee related information (whether group of employees or individual employees) must be treated in accordance with paragraphs 5.8 – 5.10 above. In cases of doubt, Members should approach the Director of Legal Services for assistance.
- 9.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 9.3 Members will find set out in [Appendix](#) guidance on their rights to obtain information. The law in this area is complex, legislation including the Access to Information provisions of the Local Government Act 1972, the Data Protection Act 1998 as well as the Local Government Act 2000 have all had an impact. However, the Freedom of Information Act 2000 will have an even greater impact, and could potentially provide Members with a single route through which to obtain information in support of their work, whatever their role within the authority. The guidance note set out in [Appendix](#) maps the hierarchy of rights of Members to information, but should be read in combination with the contents of the Constitution, most particularly the Access to Information Procedure Rules which cover the statutory obligations of the authority in terms of information and its relationship with the decision-making process.
- 9.4 Finally, any Council information provided to a Member is deemed to be information provided in confidence, is subject to the protections afforded by the Data Protection Act 1998 and must only be used by the Member for the purpose for which it was provided, ie in connection with the proper performance of the Member's duties as a Member of the Council. Therefore, for example, early drafts of Committee reports / briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied. This point is emphasised in Members' Code of Conduct.
- 9.5 Failure to observe this obligation or disclosure of confidential information may amount to a breach of the Code of Conduct. Failure to safeguard and protect the confidentiality of personal information within the meaning of the Data Protection Act 1998 may result in prosecution of the Authority and / or any individual Officer or Member by the Information Commissioner and the imposition of significant monetary penalties.

Correspondence and Advice

- 10.1 Members seeking advice from officers shall be entitled to assume that such advice is given under “Chatham House rules” in terms of disclosure to other Members, unless otherwise agreed with the officer(s) concerned. i.e. it is not for further disclosure.
- 10.2 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. In other words, a system of “silent or blind copies” should not be employed.
- 10.3 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain limited circumstances (eg, representations to a Government Minister) for a letter to appear in the name of a Cabinet Member or the Leader or the Leaders of all political groups represented on the Council by agreement, but this should be the exception rather than the norm. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member, Executive or otherwise.

- 10.4 Correspondence received by Democratic Services from the public with a request that it is either copied to Members and/or forwarded to Members will, subject to any over-riding legal considerations, be forwarded / copied.
- 10.5 Officers responding to members queries should do so in a timely manner, and in accordance with the agreed standards for replying to letters and E mails from Members.

Publicity and Press Releases

- 11.1 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Authority, explaining its objectives and policies to the electors and rate-payers. In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council's activities is to be welcomed.
- 11.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a [Code of Recommended Practice on Local Authority Publicity](#). The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government.
- 11.3 Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, Officers and/or Members should initially seek advice from the Head of Communications who will refer the matter to the Monitoring Officer if necessary / appropriate. Particular care should be paid to any publicity used by the Council around the time of an election. Particular advice will be given on this by the Monitoring Officer.

Involvement of Ward Councillors

- 12.1 Whenever a public meeting is organised by the Council 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. More generally, Officers should consider whether other policy or briefing papers, or other topics being discussed with an Executive Member, should be discussed with relevant Ward Members. Officers should seek the views of the appropriate Executive Member(s) as to with whom and when this might be done.

Conclusion

- 13.1 Mutual understanding, openness on these sorts of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Members and Officers.

APPENDICES TO FOLLOW – TO BE APPROVED BY AUDIT AND GOVERNANCE COMMITTEE

Part D – Whistleblowing Policy

WHISTLEBLOWING POLICY

The Council has a [Whistleblowing Policy](#) in place.