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## Part 5 – Protocol for Member / Officer Relations

### 1. Purpose of this Protocol

- 1.1 The aim of this protocol is to describe the relationships, roles and behaviours which should exist between elected Councillors (Members) and employees (Officers) in a modern, well run local Council. The protocol provides guidance on how the complementary, but very different roles of Officers and Members should work.
- 1.2 This protocol is not intended to be definitive and should be read alongside other relevant documents such as the national Code of Conduct for Members, the Code of Conduct for Officers, conditions of service and the whistle blowing procedures. These Codes have direct relevance to many of the issues covered in the Protocol. Copies of the Codes of Conduct can be found in Parts 3 and 4 of this Chapter of this Constitution. The Local Code of Practice for Councillors and Officers dealing with Planning Matters is also important and this too can be found in the Constitution (Chapter 5, Part 3(d)).
- 1.3 The protocol sets out the principles which should influence behaviour which both Members and Officers should comply with. The protocol has a serious objective which may have significant consequences for those who might choose not to follow these principles.
- 1.4 This protocol is adopted Council policy and all Members and Officers are expected to understand and follow its principles and the spirit of those principles. It also applies to co-opted Members and all employees of the Council, agency staff, volunteers and those individuals working with the Council as contractors.

### 2. Roles of Officers and Members

- 2.1 The primary role of both Members and Officers is to serve the public to the best of their abilities.
- 2.2 To do this most effectively, Members and Officers need to work together in a manner which combines their essential skills, knowledge and experience in a way which produces the best outcomes for individuals and communities and which is fair, sustainable and responsive.
- 2.3 Council Members provide a democratic mandate for the people of Thurrock and advocacy for individuals and communities. They are also responsible for policy making and the scrutiny of the Council's actions and those of public sector partners. Officers provide independent impartial professional advice and expertise and are required to conscientiously implement Council policy and decisions of Council and those matters properly delegated to them.
- 2.4 Whilst the roles of elected Members and Council Officers are complementary they are also distinct. Elected Members are responsible to the electorate for the period that they are elected. Employees are responsible to the Council as a whole but work under the direction of the Cabinet, the Council and its Committees.

### 3. Principles of Member Officer Relationships

- 3.1 The underlying principles which determine relationships between Members and Officers in Thurrock are:
  - (a) The commitment to the common aim of providing Thurrock residents with the best possible quality of life through the provision of excellent services, leadership and advocacy
  - (b) The acceptance of and overt demonstration of mutual courtesy and respect
  - (c) The awareness and acceptance of their different roles duties and responsibilities
  - (d) The acceptance for the need to ask for Officer advice and for that advice to be timely, accurate and impartial

- (e) The acceptance of the principles of fairness, consistency, transparency in the conduct of business
- (f) The need to comply with the laws and regulations relating to the conduct of Council business
- (g) The need to demonstrate ethical decision making and implementation
- (h) The need to avoid actual or perceived personal conflict of interest
- (i) The need to maintain appropriate confidentiality
- (j) A commitment to non adversarial working and dispute resolution

#### 4. Expectations

##### 4.1 Members and Officers can expect from each other:

- (a) Mutual respect and courtesy at all times. There will be no inappropriate or public criticism, intimidating or threatening behaviour of any kind.
- (b) A working partnership. There will be an understanding of and support for each others roles, workloads and pressures.
- (c) Appropriate relationships. Members and Officers will not use their relationship to advance their personal interests or those of others or to influence decisions improperly.

##### 4.2 These obligations rest with both Members and Officers. In addition to these Members and Officers have specific roles as follows:

##### 4.3 Members **will**

- (a) provide political leadership and direction
- (b) maintain appropriate confidentiality
- (c) comply with the Members' Code of Conduct
- (d) ensure that they take proper advice on the law, Code of Conduct, declaration of interests, procedure Rules in the Constitution, conflicts of interests and general propriety

##### 4.4 Members **will not**

- (a) get involved in day to day management of staff or services
- (b) seek to give unreasonable advantage on individual cases or matters or seek to substitute their judgment for the professional judgment of an Officer
- (c) engage in personal criticism of Officers in a public meeting
- (d) use equipment or facilities or Officer support for any political purpose

##### 4.5 Officers **will**

- (a) be responsible for the management of the authority and ensuring the implementation of agreed policy.
- (b) treat all Members with respect, fairness and impartiality
- (c) provide timely response to Member enquiries and complaints

- (d) seek to assist all Members in the conduct of their role as ward Member and various other roles within the Council
- (e) have awareness of and sensitivity to the political environment
- (f) give professional advice which is politically neutral
- (g) comply with the Officer Code of Conduct

#### 4.6 Officers **will not**

- (a) form close relationships with a Member so as to call into question the Officer's political impartiality
- (b) raise personal issues (as a employee) with Members
- (c) withhold information that Members are entitled to have
- (d) allow their own personal or political opinions to interfere with their work

4.7 The above lists are not meant to be exhaustive and Members and Officers should seek advice from the Monitoring Officer if they have any queries about the provisions of the Protocol or their application in certain circumstances.

### 5. Personal Relationships

- 5.1 Members and Officers work together on a regular basis in meetings, Committees and less formal settings. It is inevitable that relationships will form and to ensure the principles of Member Officer relations are upheld, the following guidance applies.
- 5.2 If a friendship or closer relationship (including relatives/partners) exists or forms between any Member and any Officer, this needs to be addressed openly. Friendship is likely to be something closer than an acquaintance or work colleague and include some social interaction. In such situations:
- (a) Members should seek advice from the Monitoring Officer and, if in doubt, must declare their interest at formal and informal meetings.
  - (b) Officers must raise the matter with their Head of Service or Director to discuss appropriate action and must make a declaration in the Register of Officers' Interests.

### 6. Appointment or Dismissal of Officers

- 6.1 Members will take no part in the appointment or dismissal of an Officer nor should they seek to influence in any way the appointment or dismissal of a particular person to a post other than the recruitment of the Chief Executive or Head of Paid Service, Directors, Monitoring Officer and Chief Finance Officer.
- 6.2 Members must not take part in the appointment or dismissal of the Chief Executive or Head of Paid Service, Directors, Monitoring Officer and Chief Finance Officer if they are in any way related to or associated with the person concerned.

### 7. Political Groups and Officers

- 7.1 A service or facility available to one political group should be available to all other political groups and an Officer providing that service should provide it equally and impartially. Such services may include briefings prior to meetings or discussions with a group on a particular topic. Where this type of arrangement occurs the following principles should be observed by Members and Officers:

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- (a) Officer support extends only to the provision of information and advice on Council business. It does not include advice on party or personal matters. To this end, Officers should not be present at any part of a group meeting which discusses party political business
  - (b) any advice given to one party group at such meetings should be made available to the other groups, prior to or at formal decision making meetings
  - (c) the confidentiality of party group meetings should be respected
  - (d) decisions taken at party group meetings are not formal decisions of the Council and should not be treated as such by Officers
  - (e) party group meetings to which Officers are invited should only include Council Members
- 7.2 Where Officers have particular difficulties involving advice to party groups these should be raised with the Chief Executive.
- 8. Members' Enquiries**
- 8.1 Members' enquiries may be made by any means. Officers will respond to Member's enquiries promptly and in any event within the corporate timescales for responding to queries. Directors are responsible for ensuring that Member enquiries are dealt with promptly and accurately in his or her Directorate.
  - 8.2 Where an enquiry imposes a disproportionate burden on Officers' work, this should be explained and discussed with the Member concerned and senior management should agree an alternative deadline and/or response.
  - 8.3 This Members' enquiry procedure supplements and does not replace Members' statutory and common law rights to information as set out below.
- 9. Councillor Access to documents and information**
- 9.1 Information and documents should be made available on request by Officers to Members unless:
    - (a) there is a clearly and properly justifiable reason for declining access, and
    - (b) the Member in question cannot establish a legal right to the information or documentation
  - 9.2 Members are entitled on a "need to know" basis to receive documents and information on request where it is clear that the Member concerned requires the documentation or information because of their position within the Council or by virtue of their Membership of a Committee or Sub-Committee.
  - 9.3 However, if information is requested which is not readily available, or will require significant resources to produce, Officers are advised to seek guidance from their respective Director, before providing the information.
  - 9.4 Access to information will not be granted if the information is prepared as part of a briefing or is in draft or is deliberative, for example, for the Cabinet or at the request of an opposition group.
  - 9.5 In addition all Members of the Council have a separate statutory right to inspect documents relating to matters which are to be the subject of a decision by the Council, the Cabinet, a Cabinet Member or a Committee or Sub-Committee, provided that the documents are within the possession of the Council.

9.6 Members of the Council will only be entitled to receive such information and documents under their statutory right if it is not exempt or confidential in accordance with the provisions of the Access to Information legislation. However, they may nevertheless be entitled under their common law “need to know” rights.

9.7 More details of Members’ rights of access to information can be found in the Access to Information Procedure Rules in Chapter 8 of the Constitution.

## **10. Confidentiality**

10.1 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 Councillor.

10.2 Members must not divulge confidential information 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 from the Monitoring Officer, before disclosing information that they believe or ought reasonably to believe was given to them in confidence.

10.3 A Member may be referred to the Council’s Standards and Audit Committee for breach of the Code if he or she discloses confidential information without justification under the Code and without legal advice. If Officers breach confidentiality then they may face disciplinary action.

## **11. Media Relations and Publicity**

11.1 The provision of information by the 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:

- (a) must have the principal purpose of explaining or commenting upon the Council's policy
- (b) must not include material whose main effect is party political (i.e. designed to affect public support for a political party)
- (c) must relate to a function of the Council, and
- (d) must not contain material which is disparaging of parties or members of parties.

11.2 The Council’s Media Protocol was revised in 2009. The Protocol is based on the Code of Recommended Practice on Local Authority Publicity, which is binding on all Members and Officers. The Corporate Communications team lead on all media and publicity events. The following principles are relevant to Member / Officer relations and the media:

- (a) Members and Officers will comply with the Council’s Media Protocol when speaking for or on behalf of the Council.
- (b) Members are free to speak to the media on any matter on behalf of a political party or as an individual but should make it clear in which capacity they are speaking in any statement made. This is particularly important when Members are representing other organisations.
- (c) Officers must also act in accordance with the Code of Conduct for Officers when speaking about the Council in public.

11.3 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 Monitoring Officer will issue guidelines for Members and senior Officers.

## **Managing and Enhancing the Reputation of the Council**

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- 11.4 The first principle of Member / Officer relations is the commitment to the common aim of providing Thurrock residents with the best possible quality of life through the provision of excellent services, leadership and advocacy. An essential element of providing leadership is inspiring and increasing the confidence of local people in the Council as an organisation, its services and its Members and Officers.
  - 11.5 Members and Officers, therefore, must work in partnership and behave in a manner that does not diminish the reputation of the Council and thereby decrease public confidence in the organisation, its Members and Officers.

## **12. When Things Go Wrong: Dispute Resolution**

- 12.1 The Council's experience is that Members and Officers work well together in the main. However, it is still necessary to have a clear process to deal with matters when they are not going well.
- 12.2 The key principle for dispute resolution is that both Members and Officers are committed to informal, non-adversarial solutions. Where a dispute arises, the first step should be for both parties to seek to resolve any differences informally between themselves or, where necessary, with the assistance of a manager.
- 12.3 When an informal resolution is not possible, the following processes will apply.

## **13. Complaints about Officers**

- 13.1 Members should make any formal complaints about Officers to the relevant Director or the Chief Executive, copied to the Monitoring Officer. The matter will be investigated and the Member will be informed of its progress and outcome.
- 13.2 In appropriate cases, breaches of this Protocol may also constitute offences under the Code of Conduct for Officers and in such cases, disciplinary action may be taken.
- 13.3 Members must remember that the decision to take formal action against an Officer and the action taken is the sole responsibility of management. A Member's evidence will be considered but Members must:
  - (a) respect the confidentiality of the investigation and disciplinary process
  - (b) not seek to improperly influence the action taken against an employee
  - (c) accept the management decision.

## **14. Complaints about Members**

- 14.1 An Officer's complaint about a Member should be reported to the Chief Executive and copied to the Monitoring Officer and the Officer's Director. This is provided that the Officer does not wish to make a formal complaint to the Council's Standards and Audit Committee.
- 14.2 The Monitoring Officer will, where necessary, investigate the complaint and report the outcome to the Chief Executive, the Member, the Officer and Officer's Director. In appropriate cases, the Monitoring Officer or the Chief Executive will notify the relevant political group leader of the complaint and his or her findings.
- 14.3 The Monitoring Officer and the Chief Executive will seek to resolve the issues with solutions that are mutually acceptable to the Member and Officer. If this is not possible then the Monitoring Officer or the Chief Executive will recommend necessary actions.
- 14.4 If the Monitoring Officer finds that in breaching the terms of this protocol the Member has also breached the Code of Conduct for Members then a referral may be made to the Council's Standards and Audit Committee.

## **15. Interaction with the Members' Code of Conduct and the Whistleblowing Policy**

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- 15.1 A complaint against a Member may disclose evidence of a breach of the Code of Conduct. The Protocol's aim is, in part, to provide guidance and resolve disputes informally and thereby dispense with the need to resort to Code of Conduct complaints to the Standards and Audit Committee. A Member or an Officer is under no obligation to take part in the process under this Protocol. The use of the dispute resolution procedure in this Protocol does not prohibit an Officer from making a complaint under the Code of Conduct about the same matter, if the matter has not been resolved under the Protocol.
  - 15.2 Equally, Officers and Members are not prevented by this Protocol from using the Council's Whistleblowing Policy, particularly for matters involving potential fraud, deception or other criminality.

**16. Monitoring and Review**

- 16.1 The Protocol will be monitored and reviewed by the Council's Standards and Audit Committee on an annual basis.