

BEVAN BRITTAN REPORT

APPENDIX ONE – THE CODE OF CONDUCT

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SECTION 17

NORTH HERTS DISTRICT COUNCIL CODE OF CONDUCT FOR COUNCILLORS (AND VOTING / NON-VOTING CO-OPTees)

(Approved by Council on 18 July 2013)

1. Introduction

- 1.1 Trust and confidence in public office-holders and institutions are important for the functioning of local authorities. This is particularly true in the case of elected office-holders. The Council has therefore adopted this Code of Conduct to promote and maintain high standards of conduct in public life. It is each Councillor's responsibility to comply with the provisions of this Code.
- 1.2 The Code of Conduct applies to all elected Councillors, (voting or non-voting) co-opted and appointed members.

2. When does the Code of Conduct apply?

- 2.1 In this Code "meeting" means any meeting of
 - (a) the authority;
 - (b) the executive of the authority;
 - (c) any of the authority's or its executive's committees, sub committees joint committees, joint sub-committees, or area committees;
 - (d) informal meetings with other members and/or officers relating to the discharge of the authority's functions.
- 2.2 The Code of Conduct applies—
 - (a) whenever you conduct the business, or are present at a meeting, of the authority; or
 - (b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed; or
 - (c) whenever you act, claim to act or give the impression you are acting as a representative of the authority; or
 - (d) at all times and in any capacity, in respect of conduct identified in paragraphs 3.4(a) and 3.5; or
 - (e) in respect of any criminal offence for which you have been convicted during your term of office.

- 2.3 Where you are elected, appointed or nominated by the authority to serve on any other authority or body you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body.
- 2.4 Where you are elected, appointed or nominated by the authority to serve on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, unless it conflicts with any other lawful obligations to which that other body may be subject.

3. Rules of Conduct

- 3.1 As a Member of North Hertfordshire District Council you shall have regard to the seven principles of public life.

<i>Selflessness</i>	Holders of public office should act solely in terms of the public interest.
<i>Integrity</i>	Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
<i>Objectivity</i>	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
<i>Accountability</i>	Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
<i>Openness</i>	Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
<i>Honesty</i>	Holders of public office should be truthful.
<i>Leadership</i>	Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

These general principles are the underlying principles behind the rules of conduct set out below.

3.2 Duties and Responsibilities

You must:

- (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
- (b) show respect and consideration for others;
- (c) not use bullying behaviour or harass any person; and
- (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the authority.

3.3 Information

You must not:

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
- (b) prevent any person from gaining access to information to which that person is entitled by law.

3.4 Conduct

You must

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or the authority into disrepute;
- (b) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, the authority.
- (c) comply with any request of the authority's monitoring officer or section 151 Officer, in connection with an investigation conducted in accordance with their respective statutory powers.

3.5 Use of your Position

You must not:

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;

(b) use, or authorise others to use, the resources of the authority—

(i) imprudently;

(ii) in breach of the authority's requirements;

(iii) unlawfully;

(iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;

(v) improperly for political purposes; or

(vi) improperly for private purposes.

3.6 Decision Making

You must:

(a) when participating in meetings or reaching decisions regarding the business of the authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by the authority's officers, in particular by—

(i) the authority's head of paid service;

(ii) the authority's s.151 officer/ chief finance officer;

(iii) the authority's monitoring officer/ chief legal officer;

(b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

3.7 Compliance with the Law and the Authority's Rules and Policies

You must:

(a) observe the law and the authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;

(b) comply with the authority's Gifts and Hospitality Policy;

(c) comply with any other policy (or part of policy) which sets out required conduct from Members, for example the Member/Officer Working Protocol and Planning Code of Good Practice for Members.

4. Interests

- 4.1 Remember - breaches of the requirements of the Localism Act 2011 relating to Disclosable Pecuniary Interests can constitute a criminal offence.

Disclosable Pecuniary Interests

- 4.2 You have a Disclosable Pecuniary Interest if you, or your spouse or civil partner, have a pecuniary interest as defined by regulations made by the Secretary of State. The description of Disclosable Pecuniary Interests published by DCLG in their Guide for Councillors "Openness and Transparency on Personal Interests" is attached in Appendix A. Interests of your spouse or civil partner are included to ensure that the public can have confidence that councillors are putting the public interest first and not benefiting the financial affairs of themselves or their spouse or civil partner from which the councillor would stand to gain. For this purpose your spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.
- 4.3 You must:
- (a) within 28 days of taking office as a member or co-opted member, notify the Monitoring Officer of any Disclosable Pecuniary Interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
 - (b) ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your Disclosable Pecuniary Interests.
- 4.4 Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.
- 4.5 If a function of the authority may be discharged by a member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with in the course of discharging that function, you may not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself).

Declarable Interests

- 4.6 You have a Declarable Interest in an item of business of the Council where:
- (a) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or your employer or a person or body with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward for which you have been elected or otherwise of the Council's administrative area; or
 - (b) it relates to or is likely to affect any of the interests listed in the Appendix to this Code in respect of a member of your family (other than covered in the legislation) or your employer or a person or body with whom you have a close association; or

(c) the 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; or

(d) the interests of any person or body from whom you have received a gift or hospitality with an estimated value of at least £50 (or such other figure set in the Council's Gifts and Hospitality Policy). You need not disclose this interest if it was registered more than 6 years before the date of the meeting; or

(e) it relates to or is likely to affect any body of which you are a member or in a position of general control or management which:

(i) you are appointed or nominated to by the authority; or

(ii) exercises functions of a public nature; or

(iii) is directed to charitable purposes; or

(iv) as its principal purposes includes the influence of public opinion or policy (including any political party or trade union)

and that interest is not a Disclosable Pecuniary Interest.

5. Sensitive Information

5.1 A Disclosable Pecuniary Interest may not be published or made available for inspection where the nature of the interest is such that you and the Monitoring Officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if it is entered in the register of interests. Copies of the register available for inspection and any published version of the register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011.

5.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 5.1 is no longer sensitive information, notify the Monitoring Officer.

6. Declaring Interests at meetings

6.1 If you are present at a Meeting at which an item of business in which you have a Disclosable Pecuniary Interest is to be considered or is being considered you must make verbal declaration of the existence and nature of the Disclosable Pecuniary Interest at the meeting at or before the consideration of the item of business or as soon as the interest becomes apparent. If the interest is not registered and is not the subject of a pending notification you must notify the Monitoring Officer of the interest within 28 days of the Meeting

6.2 If you attend a meeting at which any item of business is to be considered and you are aware that you have a Declarable Interest in that item, you must make a verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.

7. Effect of Interests on Participation at Meetings

7.1 If you are present at a meeting of the council and you have a Disclosable Pecuniary Interest relating to any business that is or will be considered at the meeting, you must not:

- (a) participate in any discussion of the business at the meeting, or if you become aware of your Disclosable Pecuniary Interest during the meeting participate further in any discussion of the business, or
- (b) participate in any vote or further vote taken on the matter at the meeting.

7.2 The prohibitions at paragraph 7.1 apply to any form of participation, including speaking as a member of the public. In certain circumstances you can request a dispensation from these prohibitions from the Monitoring Officer.

7.3 If you are present at a meeting of the council and you have a Declarable Interest relating to any business 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 you must not participate in the discussion or vote on the item, although you may speak as a member of the public.

7.4 If you have a Disclosable Pecuniary Interest, or a Declarable Interest which is so significant that you must not participate, you must leave the room or chamber where the meeting is being held unless you have received a dispensation from the Monitoring Officer.

7.5 If you are leaving the room or chamber in accordance with paragraph 7.4 you may listen to any speeches from the public but must leave prior to the item being presented or in any other case, whenever it becomes apparent that that business is being considered at that meeting.

8. Dispensations

8.1 Section 33 of the Localism Act 2011 allows the Council in certain circumstances to grant a dispensation to permit a member to take part in the business of the authority, even if the member has a Disclosable Pecuniary Interest relating to that business. If you would like the Council to consider granting you a dispensation, you must make a written request to the Monitoring Officer, who has been authorised by the Council to make decisions on requests for dispensations.

Appendix A

Description of Disclosable Pecuniary Interests (from *DCLG Guide for Councillors "Openness and Transparency on Personal Interests" March 2013*)

If you have any of the following pecuniary interests, they are your **Disclosable Pecuniary Interests** under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Employment, office, trade, profession or vocation

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Other payments received

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your Disclosable Pecuniary Interests following your election or re-election, or when you became aware you had a Disclosable Pecuniary Interest relating to a matter on which you were acting alone.

Contracts

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority –

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Land

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Licences

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Corporate tenancies

Any tenancy where (to your knowledge) –

- the landlord is your council or authority; and
- the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Securities

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where –

(a) that body (to your knowledge) has a place of business or land in the area of your council or 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 you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

SECTION 18

PROTOCOL FOR MEMBER / OFFICER WORKING ARRANGEMENTS

(Approved by Council on 18 July 2013)

1. Introduction

1.1 This Protocol provides a general framework for the interaction between elected Members and officers of the Council, in order to seek to ensure that the Members and officers work together effectively and efficiently to conduct the business of the Authority.

1.2 In particular, this protocol aims to support the enhancement of local democracy by –

- facilitating the participation of Members and officers in the Council's policy development and decision making processes;
- assisting Members and those officers who support them in their role as representatives of the community within the Council and externally; and
- clarifying arrangements for the provision of the information and support for Members and their party groups.

1.3 This protocol is intended to assist Members and officers in maintaining the highest standards of integrity and propriety and ensuring that everything they do is seen by others to be done properly, fairly and where possible openly.

1.4 It is important therefore that any dealings with Members and officers should observe reasonable standards of mutual courtesy and respect, and that neither should seek to take unfair advantage of their position in any circumstances.

1.5 A Code of Conduct for all Members has been adopted by the Council which sets out the Conduct expected from Members.

1.6 This protocol should be read and applied in conjunction with that Code of Conduct. The principles and procedures set out in this protocol are already, to a large extent, established and form the basis of the Council's working arrangements. The purpose of this protocol is to provide guidance on Member/officer working arrangements particularly in the case of doubt or difficulty.

1.7 The Protocol for Member / Employee Working Arrangements is not a formal part of the Council's Constitution but a breach of this Protocol may still amount to a breach by Members of the Code of Conduct for Councillors and by Officers' of the terms and conditions of employment.

2. Roles of Members and Officers

2.1 The respective roles of Members and officers can be summarised as follows:

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. Their job is to give advice to Members and to the Authority, and to carry out the Authority's work under the direction and control of the Council, the Cabinet, and relevant Committees etc. It is not the role of Members to determine the day-to-day management of the Authority's services. Mutual respect between Members and officers is essential to good local government.

2.2 Members

Members have four main areas of responsibility:

- a) determining the policy of the Authority and giving it political leadership;
- b) monitoring and reviewing the performance of the Authority in implementing that policy and delivering services;
- c) representing the Authority externally;
- d) acting as advocates on behalf of their constituents.

2.3 Members of Cabinet, Chairmen and Vice-Chairmen

Members of Cabinet and Chairmen and Vice-Chairmen of Committees, Boards, Panels etc have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from, and more complex than those of Members without those responsibilities, and this is recognised in the expectations they are entitled to have. However, such Members must still respect the impartiality of officers, must not ask them to undertake work of a party political nature, or to do anything which would put them in difficulty in the event of a change in the political composition of the Authority.

2.4 Opposition Members

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

2.5 Officers

The role of officers is to give advice and information to Members and to implement the policies determined by the Authority. In giving such advice to Members, and in preparing and presenting reports, it is the responsibility of the officer to express his/her own professional views and recommendations. Whilst an officer may report the views of individual Members on an issue, if the Member wishes to express a contrary view he/she should not seek to pressure the officer to make a recommendation contrary to the officer's professional view. Certain officers i.e. Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer) have responsibilities in law over and above their obligations to the Authority and to individual Members, and Members must respect these obligations, must not obstruct officers in the discharge of these responsibilities, and must not victimise officers for discharging these responsibilities.

3. Expectations

There might be occasions when Members and Officers disagree about certain issues, however on these occasions it is expected that the standards of behaviour set out in the Protocol will still be followed.

3.1 Members can expect from officers:

- a) A commitment to the Authority as a whole, and not to any political group;
- b) A working partnership;
- c) An understanding of and support for respective roles, workloads and pressures;
- d) Timely response to enquiries and complaints;

- e) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of officers;
- f) Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
- g) Awareness of and sensitivity to the political environment;
- h) Respect, dignity and courtesy;
- i) Training and development in order to carry out their role effectively;
- j) Integrity, mutual support and appropriate confidentiality;
- k) Not to be subject to bullying or to be put under undue pressure.
- l) Not to have personal issues raised with them by officers outside the agreed procedures;
- m) That employees will not use their relationship with Members to advance their personal interests or to influence decisions improperly;
- n) That officers will at all times comply with the relevant professional standards, corporate policies and conditions of employment;
- o) Support for the role of Members as the local representatives of the Authority, within any scheme of support for Members which may be approved by the Authority.

3.2 Officers can expect from Members:

- a) A working partnership;
- b) An understanding of and support for respective roles, workloads and pressures;
- c) Political leadership and direction;
- d) Respect, dignity and courtesy;
- e) Integrity, mutual support and appropriate confidentiality;
- f) Not to be subject to bullying or to be put under undue pressure. Members should have regard to the seniority of officers in determining what are reasonable requests, having regard to the power relationship between Members and officers, and the potential vulnerability of officers, particularly at junior levels;
- g) That Members will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
- h) That Members will give due consideration to advice received from officers;
- i) That Members will not criticise individual officers in public and will instead raise any concerns with the appropriate officer in the first instance;
- j) That Members will have due regard to advice received from the Head of Paid Service, Chief Financial Officer and Monitoring Officer when those officers are acting pursuant to their statutory duties;
- k) That Members will at all times comply with the relevant Code of Conduct.

3.3 Limitations on Behaviour

The distinct roles of Members and officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- a) Close personal relationships between Members and officers can confuse these separate roles and get in the way of the proper discharge of the Authority's functions, not least in creating the perception in others that a particular Member or officer may secure advantageous treatment;
- b) The need to maintain the separate roles means that there are limits to the matters on which they may seek the advice of officers, both in relation to personal matters and party political issues;
- c) Relationships with a particular individuals or party groups should not be such as to create public suspicion that an employee favours that Member or group above others.

The issue of officer attendance and advice to political groups is specifically covered below.

d) Members in their private capacity will sometimes need to use Council Services, for example a planning application for their property, or a licensing application for an organisation they are involved with. In order to ensure good future working relationships Members should follow with the principles of this Protocol in such interactions with officers.

4. Member/Officer Communication

4.1 Members should communicate with officers at the appropriate level. Routine service related enquiries should be initiated through normal departmental enquiry/contact points. If in doubt as to who to contact for such routine enquiries, Members should contact Democratic Services. Other matters will normally involve the appropriate Head of Service, Corporate Manager or other senior manager. Disagreement with regard to adopted policy should ordinarily be directed to the Executive Member responsible.

4.2 In communicating with Members, officers should have regard to professional standards, Corporate Policies and conditions of employment, the requirements of this protocol and any instructions issued by their departmental management.

4.3 In order to keep Members informed of relevant information, it may sometimes be necessary for Members and officers to hold confidential briefings. Officers are expected to be clear as to what information is confidential, and why, and Members are expected to maintain that confidentiality.

5. Officer Advice to Party Groups

5.1 There is no 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 Council or the relevant Committees. Officers may be properly called upon to support and contribute to such deliberations by party groups. The advice provided must be consistent with the principle at paragraph 3.1(e) above.

5.2 The support provided by officers can take many forms ranging from a brief meeting with an Executive Member, Chairman or spokesperson prior to a Council meeting, to a presentation to a full party group meeting. This support is available to all party groups.

5.3 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 party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings or parts of meetings when matters of party business are to be discussed.

b) Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. It is essential that discussions are kept confidential and are not communicated (inside or outside the organisation), interpreted or acted upon as though they have that official status.

c) 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 Cabinet or relevant Committee when the matter in question is considered.

5.4 Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Code of Conduct, in particular the provisions concerning the

declaration of interest and confidentiality, and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a meeting of Members only.

5.5 Officers must respect the confidentiality of any party group discussions at which they are present and should not, in particular, relay the content of any such discussion to another party group.

5.6 Any request for an officer to attend a meeting arranged by a party or party group, for the purpose of presenting information to the meeting (in relation to an issue or proposal affecting or involving the Council) must be made to the relevant Strategic Director, who will consult with the Chief Executive. Where it is agreed that an officer will attend for this purpose the same facility will be offered or made available to the other party groups. Any officer who so attends will do so in his/her official capacity, will be politically neutral, and attendance will not signify support for any particular political view, proposal or response.

5.7 Officer attendance at any public meeting will generally be avoided during the period between the announcement and conclusion of any local or parliamentary election (including Police and Crime Commissioner elections) affecting the area involved, and will only occur during such a period if representatives of all parties supporting candidates in the election have been invited to take part in the meeting.

5.8 At any public meeting organised by any party group, or by any individual Member (rather than by the Council) officers may attend only to provide information which is publicly available. No such officer attendance will take place during the 'pre-election' period referred to in paragraph 5.7.

5.9 Any particular difficulty or uncertainty concerning officer advice to party groups should be raised with the Strategic Director or Chief Executive who will where appropriate discuss with the relevant group leaders.

6. Officer/Member/Chairman Relationships

6.1 It is clearly important that there should be a close working relationship between the Leader of the Council, Executive Member and Chairman of a Committee and the Strategic Director and other senior officers of any department which reports to that Member or Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other Members and other party groups or with any other individual or organisation.

6.2 The Leader of the Council, Executive Member or Chairman will routinely be consulted as part of the process of drawing up an agenda for a forthcoming meeting. It must, however, be recognised that in some circumstances the proper conduct of business may require a particular matter to be included on the agenda. The Leader/Member/Chairman is not entitled to require the removal of such an item from the agenda, unless agreed by the Leader (unless s/he is the requester¹⁴) and Chief Executive Officer¹⁵. Directors/Heads of Service will always be fully responsible for the content of any reports submitted in their name. Any issue concerning the inclusion of any item on an agenda and the submission of any particular report that cannot be agreed between the Leader, Executive Member or Chairman and a Strategic Director should be referred to the Chief Executive as Head of Paid Service, the Corporate Legal Manager and/or the Strategic Director of Finance, Policy and Governance as Statutory Finance Officer.

¹⁴ If the Leader is the requester, then this is to be agreed with the Chief Executive.

¹⁵ This does not apply to statutory officer reports – under s114 Local Government Finance Act 1988 & s5 Local Government and Housing Act 1989

6.3 In relation to any action under delegated powers, it is important to remember that the law allows for decisions relating to the discharge of any of the Council's functions which are not specifically reserved to the Council to be taken by the Cabinet. Normally, wherever the authority to make a decision is delegated to an officer it is on the basis that the officer will exercise that authority in consultation with the Cabinet Member and/or other nominated Members.

6.4 It must be remembered that officers within a department are accountable to their Head of Service/Corporate Manager and Strategic Director and that whilst officers should also seek to assist a Cabinet Member or Chairman (or indeed any Member), they must not in doing so go beyond the bounds of whatever authority they have been given by their Head of Service/Corporate Manager or Strategic Director. It should also be noted that the Chief Executive has a statutory responsibility as Head of Paid Service for ensuring the proper organisation and management of the Council's staff, and has therefore an overall responsibility for the direction and management of all officers.

7. Correspondence

7.1 Members and officers are reminded that all written correspondence (including letters, emails and other forms of electronic communication) between them and with members of the public may be subject to information requests under the Freedom of Information Act, Environmental Information Regulations or Data Protection Act.

7.2 Correspondence between individual Members and an officer should not normally be copied to any other Member except where necessary for the proper conduct of business. When using email 'blind' copies of such correspondence should not be circulated.

7.3 Official letters on behalf of the Council should normally be sent out in the name of the appropriate officer rather than in the name of a Member. It may be appropriate in certain exceptional circumstances, for example representations to a Government Minister or correspondence with a Leader or another local authority, for a letter to be issued in the name of the Leader of the Council. Letters or e-mails (and other forms of electronic communication) which for example create obligations, confirm or deny the acceptance of any liability, or give instructions on behalf of the Council, should always be sent out by the appropriate Strategic Director, Head of Service/Corporate Manager or other senior officer.

8. Publicity and the Media

8.1 Contact with the media on issues related to the Council or to Council business is handled through, or with advice/support from, the Communications Unit.

8.2 Any Member who approaches the media on any item involving or affecting the Council without first approaching or consulting the Council (through the Communications Unit) will be responsible for such action. Any Member who does so should make it clear that he/she is speaking on his/her own behalf and not representing or speaking for the Council.

8.3 Members and officers should be mindful of the prohibition on the publication by the Council of any information intending to promote or canvass support for any political party or candidate for elections. In case of doubt, advice should first be obtained from the Corporate Legal Manager, who will have regard to Code of Practice on Local Government Communications.

9. Personal Relationships

9.1 No Member or officer should allow any personal connection or relationship with any other Member or officer to affect the performance of his or her official responsibilities or the taking of any action or decision by or on behalf of the Council. This includes, for example, any family relationship, membership of the same household or any business connection. Members and officers should

always consider how such a relationship or connection would be likely to be regarded by anyone outside the Council, or by any other Member or officer, and avoid creating any impression of bias or unfairness.

9.2 An officer who is personally connected or related to any Member should notify to his or her Strategic Director in writing using the Register of Interests form (G: Drive). (Intranet/ Web link required)

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BEVAN BRITTAN REPORT

APPENDIX TWO – THE MEMBER/OFFICER PROTOCOL

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SECTION 18

PROTOCOL FOR MEMBER / OFFICER WORKING ARRANGEMENTS

(Approved by Council on 18 July 2013)

1. Introduction

1.1 This Protocol provides a general framework for the interaction between elected Members and officers of the Council, in order to seek to ensure that the Members and officers work together effectively and efficiently to conduct the business of the Authority.

1.2 In particular, this protocol aims to support the enhancement of local democracy by –

- facilitating the participation of Members and officers in the Council's policy development and decision making processes;
- assisting Members and those officers who support them in their role as representatives of the community within the Council and externally; and
- clarifying arrangements for the provision of the information and support for Members and their party groups.

1.3 This protocol is intended to assist Members and officers in maintaining the highest standards of integrity and propriety and ensuring that everything they do is seen by others to be done properly, fairly and where possible openly.

1.4 It is important therefore that any dealings with Members and officers should observe reasonable standards of mutual courtesy and respect, and that neither should seek to take unfair advantage of their position in any circumstances.

1.5 A Code of Conduct for all Members has been adopted by the Council which sets out the Conduct expected from Members.

1.6 This protocol should be read and applied in conjunction with that Code of Conduct. The principles and procedures set out in this protocol are already, to a large extent, established and form the basis of the Council's working arrangements. The purpose of this protocol is to provide guidance on Member/officer working arrangements particularly in the case of doubt or difficulty.

1.7 The Protocol for Member / Employee Working Arrangements is not a formal part of the Council's Constitution but a breach of this Protocol may still amount to a breach by Members of the Code of Conduct for Councillors and by Officers' of the terms and conditions of employment.

2. Roles of Members and Officers

2.1 The respective roles of Members and officers can be summarised as follows:

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. Their job is to give advice to Members and to the Authority, and to carry out the Authority's work under the direction and control of the Council, the Cabinet, and relevant Committees etc. It is not the role of Members to determine the day-to-day management of the Authority's services. Mutual respect between Members and officers is essential to good local government.

2.2 Members

Members have four main areas of responsibility:

- a) determining the policy of the Authority and giving it political leadership;
- b) monitoring and reviewing the performance of the Authority in implementing that policy and delivering services;
- c) representing the Authority externally;
- d) acting as advocates on behalf of their constituents.

2.3 Members of Cabinet, Chairmen and Vice-Chairmen

Members of Cabinet and Chairmen and Vice-Chairmen of Committees, Boards, Panels etc have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from, and more complex than those of Members without those responsibilities, and this is recognised in the expectations they are entitled to have. However, such Members must still respect the impartiality of officers, must not ask them to undertake work of a party political nature, or to do anything which would put them in difficulty in the event of a change in the political composition of the Authority.

2.4 Opposition Members

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

2.5 Officers

The role of officers is to give advice and information to Members and to implement the policies determined by the Authority. In giving such advice to Members, and in preparing and presenting reports, it is the responsibility of the officer to express his/her own professional views and recommendations. Whilst an officer may report the views of individual Members on an issue, if the Member wishes to express a contrary view he/she should not seek to pressure the officer to make a recommendation contrary to the officer's professional view. Certain officers i.e. Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer) have responsibilities in law over and above their obligations to the Authority and to individual Members, and Members must respect these obligations, must not obstruct officers in the discharge of these responsibilities, and must not victimise officers for discharging these responsibilities.

3. Expectations

There might be occasions when Members and Officers disagree about certain issues, however on these occasions it is expected that the standards of behaviour set out in the Protocol will still be followed.

3.1 Members can expect from officers:

- a) A commitment to the Authority as a whole, and not to any political group;
- b) A working partnership;
- c) An understanding of and support for respective roles, workloads and pressures;
- d) Timely response to enquiries and complaints;

- e) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of officers;
- f) Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
- g) Awareness of and sensitivity to the political environment;
- h) Respect, dignity and courtesy;
- i) Training and development in order to carry out their role effectively;
- j) Integrity, mutual support and appropriate confidentiality;
- k) Not to be subject to bullying or to be put under undue pressure.
- l) Not to have personal issues raised with them by officers outside the agreed procedures;
- m) That employees will not use their relationship with Members to advance their personal interests or to influence decisions improperly;
- n) That officers will at all times comply with the relevant professional standards, corporate policies and conditions of employment;
- o) Support for the role of Members as the local representatives of the Authority, within any scheme of support for Members which may be approved by the Authority.

3.2 Officers can expect from Members:

- a) A working partnership;
- b) An understanding of and support for respective roles, workloads and pressures;
- c) Political leadership and direction;
- d) Respect, dignity and courtesy;
- e) Integrity, mutual support and appropriate confidentiality;
- f) Not to be subject to bullying or to be put under undue pressure. Members should have regard to the seniority of officers in determining what are reasonable requests, having regard to the power relationship between Members and officers, and the potential vulnerability of officers, particularly at junior levels;
- g) That Members will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
- h) That Members will give due consideration to advice received from officers;
- i) That Members will not criticise individual officers in public and will instead raise any concerns with the appropriate officer in the first instance;
- j) That Members will have due regard to advice received from the Head of Paid Service, Chief Financial Officer and Monitoring Officer when those officers are acting pursuant to their statutory duties;
- k) That Members will at all times comply with the relevant Code of Conduct.

3.3 Limitations on Behaviour

The distinct roles of Members and officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- a) Close personal relationships between Members and officers can confuse these separate roles and get in the way of the proper discharge of the Authority's functions, not least in creating the perception in others that a particular Member or officer may secure advantageous treatment;
- b) The need to maintain the separate roles means that there are limits to the matters on which they may seek the advice of officers, both in relation to personal matters and party political issues;
- c) Relationships with a particular individuals or party groups should not be such as to create public suspicion that an employee favours that Member or group above others.

The issue of officer attendance and advice to political groups is specifically covered below.

d) Members in their private capacity will sometimes need to use Council Services, for example a planning application for their property, or a licensing application for an organisation they are involved with. In order to ensure good future working relationships Members should follow with the principles of this Protocol in such interactions with officers.

4. Member/Officer Communication

4.1 Members should communicate with officers at the appropriate level. Routine service related enquiries should be initiated through normal departmental enquiry/contact points. If in doubt as to who to contact for such routine enquiries, Members should contact Democratic Services. Other matters will normally involve the appropriate Head of Service, Corporate Manager or other senior manager. Disagreement with regard to adopted policy should ordinarily be directed to the Executive Member responsible.

4.2 In communicating with Members, officers should have regard to professional standards, Corporate Policies and conditions of employment, the requirements of this protocol and any instructions issued by their departmental management.

4.3 In order to keep Members informed of relevant information, it may sometimes be necessary for Members and officers to hold confidential briefings. Officers are expected to be clear as to what information is confidential, and why, and Members are expected to maintain that confidentiality.

5. Officer Advice to Party Groups

5.1 There is no 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 Council or the relevant Committees. Officers may be properly called upon to support and contribute to such deliberations by party groups. The advice provided must be consistent with the principle at paragraph 3.1(e) above.

5.2 The support provided by officers can take many forms ranging from a brief meeting with an Executive Member, Chairman or spokesperson prior to a Council meeting, to a presentation to a full party group meeting. This support is available to all party groups.

5.3 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 party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings or parts of meetings when matters of party business are to be discussed.

b) Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. It is essential that discussions are kept confidential and are not communicated (inside or outside the organisation), interpreted or acted upon as though they have that official status.

c) 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 Cabinet or relevant Committee when the matter in question is considered.

5.4 Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Code of Conduct, in particular the provisions concerning the

declaration of interest and confidentiality, and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a meeting of Members only.

5.5 Officers must respect the confidentiality of any party group discussions at which they are present and should not, in particular, relay the content of any such discussion to another party group.

5.6 Any request for an officer to attend a meeting arranged by a party or party group, for the purpose of presenting information to the meeting (in relation to an issue or proposal affecting or involving the Council) must be made to the relevant Strategic Director, who will consult with the Chief Executive. Where it is agreed that an officer will attend for this purpose the same facility will be offered or made available to the other party groups. Any officer who so attends will do so in his/her official capacity, will be politically neutral, and attendance will not signify support for any particular political view, proposal or response.

5.7 Officer attendance at any public meeting will generally be avoided during the period between the announcement and conclusion of any local or parliamentary election (including Police and Crime Commissioner elections) affecting the area involved, and will only occur during such a period if representatives of all parties supporting candidates in the election have been invited to take part in the meeting.

5.8 At any public meeting organised by any party group, or by any individual Member (rather than by the Council) officers may attend only to provide information which is publicly available. No such officer attendance will take place during the 'pre-election' period referred to in paragraph 5.7.

5.9 Any particular difficulty or uncertainty concerning officer advice to party groups should be raised with the Strategic Director or Chief Executive who will where appropriate discuss with the relevant group leaders.

6. Officer/Member/Chairman Relationships

6.1 It is clearly important that there should be a close working relationship between the Leader of the Council, Executive Member and Chairman of a Committee and the Strategic Director and other senior officers of any department which reports to that Member or Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other Members and other party groups or with any other individual or organisation.

6.2 The Leader of the Council, Executive Member or Chairman will routinely be consulted as part of the process of drawing up an agenda for a forthcoming meeting. It must, however, be recognised that in some circumstances the proper conduct of business may require a particular matter to be included on the agenda. The Leader/Member/Chairman is not entitled to require the removal of such an item from the agenda, unless agreed by the Leader (unless s/he is the requester¹⁴) and Chief Executive Officer¹⁵. Directors/Heads of Service will always be fully responsible for the content of any reports submitted in their name. Any issue concerning the inclusion of any item on an agenda and the submission of any particular report that cannot be agreed between the Leader, Executive Member or Chairman and a Strategic Director should be referred to the Chief Executive as Head of Paid Service, the Corporate Legal Manager and/or the Strategic Director of Finance, Policy and Governance as Statutory Finance Officer.

¹⁴ If the Leader is the requester, then this is to be agreed with the Chief Executive.

¹⁵ This does not apply to statutory officer reports – under s114 Local Government Finance Act 1988 & s5 Local Government and Housing Act 1989

6.3 In relation to any action under delegated powers, it is important to remember that the law allows for decisions relating to the discharge of any of the Council's functions which are not specifically reserved to the Council to be taken by the Cabinet. Normally, wherever the authority to make a decision is delegated to an officer it is on the basis that the officer will exercise that authority in consultation with the Cabinet Member and/or other nominated Members.

6.4 It must be remembered that officers within a department are accountable to their Head of Service/Corporate Manager and Strategic Director and that whilst officers should also seek to assist a Cabinet Member or Chairman (or indeed any Member), they must not in doing so go beyond the bounds of whatever authority they have been given by their Head of Service/Corporate Manager or Strategic Director. It should also be noted that the Chief Executive has a statutory responsibility as Head of Paid Service for ensuring the proper organisation and management of the Council's staff, and has therefore an overall responsibility for the direction and management of all officers.

7. Correspondence

7.1 Members and officers are reminded that all written correspondence (including letters, emails and other forms of electronic communication) between them and with members of the public may be subject to information requests under the Freedom of Information Act, Environmental Information Regulations or Data Protection Act.

7.2 Correspondence between individual Members and an officer should not normally be copied to any other Member except where necessary for the proper conduct of business. When using email 'blind' copies of such correspondence should not be circulated.

7.3 Official letters on behalf of the Council should normally be sent out in the name of the appropriate officer rather than in the name of a Member. It may be appropriate in certain exceptional circumstances, for example representations to a Government Minister or correspondence with a Leader or another local authority, for a letter to be issued in the name of the Leader of the Council. Letters or e-mails (and other forms of electronic communication) which for example create obligations, confirm or deny the acceptance of any liability, or give instructions on behalf of the Council, should always be sent out by the appropriate Strategic Director, Head of Service/Corporate Manager or other senior officer.

8. Publicity and the Media

8.1 Contact with the media on issues related to the Council or to Council business is handled through, or with advice/support from, the Communications Unit.

8.2 Any Member who approaches the media on any item involving or affecting the Council without first approaching or consulting the Council (through the Communications Unit) will be responsible for such action. Any Member who does so should make it clear that he/she is speaking on his/her own behalf and not representing or speaking for the Council.

8.3 Members and officers should be mindful of the prohibition on the publication by the Council of any information intending to promote or canvass support for any political party or candidate for elections. In case of doubt, advice should first be obtained from the Corporate Legal Manager, who will have regard to Code of Practice on Local Government Communications.

9. Personal Relationships

9.1 No Member or officer should allow any personal connection or relationship with any other Member or officer to affect the performance of his or her official responsibilities or the taking of any action or decision by or on behalf of the Council. This includes, for example, any family relationship, membership of the same household or any business connection. Members and officers should

always consider how such a relationship or connection would be likely to be regarded by anyone outside the Council, or by any other Member or officer, and avoid creating any impression of bias or unfairness.

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