

**Protocol for Member/Officer relations**

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**1. Introduction - the respective roles of Members and Officers**

1.1 It has long been recognised that local authorities cannot function properly without a good relationship between Members and Officers

1.2 The third report of the Nolan Committee on Standards in Public Life "Standards of Conduct in Local Government in England, Scotland and Wales" in 1997 stated:

*"No Local Authority can function properly without a good relationship between its Members and its Officers."*

1.3 In the same year the National Code of Local Government Conduct for members said

1.3.1 *"Both Members and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council, their committees and their sub-committees."*

1.3.2 *Mutual respect between Members and Officers is essential to good local government. Close personal familiarity between individual Members and Officers can damage this relationship and prove embarrassing to other Members and Officers"*.

1.4 The purpose of this protocol is to reinforce this guidance and set out the correct approach to be adopted by Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.

1.5 Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise.

1.6 This protocol, is, to a large extent no more than a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the advice is followed it should also ensure that Members receive objective and impartial advice, and that Officers are protected from accusations of bias and any undue influence from Members.

1.7 This protocol also seeks to reflect the principles underlying the respective codes of conduct which apply to Members and Officers. The shared objective of these codes is to enhance and maintain the integrity (real and perceived) of local government and they, therefore, demand very high standards of personal conduct.

- 1.8 It is important that any dealings between Members and Officers should observe reasonable standards of courtesy, and that neither party should seek to take unfair advantage of their position.
- 1.9 Members should not raise matters relating to the conduct or capacity of a Council employee or of employees collectively at meetings held in public. This is a long-standing tradition in public service. If Members feel they have not been treated with proper respect or courtesy or if they have any concern about the conduct or capability of a Council employee, they should raise the matter with the Director of the department concerned if they fail to resolve it through direct discussion with the employee. The Director will then look into the facts and report back to the Member. If the Member continues to feel concern, they should then report the facts to the Chief Executive who will look into the matter afresh.
- 1.10 If the Officer feels that he or she has not been properly treated with respect and courtesy then they should raise the matter with their line manager, Director or Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the member concerned. In these circumstances, the Director or Chief Executive will take appropriate action, either by approaching the individual Member or group leader.
- 1.11 In recommending that all local authorities should draw up such protocol documents, the Nolan Committee expressed the view that the following principles must be observed:
- 1.11.1 Advice to political groups must be given in such a way as to avoid compromising an Officer's political neutrality.
  - 1.11.2 Advice must be confined to Council business, not party business.
  - 1.11.3 Relationships with a particular party group should not be such as to create public suspicion that an Officer favours that group above others.
  - 1.11.4 Information communicated to an Officer by a party group in confidence, should not be communicated to other party groups.
- 1.12 This protocol attempts to define what should be considered a proper working relationship between Members and Officers in Portsmouth City Council and to provide a framework within which confidence in the machinery of local government in Portsmouth can be maintained. The protocol, which is a public document, forms part of the Council's Constitution. It draws on statute and common law, the provisions applying to the Members' Code of Conduct, the Nolan Committee Report and advice from the Local Ombudsman.

## **2. General principles of conduct**

- 2.1 The Member Code of Conduct is based upon the seven principles of public

life

- 2.1.1 Selflessness – Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
- 2.1.2 Honesty and integrity – Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
- 2.1.3 Objectivity – Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
- 2.1.4 Accountability – Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.
- 2.1.5 Openness – Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
- 2.1.6 Personal judgement – Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
- 2.1.7 Respect for others – Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory Officers, and its other employees.
- 2.1.8 Duty to uphold the law – Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.
- 2.1.9 Stewardship – Members should do whatever they are able to do, to ensure that their authorities use their resources prudently and in accordance with the law.
- 2.1.10 Leadership – Members should promote and support these principles by leadership and example, and should always act in a way that preserves public confidence.

### **3. The statutory framework**

**Decision-making and Members' responsibilities**

- 3.1 Under the Local Government Act, 1972, all functions of the authority are vested in the Council. This Act and the subsequent Local Government Act, 2000, authorise the Council, to arrange for its functions to be delegated in various ways to the Leader and Cabinet (acting jointly or separately), committee or sub- committee, or Officer of the authority. This is achieved, in practice, through the Council's constitution, schemes of delegation and financial regulations.
- 3.2 Decisions taken by any party political group meeting are not relevant to proper consideration of an issue by the Council under its constitution. Where issues arise as a result of discussion at a party group meeting (notably the majority group), then any formal action which they may wish to see taken by Officers should be notified to the Chief Executive or other relevant Director who will advise on the appropriate action to be taken.
- 3.3 Any arrangements and "decisions" by Members or Officers which are made outside of the formal decision making processes do not bind the Council in law and cannot do so until a lawful decision is taken.

**Reasonableness**

- 3.4 Members have final responsibility for decisions of the Council. When taking part in the Council's decision-making processes, you should:
- 3.4.1 have regard to relevant advice provided by any Officer of the authority;
  - 3.4.2 take into consideration everything you regard as relevant;
  - 3.4.3 disregard anything which is not relevant, or which you are advised is not relevant;
  - 3.4.4 ensure that the correct procedures are followed; and
  - 3.4.5 give reasons for those decisions in accordance with the Council's constitution or any statutory requirement.

**Fiduciary duty**

- 3.5 In law, a fiduciary is someone who occupies a position of such power and confidence over the property of another that the law *requires* him or her to act solely in the interests of the person s/he represents. This is in contrast with an ordinary business relationship, in which each party is free to seek purely personal benefits from his or her transactions with the other. So for example, a guardian, a trustee or an executor are all fiduciaries.
- 3.6 As a Member controlling the Council's assets and finances, you are in a position of trust. You have a fiduciary duty to act in the interests of the people of Portsmouth and ensure that expenditure decisions are prudent and lawful.
- 3.7 Decisions taken outside of the above principles, not in accordance with the Constitution or against the advice of Officers, resulting in financial loss against the Council, may have legal implications for the Council or the Member concerned.

**Fairness**

3.8 When you are a member of any panel/committee or other forum, or as a Council appointee on an outside body, considering the case of individuals, you should act fairly at all times. This means:

3.8.1 you must not have any personal interest in the case; and

3.8.2 you must listen to what is said on behalf of the individual before reaching your decision.

**Recruitment, appointment and other staffing matters**

3.9 An applicant should not seek from a Member to provide references in support of applications for employment by the Council.

3.10 Anyone who may be involved in the selection or appointment process for a post with the Council shall immediately declare any relationship to a candidate as soon as it becomes known to him/her to the Director of HR, Legal and Performance who shall record the declaration and determine whether or not that person may take any further part in the selection/appointment process for that post.

3.11 Officers are entitled to reasonable privacy and respect for their private lives and Members should not seek or request personal information about individual Officers. Such a request could be seen as threatening, particularly by junior Officers. Similarly Members should not seek to contact Officers outside of working hours or at home, unless by prior agreement with the relevant Officer or under an existing provision or arrangement related to the Officer's employment with the Council. If a Member has reasonable grounds for believing matters related to an Officer's personal life have a bearing on their employment with the Council, then the Member should report these concerns to the relevant Director. Officers must show similar respect for the private lives of Members.

**4. Members' roles and responsibilities****General**

4.1 It is usual to look at the role of Members in three main ways:-

4.1.1 As politicians - in this capacity, you will normally belong to a political group represented on the Council and will express political values and support the policies of the group to which you belong.

4.1.2 As representatives - in this capacity Members interpret and express the wishes of the electorate and seek to account for service priorities, allocation of resources and the authority's performance.

- 4.1.3 As Council/cabinet/panel or committee members - in this capacity, Members have personal, individual and collective responsibility for the organisation and its activities. You are responsible for ensuring that adequate management arrangements are in place; to develop and take decisions on the use of the authority's physical, financial and human resources, and to concern yourselves with the performance, development, continuity and overall well-being of the organisation. Cabinet/lead Members will also have executive responsibilities and powers to exercise as specified under the Council's constitution.
- 4.2 Members are elected representatives of the local community and their responsibility is to the Council tax payers and recipients of services across the city, not only to their particular ward. Members have duties to the whole community, including the people who did not vote for them. Members should not allow sectional interests or pressures to prevent them carrying out their duties as Members.
- 4.3 In reality, Members have to decide how to relate their representative role to their political role. The Council has constantly to make choices, because of conflicts of interests and scarcity of resources. The representative role does not prevent Members from deciding that some individuals/groups have the greatest need, or historically have been excluded from receiving services. Equally, because of their representative role, Members will often be required to consider making representations on behalf of their constituents even if they are aware that the matter has a relatively low priority under the Council's policies.
- 4.4 Members hold office by virtue of the law and must at all times operate within it. They are required by law to observe the general principles of conduct and the members' code of conduct in their involvement in Council business and are also required to act in accordance with the Council's constitution.
- 4.5 Members must not allow the impression to be created that they are using their position to promote a private or personal interest (i.e. family and friends, or an interest arising from membership of clubs, societies, freemasons, traded unions and voluntary bodies) and should disclose such interests in a manner arising at any Council, cabinet or panel/committee meeting, unless it is insignificant or common to the public as a whole, as described below.

### **Members and legal action by the Council**

- 4.6 There is a whole range of circumstances where the Council as a corporate body may be involved in legal proceedings. This could be against residents or other individuals, organisations and companies, and across the whole range of service areas including housing, planning, highways, etc. Members have a clear role in representing residents' and general public interests. In this representative capacity they inevitably become involved in issues where the Council is considering, or is in the process of taking legal action. The Council will also be defendant to legal actions brought by third parties and similar consideration will apply here as well.

- 4.7 Conflicts of interest may occur where a Member is enquiring on behalf of an individual or body involved in legal action by or against the Council. In such cases, Members need to balance their representative role with their wider responsibilities as Members in representing the corporate interests of the authority. For this reason, Members should be circumspect in any dealing with persons taking action against the Council, or against whom any legal action is being taken. Particularly, Members should be very cautious about having any dealings with professional representatives, advisers or witnesses in the case. Any such intervention could well prejudice the Council's position. Members should, therefore, be sure not only to avoid any actual impropriety, but at all times avoid any occasion for suspicion or any appearance of improper conduct.
- 4.8 Members have every right to information on how any such matter is being dealt with and a duty to represent their constituents, but they clearly must not attempt in any way to exercise improper influence over the legal process in which the Council is involved, or over the enforcement of any court judgement. Similarly, they should not put themselves in a position where it might appear that improper influence is being exerted. Where legal proceedings have been started or are contemplated, all enquiries must be addressed to the relevant Director. Members must also realise that the response on behalf of the Council must be limited to comments on process, so as not to prejudice any proceedings.
- 4.9 If the Member believes the Council's actions or intentions to be wrong, s/he should inform the Director concerned. It must then be for the Director to determine what action to take. If the member remains unhappy with the action taken, then he or she may refer the matter to the Council's Head of Paid Service or Monitoring Officer.

**Joint arrangements with third parties**

- 4.10 The Council has introduced procedures governing situations where the authority is represented in joint arrangements and when employees or Members will be involved.
- 4.11 Where Members are likely to be in the position of having a joint influence through Council, cabinet/panel/committee/sub-committee or other forum whilst at the same time being a subscriber, director or other member of a company or third party with which the Council is entering into a joint arrangement, adherence to the Council's Code of Conduct alone may not be sufficient protection. The Council must satisfy the External Auditor that it has taken appropriate steps to avoid any conflict of interest arising. If a Member's position is such that they could be involved in the decision making process on both sides, they should declare an interest and not take part in any discussion or vote at any Council, cabinet, panel/committee meetings where they are present.
- 4.12 The Council has also agreed that all Members and private companies either set up by the Council or in which the Council has any interest should be advised:

4.12.1 that no Member should apply for or be granted any form of paid employment with such a company; and

4.12.2 that no Officer should participate in any recruitment process of the company without the prior agreement of the Head of Paid Service.

### **Alleged misconduct by Members**

4.13 Allegation of fraud or criminal misconduct against Members, where the Council is involved, will be investigated under the national or local ethical framework and may be subject to reference to the police, as appropriate. Allegations of misconduct against Members may also be investigated under procedures laid down by the agreed Councillor Code of Conduct approved by Council which falls under the Council's Governance and Audit and Standards Committee. Where a matter involves party discipline then this will be referred to the Leader/Chief Whip of the party political group.

### **Personal relationships**

4.14 In order not to risk damaging the external view of the Council and creating the suspicion of improper conduct, however unfounded, it is important that Member and staff working relationships are correct and business like. Personal friendships between Members and staff, for example, could call into question the way Council business appears to be conducted. It is important that Members, in their dealings on a personal level with the Council and its staff, do nothing which would suggest that they are seeking, or might accept, preferential treatment for themselves, relatives and friends and any firm or body with whom the Member is connected.

4.15 Members should therefore, declare to their party whip any relationship with an Officer, which might be seen as influencing your work as a Member. This includes any family, business or sexual relationships. Officers, too, have a duty to declare any such relationship to their manager.

4.16 Members should not sit on the Council committee responsible for the department for which an employee does significant work to whom they are:

4.16.1 married; the partner;

4.16.2 otherwise closely related such as sisters, brothers, parents and grand parents; or

4.16.3 where a Member's relationship with an Officer would jeopardise the work of the Council.

## **5. Officers' roles and responsibilities**

### **Accountability and advice**

5.1 Staff are accountable to their Director for their day-to-day work and their

contractual duties.

- 5.2 Officers are required to manage Council services in accordance with the policy and instructions given formally by cabinet/panels/committees. The Council is also required to appoint certain "Proper Officers" who have statutory duties and responsibilities, e.g. the Head of Paid Service, the Chief Financial Officer and Monitoring Officer.
- 5.3 Officers have a general legal duty to ensure that in advising Members all relevant considerations are placed before them prior to any formal decision being taken. Officers are required, in this context, to provide accurate and impartial policy advice and information and also to draw attention to the financial, legal, resource, equal opportunities and other relevant implications arising from any proposal.
- 5.4 This will in some circumstances require Officers to give formal advice to Members in committee, which may be considered unpalatable, or even contrary to some declared political policy or objective. This may be necessary to ensure that Members can rely on having all relevant implications before them in considering a proposal and enable a "reasonable" and lawful decision to be taken. Members then have the ability to agree or reject proposals placed before them, irrespective of the advice or recommendations made by Officers - as long as generally they act in good faith and exercise reasonableness in decision-making and specifically:-
- 5.4.1 take into account relevant and dismiss irrelevant matters; and
- 5.4.2 do not come to a conclusion that no reasonable authority would come to.
- Officers must therefore, be able to report to Members as they see fit and without any political pressure.
- 5.5 Decisions taken outside the principles set out above may be challengeable in the courts, by the District Auditor, local residents, or other interested parties.
- 5.6 Directors are responsible for deciding who, apart from themselves, in their directorate (and in what circumstances) is responsible for giving policy advice to Members or dealing with Members' non-routine questions.

### **Members and Officers and the media**

- 5.7 It is crucial that information provided by the Council to the media is factually correct and, wherever possible, is designed positively to promote the Council's policies and activities. As a general rule, Officers' comments on behalf of the Council will deal with service and management issues and agreed Council policy and decisions. Members will comment on political issues and justify policy decisions.
- 5.8 Officers are not allowed to have contact with the media (other than for advertising purposes) on any Council issue unless this has been cleared through the Council's corporate communications service.

- 5.9 Members have freedom to contact and discuss issues with the media but should have regard to their conduct relating to breaches of confidentiality and the need to represent the Council's best interests. The Leader or appropriate lead Members should take the lead on relevant service issues. Other Members should therefore consider restricting their contact to issues that either affect them personally, relate to an outside body that they represent on behalf of the Council or ward matters. It is also crucial that Members stress to reporters, when giving a personal view on an issue, that these views may not reflect Council policy.
- 5.10 It is advisable for Members not to give an immediate reaction to a journalist unless they are sure their information is up to date and correct. If there is any doubt, Members should contact corporate communications, who will check the situation and deal with the reporter directly when requested.

**Delegated powers to Officers**

- 5.11 In order to facilitate the Council's business and ensure that it is dealt with efficiently and effectively, certain functions of the authority will be delegated to Officers. Formal schemes are approved under the Council's Constitution, which delegates the power to exercise functions to Directors (and in some cases to other specified Officers). Where a function is delegated to a chief or other Officer it is important that they should be able to exercise this without hindrance or involvement by Members. The Lead or other Officer, retains responsibility for the exercise of that power and is accountable for the decision taken.
- 5.12 Officers will also carry out various management functions as required by their positions. Again, except through formal processes, Members should not seek to influence management decisions, for example on staffing matters.
- 5.13 Officers have a duty to report to their director any attempt to exert improper influence.

**Officers' performance**

- 5.14 Part of the role of Members is to monitor the performance of the Council and its staff. Members have the right to criticise reports or the actions taken by Officers, but they should always:-
- 5.14.1 seek to avoid personal attacks on Officers; and
- 5.14.2 ensure that criticism is constructive and well-founded.
- 5.15 You should avoid undermining respect for Officers at meetings, or in any public forum. This would be damaging both to effective working relationships and to the public image of the Council. In general, staff are unable to defend themselves against criticism in a public forum.
- 5.16 Complaints about Officers or Council services should be made to the head of the service where you feel the fault lies, or to the Chief Executive where it

involves a Director personally. Indeed, Members have a duty to raise any issues they have reason to think might involve fraud or corruption of any sort. Officers too have a duty to raise matters of concern with their head of service, or through the Council's Whistle Blowing Procedure or other suitable channel.

## **6. Officers and party political groups**

- 6.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities Officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual Member. However it should be noted that:-
- 6.1.1 Officers serving the Council as a whole may attend meetings at the request of individual Members without the respective Cabinet Member or other representative of the administration being present. Any advice or assistance given at those meetings should be considered to be confidential unless the Member agrees to it being shared.
- 6.1.2 In providing such advice or assistance to the Member the Officer will also respect the need to keep confidential any information which may relate to advice given to the administration which is not yet in the public domain.
- 6.2 There is statutory recognition for party political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Senior Officers may properly be called upon to support and contribute to such deliberations by political groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.
- 6.3 The support provided by Officers can take many forms, ranging from a briefing meeting with the Leader of the Council, a lead member/chair/spokesperson prior to a Council, Cabinet, committee or sub-committee meeting to a presentation to a political group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever political group is in control of the Council at the time, assistance is available to all party groups.
- 6.4 In recognition of the important role provided by Portsmouth's Members of Parliament to the life of the city, Officers should also provide advice and assistance to them in a similar manner to that provided to Members namely in relation to the business of the Council
- 6.5 Directors are responsible for deciding, who, apart from themselves, in their services (and in what circumstances) is responsible for giving policy advice to Members or dealing with Members' non-routine questions.
- 6.6 Certain points, however, must be clearly understood by all those participating in this process, Member and Officer alike. In particular:

- 6.6.1 Requests for Officers to attend any political group meeting must be made only to the appropriate Director. Normally only that person will attend the meeting, although in exceptional circumstances the Officer may be accompanied by one or more senior Officers.
- 6.6.2 The Chief Executive reserves the right to preclude officers from attending political group meetings, that includes persons who are not members. However where the Chief Executive has not precluded such attendance special care needs to be exercised by Officers involved in providing information and advice to such political group meetings. Persons who are not elected Members will not be bound by the Code of Conduct for Members (in particular, the provisions concerning the declaration of interests 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 Members only meeting.
- 6.6.3 Officer support (whether in the form of a written report or otherwise) must not extend beyond providing information and advice in relation to matters of Council business. Officer support will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Reports or other support will not deal with any political implications of the matter or any option, and Officers are not expected to be present at meetings or part of meetings when matters of party business are to be discussed.
- 6.6.4 Political group meetings, whilst they form part of the preliminaries to Council decision making are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such.
- 6.6.5 It must not be assumed by any political group or Member that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.
- 6.6.6 Officers must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussion to another political group or Member thereof without the express consent of those political group members who confided in the officer during their discussions. However, Members should be aware that this would not prevent Officers from disclosing such information to other Officers of the Council so far as is necessary to perform their duties.
- 6.6.7 Where Officers provide information and advice to a political group meeting in relation to a matter of Council business, it should be understood that the Officers have a statutory duty to provide all necessary information and advice to the Cabinet or relevant committee/sub-committee when the matter in question is considered.

- 6.7 Members should not ask staff to assist with any personal, business or party

political matters, attend surgeries or decide how case work will be dealt with. Although Section 9 of the Local Government and Housing Act, 1989 allows the political affiliation of an individual to be taken into account in the appointment of any political adviser/assistant, they remain Officers of the Council and must therefore not undertake any activity, which may be deemed unlawful. In this context, it should be realised that Officer support to the political groups is in the context of their role in the discharge of Council business and although it may require liaison with political parties, at both local and national level, should not be used in promoting the views of an individual political party or undertaking campaigning or other party political business.

- 6.8 Any particular cases of difficulty or uncertainty in this area of Officer advice to political groups must be raised with the Chief Executive who will discuss them with the relevant group leader(s).

## **7. Support services to Members and party groups**

- 7.1 The City Council provides a range of support services (eg, stationery, typing and delivery of mail) to enable Members more effectively to carry out their duties. These may only be used on Council business. In practice it can be very difficult to distinguish party political activity from work (for example) on behalf of constituents.

- 7.2 The City Council has adopted therefore a number of rules in an attempt to draw the line between acceptable and unacceptable use of Council support service:

- 7.2.1 Council notepaper (comprising the Council logo and standard letterhead) may be used for constituency correspondence, including (exceptionally) a standard letter addressed to up to 10 residents.
- 7.2.2 A letter to a larger number of residents may be typed by the Member's Secretary on notepaper but will be passed to the Member concerned for copying and distribution.
- 7.2.3 A reply to the organiser of a petition (and up to 10 petitioners) may be typed on Council notepaper; otherwise the previous provision applies.
- 7.2.4 Photocopying or printing of Council notepaper for private or party political use is not permitted.
- 7.2.5 The Council's support service may not be used for personal correspondence.
- 7.2.6 The Members' Secretary may not be used at any time for party or political work of any kind, nor the printing and despatch of circular letters.

## **8. Members' access to information and to Council documents**

### **Constitution**

- 8.1 The following paragraphs identify the rights of Members and the procedures that they must comply with when applying for access to Cabinet/committee/sub-committee papers and other documents/information. These paragraphs take into account the following:-
- 8.1.1 Local Government Acts 1972-2000 (particularly Schedule 12A).
  - 8.1.2 Relevant case law.
  - 8.1.3 Access to Information Procedure Rules (contained within the Council's Constitution).
  - 8.1.4 Freedom of Information legislation.
- 8.2 It is important to note that in some cases such access only applies where Members are clearly carrying out their role as elected representatives. Where a Member has a financial or personal and prejudicial interest in a matter the Member will only be entitled to the same access as would be the case for a private individual, i.e. to inspect the reports, minutes and background papers relating to the public part of the Cabinet/committee/sub-committee agenda. In these circumstances, the Member must make it clear that s/he is acting in his/her private capacity and not as a Member.

**Confidential/exempt information**

- 8.3 Members have the same rights as the public in seeking and obtaining Cabinet/committee/sub-committee papers and other documents/information under Freedom of Information legislation. This will generally comprise reports and background papers which appear in Part I of Cabinet/committee/sub-committee agendas.
- 8.4 However, this is not the case in relation to confidential and exempt information.
- 8.4.1 Information furnished to the Council by a government department on terms which forbid the disclosure of the information to the public, and
  - 8.4.2 Information which may not be disclosed by or under any enactment or by a court order.
- 8.5 Exempt information is information to which the public may be excluded but do not have to be. The categories of exempt information are set out in Schedule 12A to the Local Government Act 1972 as amended. There may be some occasions when information may fall within one or more of the categories, but it is nevertheless in the public interest to disclose it under Freedom of Information legislation, without infringing personal rights or damaging the Council's position. If there is doubt in relation to individual items then they should be kept confidential until the Cabinet/committee/sub-committee has taken a view as to whether they should be treated as exempt

or not.

**Requests by Members - procedure**

- 8.6 Members are free to approach any of the Council's services to provide the Member with such information, explanation and advice (about that service's functions) as they may reasonably need in order to assist them in discharging their role as Members. This can range from a request for general information about some aspect of a service's activities, to a request for specific information on behalf of a constituent. Such approaches should be directed to the Director concerned. In cases of doubt, Officers of the Council's Community and Communication Directorate should be asked for assistance.
- 8.7 The following procedure should be adhered to when requesting documentation/ information:-
- 8.7.1 Initially, the Director for the service concerned should be approached.
- 8.7.2 If access is denied or the Director is in doubt, the matter must be referred to the Monitoring Officer or the Chief Executive for determination.
- 8.8 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute by the common law.
- 8.9 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, committee or sub-committee meeting. This right applies irrespective of whether the Member is a member of the committee or sub-committee concerned, and it extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items which may appear on the private agenda for meetings. The items in question are those which contain exempt information relating to employees; occupiers of Council property; applicants for grants and other services; the care of children; contract and industrial relations negotiations, advice from counsel; and criminal investigations.
- 9. Officer, Cabinet Member and Chairman relationships**
- 9.1 It is clearly important that there should be a close working relationship between a Cabinet Member, the Chairman of a Committee and the Director, and on occasion other senior Officers which report to that 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.
- 9.2 It must be remembered that Officers within a department are accountable to their Director and that while Officers should always seek to assist a political lead member/chairman (or indeed any Member), they must not, in so doing,

go beyond the bounds of whatever authority they have been given by their Director.

**10. Correspondence**

- 10.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where, exceptionally, it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of "silent copies" should not be employed.
- 10.2 If correspondence is received by an Officer from a member of the public asking for any details about a Member, that letter and the Officer's reply will be sent to the individual Member. The member of the public requesting the information will be so informed.

**11. Public relations and press releases**

- 11.1 The City Council's corporate communications services the Council as a whole and must operate within the Local Government Act 1988. This Act prohibits the Council from publishing material which appears to be designed to affect public support for a political party. Council press releases are drafted by Officers and will often contain quotations (within the limits of the Local Government Act 1986) from the Leader of the Council and Cabinet member whose service is involved, and from the chairman and vice-chairman of the Council about ceremonial events. Such press releases are issued on behalf of the Council and it would not, therefore, be appropriate when repeating quotations from Members to indicate their party political affiliation.
- 11.2 Whilst your manager will assist you, employees also have a personal responsibility to ensure that they are familiar with their responsibilities under the Council's Constitution and work within Council policies, procedures and operating guidelines.
- 11.3 Allegations of any failure to meet the requirements of this code may be dealt with under the Council's Disciplinary Procedure.