

MEMBER/OFFICER PROTOCOL

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INTRODUCTION

- 1 The Member/Officer Protocol is designed to provide a guide to good working relations between Members and Officers, to define their respective roles and provide some principles governing conduct.
- 2 Given the variety and complexity of Member/Officer relations, this protocol cannot and does not seek to cover every eventuality, but it does seek to clarify possible areas of doubt and to offer advice as to how any difficulties which might arise can be best resolved properly. The guidance included in the protocol should, as far as is possible, be uniformly followed throughout the Council.
- 3 This Protocol is part of the Council's Constitution. The guidance set out supplements that included elsewhere in the Constitution, particularly the Members' code of conduct, the code of conduct for staff and Standing Orders.
- 4 This Protocol, where applicable, will also apply to co-opted members of committees.

ROLES AND RESPONSIBILITIES

- 5 Both Members and officers are servants of the public but their responsibilities are distinct. This section details the different roles of Members and officers as well as guidance on working effectively together.

Role of Members

- 6 Members are democratically accountable and have political affiliations. They are responsible to the electorate and serve only so long as their term of office lasts. All Members have an important role to play in representing their constituents and promoting the welfare of the communities they represent as well as acting together as the County Council. Members formulate policy, make decisions and seek to ensure that their constituents' issues are addressed.
- 7 The Leader of the Council will appoint the Cabinet and the Council will appoint Members to serve on the Council's committees in line with Standing Orders. Individual Members may take on a range of roles, for example becoming a Cabinet Member, a Chairman of a committee or Chairman of the Council. A role profile for each such position within the County Council is attached at appendix A for reference.
- 8 The leaders of the minority groups will act as the leading spokesmen for their respective groups at meetings of the Council. Minority groups may choose to appoint spokesmen to represent them on committees, in which case the spokesman will be recognised by other groups and officers as the normal channel for communications with groups on matters affecting the committee.
- 9 Members can also be appointed to represent the Council on a range of external bodies whose work is of important to the Council and the community. Appointments or nominations to outside bodies carrying out or relating to executive functions will be made

by or on behalf of the Leader. Where there is agreement between groups, appointments or nominations to all other outside bodies will be authorised by the Chief Executive as an administrative matter. In any case where there is not agreement between groups, the matter will be referred by the Chief Executive to the Leader/Cabinet or appropriate committee for decision.

- 10 Members should ensure that they take proper advice on council procedures. If Members are ever in any doubt in terms of law, the Code of Conduct and declarations of interest, Standing Orders, general propriety, conflicts of interest, etc, then the Monitoring Officer or Deputy Monitoring Officer (Democratic Services Lead Manager) should be consulted.

Role of Officers

- 11 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 and the Leader/Cabinet. Officers advise the Council, the Cabinet, and committees, and are responsible for ensuring that decisions are taken in accordance with the Constitution and are effectively recorded and implemented.
- 12 The Chief Executive, Strategic Directors, and senior officers will need to work closely with the Cabinet if there is to be effective policy development and executive decision-making. This relationship has to function without compromising the ultimate responsibilities of staff to the Council as a whole. Officers are responsible to the Chief Executive, and not to individual Members of the Council whatever office they might hold.
- 13 Officers are legally required to be politically neutral. Senior officers, except those specifically exempted, cannot be local authority councillors or MPs, nor can they "speak or publish written work for the public at large or to a section of the public with the apparent intention of affecting public support for a political party".
- 14 In accordance with the Council's Code of Conduct for Staff, officers, other than political assistants, "must not be involved in advising any political group of the Council or attend any of their meetings in an official capacity without the express consent of their Strategic Director or the Chief Executive".

Member/Officer Working

- 15 Members and officers work within the following broad framework:
- (a) Members decide on policy and budgets, with advice from officers and officers implement the decisions;
 - (b) Officers manage the Council in accordance with Members' policies and budgets; and act within authority delegated to them by the Council and the Leader;
 - (c) Members have extensive rights to information, which they should use as a means to question and hold to account officers acting on their behalf; and
 - (d) Members should avoid becoming a de facto member of Directorate/Service management teams, for example by always attending management team meetings. However, it is recognised that, on occasion, officers may invite Members to such officer meetings for specific items.

- 16 For the effective conduct of County Council business, there must be mutual respect, trust and courtesy between Members and officers. Members and officers should also try to give timely responses to each other's queries.
- 17 To support a healthy working and constructive working relationship, Members should be aware of how they speak with and relate to officers, avoiding undue pressure. They should not ask an officer to do anything he/she is not empowered to do or to undertake work outside normal duties or outside normal hours.
- 18 Similarly, officers should be aware of how they speak with and relate to Members and remember at all times that they work in a political environment. Officers must not seek to use undue influence on an individual Member to make a decision in his/her favour.

COMMITTEE BUSINESS

Committee Meetings

- 19 All formal meetings of Members will be booked via the County Diary held in Democratic Services. The dates and times of such meetings, or their cancellation, will be agreed in advance by the committee manager with chairmen.
- 20 The responsibility for the content of reports will rest with the Strategic Director or Member concerned.
- 21 It is an essential element of the Council's commitment to democratic accountability, and a requirement in law that, except in special circumstances defined in legislation, decisions of the Council and its committees, and of the Cabinet, be taken in public and that members of the public have the opportunity to petition the Cabinet, Cabinet Members and committees or by other means to make representations to Members of the Council before decisions are taken.

Support to Committees

- 22 The Chief Executive is responsible for ensuring that Members are fully and effectively supported by officers in exercising both executive and non-executive functions
- 23 The Chief Executive is the principal policy adviser to both the Cabinet and select committees, with responsibility for co-ordinating and ensuring that they receive appropriate policy advice on service issues. Strategic Directors or designated lead officers will advise the Cabinet and select committees on service and operational issues.
- 24 The Head of Legal Services will provide legal advice to the Cabinet and select committees in his/her role as Monitoring Officer and the Democratic Services Lead Manager will ensure that meetings of the Cabinet and select committees are properly serviced.
- 25 The Head of Finance will be responsible for financial advice to the Cabinet and select committees.

Briefings

26 Any group may ask for a private and confidential briefing from an officer on matters of policy which have been, or which may be, the subject of formal meetings. Officers will be able to attend group meetings to give advice. They will notify other groups of this and the nature of the subject matter under discussion. Officers may give factual information, and advice on potential options, but must withdraw before Members start to consider the decisions they wish to see taken.

ENTITLEMENT TO INFORMATION

27 Members will be fully informed on matters which affect their divisions or on which they will be expected to take decisions in meetings of the Cabinet and any committee. It is the duty of each Strategic Director to ensure effective and timely arrangements are in place to inform, consult and listen to Members and, where requested, for Members' views to be reported before any decision is made.

Local Members

28 Local Members' attention will be drawn to any significant issues that may have an impact locally. As a guide these could include:

- (a) significant change in the level or nature of a service;
- (b) joint working initiatives and joint projects;
- (c) significant changes in personnel or other developments of the service;
- (d) planning applications to be determined by the Council or where the Council is a consultee;
- (e) roadworks, and other temporary local service activities;
- (f) issues about which the local Member has already expressed a contrary view;
- (g) items due to be discussed with borough/district councils in local committees;
- (h) issues about which the borough/district or town/parish council is known to be concerned or opposed;
- (i) issues known to be contentious, e.g. mineral workings, waste recycling and disposal; and
- (j) potentially controversial issues which will arouse interest from local people, groups, or the media.

29 Members are also expected to meet regularly with community highway officers to discuss matters within their division and must be consulted and asked to confirm (within a framework of allocated time and resources) the work plan for community gangs carrying out highway works within their division. Members must also be consulted on applications for HGV operator licences in relation to sites within his or her division

30 Where a matter is being handled by an officer under delegated authority, he/she will be responsible for keeping the local Members informed. Where the matter may possibly be politically sensitive or contentious, the Cabinet Member or committee chairman and vice-

chairman (as appropriate) will be consulted before any action is taken, so that if necessary the matter can be brought before the Cabinet or a committee.

- 31 The officer responsible for preparing a report for the Cabinet, a Cabinet Member or a committee will, in conjunction with the committee manager, notify the local Members concerned by sending them a copy of the report.
- 32 Where an issue is to be discussed by the Cabinet, at a Cabinet Member meeting, or by a committee on which the local Member does not serve, he/she may attend the meeting for consideration of the item and, with consent of the chairman (which will not normally be withheld), speak on it if he/she wishes to do so. Members should also be invited to attend official openings or other similar ceremonies within their electoral division.

Requesting Information

- 33 Members may request copies of any agenda for meetings of the Cabinet, Cabinet Members, and of committees of which they are not appointed Members. Members' rights to information are subject to legal rules and, if Members have a legitimate interest in a matter and can demonstrate a "need to know", in their role as a county councillor, officers should provide the relevant information (including confidential information) to them. Where Members have a conflict of interest in a matter there is no such right of access.
- 34 Any Member of the Council may ask the relevant officer for factual information about a service where it relates to his/her division, or to the work of a committee on which he/she serves. Such requests will be met subject to any overriding legal requirements, or if on referral to him/her, the Strategic Director considers the cost of providing the information unreasonable, subject to the guidance of the political group leaders.
- 35 If Members are not receiving, or are having difficulty in obtaining, information which they feel they need or to which they are entitled to carry out their duties as county councillors they should contact the Democratic Services Lead Manager.

Confidentiality

- 36 Any Council information provided to a Member must only be used by the Member for the purposes for which it was provided, that is in connection with the proper performance of the Member's duties as a Surrey County Councillor.
- 37 Confidential information should not be divulged to anyone unless the reason for its disclosure falls within the limited categories set out in paragraph 4 (a) of the Members' Code of Conduct. The Council requires Members to take appropriate legal advice, e.g. from the Monitoring Officer, before disclosing information that they believe or ought reasonably to believe was given to them in confidence.

ADMINISTRATIVE SUPPORT AND INFORMATION SERVICES

- 38 The Council can only lawfully provide support services, materials and equipment (e.g. stationery, typing, printing, photocopying, transport, PCs, phone lines, etc.) to Members to assist them in their role as Members of the Council. Support services, materials and

equipment must therefore only be used for Council business. They should never be used in connection with party political or campaigning activity. Other appropriate uses of Council equipment will be defined within the contract entered into between the Council and Members upon their election to the Council.

- 39 The County Council may support Members in their capacity as county councillors but not by law in their capacity as politicians. Democratic Services will always assist Members in their official County Council work and in dealing with their constituents' problems relating to County Council services. They cannot carry out tasks for Members of a purely personal nature, or do work arising from service by a Member on another local authority.
- 40 Any correspondence that is personal between Members or is intended to be confidential between the correspondents, so far as the law allows, will be treated as such. Correspondence between Members, or between an individual Member and an officer, should not be copied by officers to another Member or to officers unless the author expressly requests or agrees that this should be done. Where correspondence is copied, this should always be made clear on the face of the document and there should be no "blind" copies.
- 41 Similarly, information requested by a Member (or a political assistant on behalf of a Member of a political group) should be provided by officers in confidence. It should not be shared with other Members without the consent of the Member making the request or the political assistant acting on his/her behalf.
- 42 Information and correspondence will be sent to Members by post either directly or through the pigeon holes at Members' Reception, by email or by fax as appropriate and its delivery will not be delayed or interfered with by officers or Members.

RELEASE OF INFORMATION TO THE MEDIA

- 43 The provision of information by the County Council to the media (or directly to the public) is governed by the Local Government Act 1986, and the Code of Practice on Local Authority Publicity, and in particular:
 - must have the principal purpose of explaining or commenting upon the Council's policy;
 - must not include material whose main effect is party political (i.e. designed to affect public support for a political party);
 - must relate to a function of the County Council; and
 - must not contain material which is disparaging of parties or members of parties.
- 44 Press releases on decisions by the Council, the Cabinet, Cabinet Members or any committees, and generally on approved policies and initiatives, will be prepared by the Head of Communications in conjunction with the relevant Strategic Director(s). They must be cleared with the appropriate Cabinet Member or chairman before being issued and they may include a statement from the Cabinet Member or chairman.

- 45 Press releases on routine service issues will be authorised by Strategic Directors and the Head of Communications, and will contain a factual quotation from the appropriate officer.
- 46 Copies of all press releases will be circulated as appropriate internally to all Members and Strategic Directors and externally to district and borough councils and to the Surrey MPs and MEPs. Press releases will include the contact details of the local Member where the release relates to a specific local area, in order to allow the local Member to be contacted directly by the press for comment regarding the issue.
- 47 Personal or group statements will be handled by the political groups. Members making such statements will make every effort to ensure that they are not construed as official statements.
- 48 The Code of Practice on Local Authority Publicity requires particular care about publicity issued in an election period. This applies to any election or by-election affecting the area. At such times, the Head of Communications will issue guidelines for Members and senior officers.

BREACHES OF THE PROTOCOL

- 49 If Members feel that they have not been treated with proper respect, courtesy or efficiency by officers or that an officer has acted in breach of this protocol, they may raise the matter with the individual's line manager, Head of Service, Strategic Director or the Chief Executive as appropriate. If the matter cannot be resolved informally, any such referral will be processed in line with the Council's employment procedures and policies. The Member and the officer will be kept informed of progress with the complaint and the action to be taken. Members do not have the power to discipline any officer other than through a formal Member appeal panel.
- 50 Where an officer feels that a Member has acted in breach of this Protocol, or has otherwise not been shown proper respect and courtesy by any Member, they should raise the matter with their line manager, Head of Service, Strategic Director or the Chief Executive as appropriate. The Head of Service or Strategic Director should discuss the matter informally with the Member and the appropriate Group Leader. If the matter cannot be resolved informally, the officer may refer the issue to the Monitoring Officer for consideration. The officer and Member will be kept informed of progress with the complaint and the action to be taken, including referral to the Standards Committee.