PROTOCOL FOR RELATIONSHIPS BETWEEN MEMBERS AND OFFICERS

1. Preamble

Mutual trust and respect between Members and officers is at the heart of a Council's good governance. They are essential if the partnership necessary for the effective running of a local authority is to succeed.

2. Definitions

2.1 Unless the context indicates otherwise, references to the term *Council* include the Cabinet, Development & Scrutiny Committees and other committees and sub-committees.

2.2 For the purposes of this protocol, the term *Cabinet* refers to the Leader and Cabinet.

2.3 Unless the context indicates otherwise, the terms *Member* and *Members* include non-elected (i.e. co-opted and independent) Members as well as elected Councillors.

2.4 *Officers* and *staff* mean all persons employed by the Council.

2.5 *Senior officer* means Chief Executive, Strategic Directors, Directors and Heads of Service.

2.6 *Chief Finance Officer* means the Director (Finance) being the officer exercising the duties prescribed by law for the financial administration of the Council.

2.7 *Monitoring Officer* means the Borough Solicitor.

3. Principles

3.1 Members and officers must at all times observe this protocol.

3.2 The protocol has been approved by the Council's Standards Committee who will monitor its operation.

3.3 The protocol seeks to maintain and enhance the integrity (real and perceived) of local government which demands the highest standards of personal conduct.

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

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

3.6 The Council has adopted codes of conduct for both Members and officers. Both represent best practice. The Members' Code is based on the general principles set out in Section 26 of the Localism Act 2011, namely –

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

3.7 These principles underpin this protocol.

3.8 Until such time as a National Code appears, officers are bound by the Council's own code of conduct for staff and, in some cases, by the codes of their professional associations.

3.9 Breaches of this protocol by a Member may result in a complaint to the Standards Committee if it appears the Members' Code has also been breached. Breaches by an officer may lead to disciplinary action.

4. The Role of Members

4.1 Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.

4.2 Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.

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

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

4.5 Some Members have roles relating to the position as Members of the Cabinet, the Overview and Scrutiny Committee, Select Committees or other committees and sub committees of the Council.

4.6 Members of the Cabinet can have individual delegated powers and all Members have delegated powers in relation to their Local Community Budgets. Decision making by Members must be in accordance with the rules and procedures set down in the Constitution. They may determine matters within their portfolios but implementation of their decisions is the responsibility of officers.

4.7 Members serving on the Overview and Scrutiny Committee and Select Committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They may also consider services provided by other public bodies and the Council's partners.

4.8 Members who serve on other committees and sub-committees collectively have delegated responsibilities, e.g. deciding quasi-judicial matters which by law are excluded from the remit of the Cabinet.

4.9 Some Members may be appointed to represent the Council on local, regional or national bodies.

4.10 As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Members they have a duty always to act in the public interest.

4.11 Members are not authorised to instruct officers other than:

- Through the formal decision-making process
- To request the provision of consumable resources provided by the Council for Members' use
- Where staff have been specifically allocated to give support to a Member or group of Members; and

- In the case of political assistants

4.12 Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.

4.13 Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their code of conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the Chief Finance Officer.

4.14 Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change her/his professional advice.

5. The Role of Officers

5.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.

5.2 Under the direction and control of the Council (including, as appropriate, the Cabinet, committees and sub-committees), officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.

5.3 Officers have a duty to implement decisions of the Council, the Cabinet, committees and sub-committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's Constitution, and duly minuted.

5.4 Officers have a contractual and legal duty to be impartial. They must not allow their professional judgment and advice to be influenced by their own personal views.

5.5 Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.

5.6 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.

5.7 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on officers'

involvement in political activities.

6. The Relationship between Members and Officers: General

6.1 The conduct of Members and officers should be such as to instil mutual confidence and trust.

6.2 The key elements are recognition of, and respect for, each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.

6.3 Informal and collaborative two-way contact between Members and officers is encouraged, but personal familiarity can damage the relationship, as might a family or business connection.

6.4 Members and officers should inform the Monitoring Officer or their director of any relationship which might be seen as unduly influencing their work in their respective roles.

6.5 It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.

6.6 Officers serve the Council as a whole. They have a duty to implement the properly authorised decisions of the Council.

6.7 Officers work to the instructions of their senior officers, not individual Members. It follows that, whilst such officers will always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, Members should normally direct their requests and concerns to a senior officer, at least in the first instance.

6.8 Officers will do their best to give timely responses to Members' enquiries. However, officers should not have unreasonable requests placed on them. Their work priorities are set and managed by senior managers. Members should avoid disrupting officers' work by imposing their own priorities.

6.9 Members will endeavour to give timely responses to enquiries from officers.

6.10 An officer shall not discuss with a Member personal matters concerning her/himself or another individual employee. This does not

prevent an officer raising on a personal basis, and in her/his own time, a matter with her/his ward Member.

6.11 Members and officers should respect each other's free (i.e. non-Council) time.

7. The Council as Employer

7.1 Officers are employed by the Council as a whole.

7.2 Members' roles are limited to:

- The appointment of specified senior posts
- Determining human resources policies and conditions of employment
- The appointment of political assistants, and
- Hearing and determining appeals, as appropriate.

7.3 Members shall not act outside these roles.

7.4 If participating in the appointment of officers, Members should:

- Remember that the sole criterion is merit (other than in the case of political assistants where political consideration may apply)
- Never canvass support for a particular candidate
- Not to take part where one of the candidates is a close friend or relative
- Not be influenced by personal preferences, and
- Not favour a candidate by giving her/him information not available to the other candidates

7.5 A Member should not sit on an appeal hearing if the appellant is a friend, a relative, or an officer with whom the Member has had a working relationship.

8. Mayor and Officers

8.1 Officers will respect the position of Mayor and provide appropriate support.

9. Cabinet Members and Officers

9.1 Cabinet Members will take decisions in accordance with the Constitution and will not otherwise direct staff. Senior officers will be responsible for instructing staff to implement the Cabinet's decisions.

9.2 In addition to individual Members of the Cabinet, senior officers (including the Monitoring Officer and the Chief Finance Officer) have the right to submit papers to the Cabinet as a whole or to individual Cabinet Members for consideration.

9.3 Senior officers and Cabinet Members shall agree mutually convenient methods of regular contact. Before taking any formal decisions, the Cabinet will seek appropriate professional advice including, without exception, the Monitoring Officer and Chief Finance Officer, and will not direct officers in the framing of recommendations.

9.4 Before any formal decisions with a financial implication are taken by the Cabinet, the Chief Finance Officer and the senior officer(s) for the service(s) concerned must be consulted. This is to ensure that those officers who are budget holders:

- Are aware of the proposed decision
- Have the opportunity to offer advice, and
- Are subsequently able properly to authorise the financial transactions needed to implement decisions

9.5 An individual Cabinet Member who is minded to write or commission a report or to make a decision about a matter within her/his portfolio must ensure that those other Members and officers who need to know of the matter are so informed. There is a particular requirement to involve other Cabinet Members on cross-cutting issues.

9.6 Cabinet Members when making decisions (whether collectively or individually) must state the reasons for those decisions. The written record of the decisions must include the reasons.

9.7 Officers taking decisions under their delegated powers must consider the advisability of informing the relevant Cabinet Member(s) of their intentions in advance when the matter to which the decisions relate is likely to be sensitive or contentious, or has wider policy implications.

10. Overview and Scrutiny and Select Committee Members and Officers

10.1 Chairs and other leading overview and scrutiny and select committee Members shall maintain regular contact with the officer(s) providing the principal support to the overview and scrutiny function. In consultation with chairs, it shall be the responsibility of the latter to ensure that those who need to know of matters being considered or for possible future consideration are so informed.

10.2 The Overview and Scrutiny Committee, Select Committees and their Chairs may require officers to attend scrutiny meetings. Members should not normally expect junior officers to give evidence. All

requests should be made to senior officers in the first instance.

10.3 When making requests for officer attendance, scrutiny Members shall have regard to the workload of officers.

10.4 It is recognised that officers required to appear before an overview and scrutiny committee may often be those who have advised the Cabinet or another part of the Council on the matter under investigation. In these circumstances, an officer may have a conflict of interest. Both Members and officers need to consider the severity of the conflict. If deemed appropriate, research and advice may be sought elsewhere – from the Council's dedicated Scrutiny Officer or externally.

10.5 Subject to 10.4 above, officers should be prepared to justify advice given to the Council, the Cabinet, or other committees and sub-committees even when the advice was not accepted.

10.6 Officers must also be prepared to justify decisions they have taken under delegated powers.

10.7 In giving evidence, officers must not be asked to give political views.

10.8 Officers should respect Members in the way they respond to Members' questions.

10.9 Members should not question officers in a way which could be interpreted as harassment. Neither should they ask about matters of a disciplinary nature.

10.10 The Overview and Scrutiny Committee and Select Committees must not be used to question the capability or competence of officers. Chairs and Members need to make a distinction between reviewing the policies and performance of the Council and its services, and appraising the personal performance of staff. The latter is not an overview and scrutiny function.

10.11 In exercising the right to call-in a decision of the Cabinet, Overview and Scrutiny Committee Members must seek officer advice if they consider the decision is contrary to the Council's approved plans, policies or frameworks, or is unlawful.

11. Members of other Committees or Sub-Committees and Officers

11.1 The appropriate senior officers will offer to arrange regular informal meetings with Chairs, Vice-Chairs and spokesmen of committees and

sub-committees.

11.2 Senior officers (including the Monitoring Officer and the Chief Finance Officer) have the right to present reports and give advice to committees and sub-committees.

11.3 Members of a committee or sub-committee shall take decisions within the remit of that committee or sub-committee, and will not otherwise instruct officers to act.

11.4 At some committee or sub-committee meetings, a resolution may be passed which authorises a named officer to take action between meetings in consultation with the Chair. In these circumstances it is the officer, not the Chair, who takes the action and is responsible for it. A Chair has no legal power to take decisions on behalf of a committee or sub-committee, neither should he/she apply inappropriate pressure on the officer.

12. Party Groups and Officers (excluding political assistants)

12.1 Senior officers may properly be asked to contribute to deliberations of matters concerning Council business by party groups.

12.2 Officers have the right to refuse such requests, and will normally not attend a meeting of a party group where some of those attending are not Members of the Council.

12.3 Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of Party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.

12.4 Party group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions. The presence of an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.

12.5 Where officers provide factual information and advice to a party group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.

12.6 It must not be assumed that an officer is supportive of a particular policy or view considered at a party group meeting simply because he/she has attended or provided information to the meeting.

12.7 Officers will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of such discussions to another party group or to any other Members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.

12.8 In their dealings with party groups, officers must treat each group in a fair and even-handed manner.

12.9 Members must not do anything which compromises or is likely to compromise officers' impartiality.

12.10 The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.

12.11 An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each.

12.12 An officer who is not a senior officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on her/his behalf.

12.13 An officer should be given the opportunity of verifying comments and advice attributed to her/him in any written record of a party group meeting.

12.14 No Member will refer in public or at meetings of the Council to advice or information given by officers to a party group meeting.

12.15 At party group meetings where some of those present are not Members of the Council, care must be taken not to divulge confidential information relating to Council business. Persons who are not Members are not bound by the Members' Code of Conduct. They do not have the same rights to Council information as Members.

12.16 Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Chief Executive (or similar) and the relevant party group leader.

13. Political Assistants

13.1 These officers can be appointed by the Council exclusively to provide support to each of the party groups. Their function is to assist the interests and work of the group to which they have been assigned.

This is in contrast to all other staff whose duty is to serve the Council as a whole.

13.2 Political assistants will be treated in accordance with, and are expected to observe, all codes, policies and practices relating to the Council's staff. This includes the courtesy and consideration which the Council expects its officers to show to one another.

13.3 Except for their immediate secretarial and clerical support, the assistants will have no line management responsibility or power of direction over other staff.

13.4 Political assistants are not authorised to comment publicly on behalf of the Council as a whole, or to commit the Council to any particular course of action, but can comment on behalf of the party group to which they have been assigned.

13.5 The level of access to Council documents and information shall be that enjoyed by Members.

14. Local Members and Officers

14.1 To enable them to carry out their ward role effectively, Members need to be fully informed about matters affecting their ward. Senior officers must ensure that all relevant staff are aware of the requirement to keep local Members informed, thus allowing Members to contribute to the decision-making process and develop their representative role.

14.2 This requirement is particularly important:

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

14.3 Issues may affect a single ward. Where they have a wider impact, a number of local Members will need to be kept informed.

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

14.5 If a local Member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he/she should inform the relevant officer. Provided the meeting has not been arranged on a party political basis:

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

14.6 No such meetings should be arranged or held in the immediate run-up to Council elections.

14.7 Whilst support for Members' ward work is legitimate, care should be taken if staff are asked to accompany Members to ward surgeries. In such circumstances:

- The surgeries must be open to the general public, and
- Officers should not be requested to accompany Members to surgeries held in the offices or premises of political parties

14.8 Officers must never be asked to attend ward or constituency political party meetings.

14.9 It is acknowledged that some Council staff (e.g. those providing dedicated support to Cabinet Members) may receive and handle messages for Members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.

14.10 In seeking to deal with constituents' queries or concerns, Members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested timescale, and may need to seek instructions from their managers.

15. Members' Access to Documents and Information

15.1 This part of the protocol should be read in conjunction with the Access to Information Procedure Rules in the Council's Constitution.

15.2 Members may request senior officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as Members. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:

- It is in the public domain, and
- It is not barred by the Data Protection Act from being given

15.3 Every Member of the Cabinet, Overview and Scrutiny Committee, Select Committees and/or any other committee or sub-committee has

a right to inspect documents about the business of that body.

15.4 A Member who is not a Member of the Overview and Scrutiny Committee, Select Committees or other committee or sub-committee, or the Cabinet may have access to any document of that specific part of the Council provided:

- He/she can demonstrate a reasonable need to see the documents in order to carry out her/his role as a Member (the "need to know" principle), and

- The documents do not contain "confidential" or "exempt" information as defined by the law

15.5 Disputes as to the validity of a Member's request to see a document on a need to know basis will be determined by the Monitoring Officer. Officers should seek her/his advice if in any doubt about the reasonableness of a Member's request.

15.6 A Member should obtain advice from the Monitoring Officer in circumstances where he/she wishes to have access to documents or information:

- Where to do so is likely to be in breach of the Data Protection Act, or
- Where the subject matter is one in which he/she has a personal or prejudicial interest as defined in the Members' Code of Conduct.

15.7 Information given to a Member must only be used for the purpose for which it was requested.

15.8 It is an accepted convention that a Member of one party group will not have a need to know and therefore a right to inspect a document which forms part of the internal workings of another party group.

15.9 Members and officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.

15.10 When requested to do so, officers will keep confidential from other Members advice requested by a Member.

15.11 Members and officers must not prevent another person from gaining access to information to which that person is entitled by law.

16. Media Relations

16.1 All formal relations with the media must be conducted in accordance with the Council's agreed procedures and the law on local authority publicity.

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

16.3 Officers will keep relevant Members informed of media interest in the Council's activities, especially regarding strategic or contentious matters.

16.4 Before responding to enquiries from the media, officers shall ensure they are authorised to do so.

16.5 Likewise, officers will inform the Council's press office of issues likely to be of media interest, since that unit is often the media's first point of contact.

16.6 If a Member is contacted by, or contacts, the media on an issue, he/she should:

- Indicate in what capacity he/she is speaking (e.g. as ward Member, in a personal capacity, as an Cabinet Member, on behalf of the Council, or on behalf of a party group);
- Be sure of what he/she wants to say or not to say;
- If necessary, and always when he/she would like a press release to be issued, seek assistance from the Council's press office and/or relevant senior officer, except in relation to a statement which is party political in nature;
- Consider the likely consequences for the Council of her/his statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions);
- Never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
- Consider whether to consult other relevant Members; and
- Take particular care in what he/she says in the run-up to local or national elections to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or political party activist.

17. Correspondence

17.1 Correspondence between an individual Member and an officer should not be copied to another Member unless the author expressly intends and states that this is the case, or consents. Where correspondence is copied, this should always be made explicit, i.e. there should be no “blind” copies.

17.2 Official letters written on behalf of the Council should normally be in the name of the relevant officer. It may be appropriate in some circumstances (e.g. representations to a Government Minister) for letters to appear in the name of an Cabinet Member or the Chair of the Scrutiny Overview Committee.

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

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

17.5 When writing in an individual capacity as a Ward Member, a Member must make clear that fact.

18. Access to Premises

18.1 Officers have the right to enter Council land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.

18.2 Members have a right of access to Council land and premises to fulfil their duties.

18.3 When making visits as individual Members, Members should:

- Whenever practicable, notify and make advance arrangements with the appropriate manager or officer in charge.
- Comply with health and safety, security and other workplace rules.
- Not interfere with the services or activities being provided at the time of the visit.
- If outside her/his own ward, notify the ward Member(s) beforehand; and
- Take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

19. Use of Council Resources

19.1 The Council provides all Members with services such as typing, printing and photocopying, to assist them in discharging their roles as Members of the Council. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.

19.2 Members should ensure they understand and comply with the Council's own rules about the use of such resources, particularly:

- Where facilities are provided in Members' homes at the Council's expense.
- In relation to any locally–agreed arrangements e.g. payment for private photocopying; and
- Regarding ICT security

19.3 Members should not put pressure on staff to provide resources or support which officers are not permitted to give. Examples are:

- Business which is solely to do with a political party.
- Work in connection with a ward or constituency party political meeting.
- Electioneering.
- Work associated with an event attended by a Member in a capacity other than as a Member of the Council.
- Private personal correspondence.
- Work in connection with another body or organisation where a Member's involvement is other than as a Member of the Council; and
- Support to a Member in her/his capacity as a Councillor of another local authority.

20. Interpretation, Complaints and Allegations of Breaches

20.1 This part of the protocol should be read in conjunction with any "whistle-blowing" policy the Council may have.

20.2 Members or officers with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Monitoring Officer.

20.3 A Member who is unhappy about the actions taken by, or conduct of, an officer should:

- Avoid personal attacks on, or abuse of, the officer at all times.
- Ensure that any criticism is well founded and constructive.
- Never make a criticism in public, and
- Take up the concern with the officer privately.

20.4 If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the Member should raise the issue with the officer's manager or the relevant senior officer.

20.5 A serious breach of this protocol by an officer may lead to an investigation under the Council's disciplinary procedure.

20.6 An officer who believes a Member may have acted other than in accordance with this protocol should raise her/his concern with the Monitoring Officer. He/she will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the leader of the relevant party group. More serious complaints may involve alleged breaches of the Members' Code of Conduct, and may be referred to the Standards Committee.