

# Report of the Assistant City Solicitor to the meeting of Governance and Audit Committee to be held on 24 July 2015

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## Subject:

**REVIEW OF PROTOCOLS AND THE MEMBERS' CODE OF CONDUCT**

## Summary statement:

At its meeting on 21 November 2014 Governance and Audit Committee considered a report on the Use of Council Resources for Election Purposes and resolved:

*That in light of the issues highlighted in the report (Document "X") the Protocols on Members Use of Council Resources, Member-Officer Relations and the Members Code of Conduct be revisited and submitted to this Committee for consideration.*

This report revisits the protocols and the Members' Code of Conduct as required.

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## 1. Summary

1.1.1 On 21 November 2014 the Committee considered a report from the Assistant City Solicitor on the Use of Council Resources for Election Purposes. Members were informed that the Protocol on Members and officer relations did not directly deal with circumstances where officers were subject to matrix management, namely where officers work to the direction of an elected member but were also line-managed by a more senior officer.

1.1.2 The Committee resolved:

*That in light of the issues highlighted in the report (Document "X") the Protocols on Members Use of Council Resources, Member-Officer Relations and the Members Code of Conduct be revisited and submitted to this Committee for consideration.*

## 2. Background

### **The Protocol on Members' Use of Council Resources**

2.1 The use of Council resources by members is governed by "*The Protocol on Members' Use of Council Resources including use of e-mail and the internet*" which forms part 4E of the Constitution of the Council. The Protocol forms Appendix 1 to this report and the section relevant to the issue of the use of council resources for election purposes is section 14 which reads:

#### **14 Publication of Material Designed to Affect Support for a Political Party**

14.1 *Under section 2 of the Local Government Act 1986 the Council is prohibited from publishing or arranging for the publication of any material which, in whole or in part, appears to be designed to affect public support for a political party. This law applies to the use by members of Council equipment.*

14.2 *Section 2 provides that in determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and, in particular, to the following matters;*

14.2.1 *Whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another.*

14.2.2 *Where the material is part of a campaign, the effect which the campaign appears to be designed to achieve.*

14.3 *This rule is likely to apply to sending unsolicited e-mails or printed material with contents described in paragraph 14.2 to a wide number of people, particularly during an election or other political campaign.*

14.4 *This rule does not prevent:*

14.4.1 *Normal correspondence.*

14.4.2 *The receipt and retention of political material that relates to Council business.*

14.4.3 *Viewing websites of political parties and groups.*

14.4.4 *Using the equipment to discuss with other members the business of the Council including motions.*

14.4.5 *The inclusion in emails or website of factual information about a councillor provided it is not within the above meaning of political material'.*

2.2 Paragraphs 14.1 and 14.2 accurately set out the legal prohibition in section 2 of the 1986 Act. Paragraphs 14.3 and 14.4 set out further guidance. The conduct in relation to the use of Council resources for election purposes set out in the report of the Assistant City Solicitor to the meeting of Committee held on 21 November 2014 would clearly be in breach of section 14 of the Protocol.

### **Protocol on Member-Officer Relations**

2.3 Member-Officer relations are governed by "*The Protocol on Member-Officer Relations*" which forms part 4C of the Constitution of the Council. The Protocol forms Appendix 2 to this report and the section most relevant to the issue of management of staff by elected members is section 5 which reads:

### **5 Support Services to Members**

5.1 *Members will, except where arrangements are otherwise approved, use support services and resources provided by the Council only for Council business. Support services shall not be used for political or campaigning activity, or for private purposes.*

5.2 *The Council provides support services to members (including stationery, typing, printing, photo-copying, personal computers, laptop computers, e-mail and internet facilities, travel, transport and parking arrangements, etc.) to assist members in discharging their role as members of the Council.*

5.3 *E-mail and internet facilities must not be used by members or officers on behalf of members to publish to the public at large or a section of the public any material which, in whole or part, appears designed to affect public support for a political party contrary to the Local Government Act 1986.*

5.4 *In using e-mail facilities for Council business, members should address communications only to appropriate named members, officers or other persons and should avoid the use of wider circulation lists, including those to Council employees, which may constitute a section of the public under the 1986 Act.*

5.5 *Members should seek guidance from the City Solicitor on any communication intended for wider circulation.*

5.6 *Support services are provided to the political group leaders by the Chief Executive's Office. Individual services may, in addition, provide support services to an executive member with portfolio, lead members and chairs of any committee or panel.*

2.4 This section deals clearly with the use of Council resources for political, campaigning or private purposes but does not specifically deal with the management of staff by elected members although the Protocol does set out the following rules:

- Members and officers shall establish sound and effective working relations that seek to engender mutual respect and put aside any personal differences.
- Members and officers will adopt reasonable standards of behaviour and courtesy towards each other and will not take or attempt to take unfair advantage of their position.
- Members and officers will not allow a working relationship to become so close or appear to be so close as to bring into question the officer's ability to deal impartially with other members and political groups.
- Members and officers must recognise the different roles and responsibilities of bodies established within the constitution and the potential for tension between them.
- Members and officers must seek to manage any such tension so as not to compromise the integrity of each other and the bodies involved.
- Members and officers shall not engage in open criticism of each other.
- Members will not comment openly or through the media on the conduct of officers and officers will not comment openly or through the media on the conduct of members. This rule is particularly applicable to comment by a member or officer in relation to any pending or ongoing complaint or disciplinary process involving a member or officer.
- Members and officers will seek to resolve any problems arising within their working relations.
- The relevant political group leader and the Chief Executive will seek to resolve by mediation and conciliation any unresolved problem or breakdown in working relationships between members and officers.

2.5 Section 16 of the Protocol repeats the rules and guidance on publicity set out in the Protocol on Members' Use of Council Resources including use of e-mail and the internet.

## **The Members' Code of Conduct**

- 2.6 The Localism Act 2011 requires local authorities to promote and maintain high standards of conduct by members and co-opted members and in doing so they must, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. A local authority's code of conduct must, when viewed as a whole, be consistent with the following principles — selflessness, integrity, objectivity, accountability, openness, honesty and leadership. These are the seven principles of public life, as defined by the Committee on Standards in Public Life.
- 2.7 The Committee on Standards in Public Life defines the principles as follows:
- 2.8.1 Selflessness - Holders of public office should act solely in terms of the public interest.
- 2.8.2 Integrity - Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- 2.8.3 Objectivity - Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- 2.8.4 Accountability - Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- 2.8.5 Openness - Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- 2.8.6 Honesty - Holders of public office should be truthful.
- 2.8.7 Leadership - Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.
- 2.8 A code of conduct must also include the provision the authority considers appropriate in respect of the registration in its register, and disclosure, of pecuniary and other interests. The legal requirements as to disclosable pecuniary interests are set out in the Act and in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. Provided that the code of conduct does not conflict with the Act or the Regulations it may contain any other provisions the authority wishes to include.
- 2.9 The purpose of the new standards regime set out in the Act, as set out in a press release dated 28 June 2012 from the Department for Communities and Local Government was:

*These new measures, outlined in the Localism Act, will replace the bureaucratic and controversial Standards Board regime, which ministers believe had become a system of nuisance complaints and petty, sometimes malicious, allegations of councillor misconduct that sapped public confidence in local democracy*

The Department for Communities and Local Government also produced an illustrative text for a code of conduct.

2.10 The Localism Act 2011 abolished the model national code of conduct which was more prescriptive. In particular the abolished model code of conduct set out general obligations in some detail which included obligations to:

- 2.10.1 Treat others with respect
- 2.10.2 Not cause the authority to breach equality enactments
- 2.10.3 Not bully anyone
- 2.10.4 Not intimidate people involved in standards complaints
- 2.10.5 Not compromise the impartiality of officers
- 2.10.6 Not disclose confidential information
- 2.10.7 Not bring the authority or the office of councillor into disrepute
- 2.10.8 Not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage
- 2.10.9 Not use the resources of the authority except in accordance with the authority's reasonable requirements
- 2.10.10 Not use the resources of the authority for political purposes
- 2.10.11 Have regard to the advice of the authority's statutory officers
- 2.10.12 Give reasons for decisions

2.11 The Members' Code of Conduct forms part 4A of the Constitution of the Council and forms Appendix 3 to this report. Members' Code of Conduct is divided into two parts. Part 1 sets out the principles of public life, with commentary on the principles. Part 2 sets out the rules on the registration and declaration of disclosable pecuniary interests and sets out the rules on other interests.

2.12 The Members' Code of Conduct repeats some of the obligations from the abolished national model code by way of commentary to the principles of public life. In particular it includes obligations:

- 2.12.1 To serve only in the public interest, and to never improperly confer an advantage or disadvantage on any person, organisation or group, or any other third party.
- 2.12.2 To have regard to professional advice
- 2.12.3 To co-operate fully and honestly with any scrutiny appropriate to your office
- 2.12.4 To have due regard to the impartiality and integrity of the authority's statutory officers and its other employees.

2.13 The abolished national model code was more prescriptive on the use of Council resources and on the treatment of others.

### **3 Revisiting the Protocols and Members' Code of Conduct**

3.1 The two areas of concern arising from previous reports to Committee were firstly whether the current Protocols and Code of Conduct are sufficiently clear with regard to the use of Council resources by elected members and secondly whether they make adequate provision for circumstances in which officers of the Council work to the direction of elected members.

3.2 The Protocol on Members' Use of Council Resources sets out section 2 of the Local Government Act 1986 and the prohibition on the publication of material designed to affect support for a political party. The Protocol on Member-Officer Relations confirms that support services and resources provided by the Council should not be used for political or campaigning activity, or for private purposes. At its meeting on 21 October 2014 full Council resolved that specific advice be given to all members who are candidates or agents in a local election to remind them that Council resources must not be used to produce election publicity material.

3.3 The Protocol on Member-Officer Relations makes no specific provision for staff working to the direction of elected members but does set out general principles, which include the following

- Members and officers shall establish sound and effective working relations that seek to engender mutual respect and put aside any personal differences.
- Members and officers will adopt reasonable standards of behaviour and courtesy towards each other and will not take or attempt to take unfair advantage of their position.
- Members and officers will seek to resolve any problems arising within their working relations.
- The relevant political group leader and the Chief Executive will seek to resolve by mediation and conciliation any unresolved problem or breakdown in working relationships between members and officers.

3.4 Committee may therefore wish to consider whether these principles are sufficient to regulate the conduct of members who manage officers.

3.5 The Members' Code of Conduct does not incorporate the Protocol on Members' Use of Council Resources or the Protocol on Member-Officer Relations. Accordingly breaches of those protocols by members will not be breaches of the Members' Code of Conduct unless they are fall within the principles of public life and the commentary on them in the Code. The only specific reference to staff in the Code is the requirement, under the principle of Leadership, to have due regard to the impartiality and integrity of the authority's statutory officers and its other employees.

- 3.6 Committee may therefore wish to consider recommending to the Standards Committee that a requirement that members comply with the two protocols be incorporated into the Members' Code of Conduct. This would make any breach of either of those protocols a breach of the Code of Conduct.

#### 4. **Financial and Resource Appraisal**

- 4.1 Not applicable.

#### 5. **Risk Management**

- 5.1 Previous reports to Committee on the use of Council resources for election purposes of highlighted the risks of failure to comply with the requirements of Section 2 of the Local Government Act 1986 and this report is part of the process of managing the risk more effectively in the future.

#### 6. **Legal Appraisal**

- 6.1 The legal requirements as to section 2 of the Local Government Act 1986 and the Members' Code of Conduct are set out in the body of the report.

#### 7. **Equality and Diversity**

There are no equality and diversity, sustainability, green house gas, community safety, human rights, trade union or ward implications in relation to this report.

#### 8. **Recommendation**

That the Committee consider the further information provided in this report and decide whether to recommend to full Council any amendments to the Protocols on Member-Officer Relations and Member Use of Council Resources and whether to recommend to Standards Committee any amendments to the Members' Code of Conduct.

#### 9. **Background Documents**

- 9.1 The Department for Communities and Local Government illustrative text for a code of conduct at:

<https://www.gov.uk/government/publications/illustrative-text-for-local-code-of-conduct--2>

- 9.2 The Committee on Standards in Public Life "Ethics in Practice: Promoting Ethical Conduct in Public Life" at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/336976/2902536\\_CSPL\\_EthicsInPractice\\_acc.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336976/2902536_CSPL_EthicsInPractice_acc.pdf)



## APPENDIX 1

### Protocol on Members' Use of Council Resources Including Use of E-mail and the Internet

#### 1 Introduction

- 1.1 The Council provides computers and IT facilities for use by members in the course of their work with the Council. For practical reasons the Council allows use of the equipment for other purposes. This Protocol sets out the requirements and limitations of use of the equipment.
- 1.2 'Equipment' means any computer hardware and software provided by the Council, including peripherals, telephones and other devices used for information management and communication.
- 1.3 This Protocol provides rules (set out in **bold** type) and guidance (in *italics*) for members of Council and independent and co-opted members (voting and non-voting).
- 1.4 The rules comprise requirements for use of Council resources under paragraph 1.7 of the Code of Conduct for Members and Co-opted Members. The rules do not apply to the use of your own personal equipment.

#### 2 Application

- 2.1 This Protocol applies to use by members of any Council equipment, whether in Council premises or elsewhere.

#### 3 Health and Safety

- 3.1 You must take all reasonable precautions to ensure the safe use of equipment.
- 3.2 *This responsibility applies to your own health and safety and that of other users.*

*Health and safety matters include computer layout and stability, electrical connections, visual affect, seating and comfort, extent of use and all other known risks.*

#### 4 Security

- 4.1 You must take all reasonable precautions to ensure the security of equipment provided for your use.
- 4.2 *This includes making reasonable arrangements (as if the equipment is your personal property) to prevent loss or damage. Members are not however obliged to effect their own insurance arrangements for the equipment.*

- 4.3 You must use access password arrangements to prevent unauthorised use by others and maintain secrecy of such arrangements.
- 4.4 *Arrangements must be adequate to prevent unauthorised access to information and services.*
- 4.5 You must make reasonable arrangements for the security of information stored on disc including prevention of unauthorised use and deletion of information no longer needed.

## **5 Personal Responsibility and Accountability**

- 5.1 You must report any defect or damage at the earliest opportunity and provide access to the equipment or return it to the Appropriate Officer for repair.
- 5.2 You must return the equipment promptly when required and at the end of your term of office.
- 5.3 *You are personally responsible for equipment provided for your use and you must be prepared to account for its use.*

## **6 Legal Obligations**

- 6.1 You must use equipment provided for your use lawfully.
- 6.2 *There are a wide variety of civil wrongs and criminal offences which can be committed by use of computers. A brief summary of the main legal obligations is contained at the end of this protocol.*

## **7 Private Use**

- 7.1 You may use equipment for private use but you must comply with this Protocol in so doing.
- 7.2 Your private use must not prejudice the use of the equipment for your Council use.
- 7.3 You must not use equipment for private business use.
- 7.4 You must not use network data storage applications for private use.
- 7.5 *Private use is permitted as a convenience only, and to help you develop your IT skills. Private use should not therefore become disproportionate to Council use.*
- 7.6 *You must take appropriate precautions to separate your private use from appearing to be Council use. For example, you must use different letter and memo styles, signatures, email addresses, websites and files.*

- 7.7 *You may use equipment in relation to other public or voluntary sector appointments to which you have been nominated or appointed by the Council or in respect of which your appointment arises by virtue of you being a councillor.*

*You may permit members of your household to use equipment for domestic purposes but you remain responsible for such use and their compliance with this Protocol.*

## **8 Monitoring**

- 8.1 You must co-operate with any reasonable arrangements made to monitor use of equipment in your control.
- 8.2 *The Council may monitor your use of equipment, whether for Council use or private use. The purpose of monitoring is to ensure effective use of Council equipment and compliance with the law and this protocol.*

## **9 Training**

- 9.1 You are responsible for developing your skills in using equipment through training courses and materials available to you, to ensure your proper and effective use of it.

## **10 E-mail Use**

- 10.1 Maintain your inbox to ensure effective use and carry out regular housekeeping.
- 10.2 *Delete mail containing obscene or racist or offensive material after forwarding to the ICT Consultant (Member and User Support and information Services).*
- 10.3 *Mark confidential e-mails clearly.*
- 10.4 *Include the following form of confidentiality warning in case of misdirection of e-mails.*

Note: The information contained in this e-mail is intended only for the individual or entity to whom it is addressed. It may contain privileged and confidential information and if you are not the intended recipient please notify the sender and delete the message from your system immediately.

- 10.5 *Use composite address lists ('all users') sparingly, particularly for bulky material as this puts heavy pressure on storage limits.*
- 10.6 **Do not use e-mail for unlawful or improper purpose.**

This includes:

- 10.6.1 *Using another person's identification without authority.*

10.6.2 *Reading another person's mail without authority.*

10.6.3 *Copying material which is subject to copyright without licence.*

10.6.4 *Private business use.*

10.6.5 *Sending abusive, obscene, racist, sexist, harassing, defamatory or offensive material as text or image.*

10.6.6 *Downloading .exe files without checking for viruses.*

10.6.7 *Sending personal data (within the meaning of the Data Protection Act 1998) without the authority of the data holder or the data subject.*

## **11 World Wide Web Use**

11.1 Do not download any information which is obscene, racist, sexist, pornographic or offensive. If you need to research information of this nature you must obtain written authority from your group whip.

11.2 Remember your visit to a site may be identifiable.

## **12 Printing and copying**

12.1 Do not print anything that comes within the meaning of 'unlawful or improper purpose' above.

## **13 Confidential Information**

13.1 Do not use equipment, or allow it to be used to communicate personal data (covered by the Data Protection Act) or confidential information to any person not authorised to receive it.

13.2 *You must take particular care with any personal data or confidential information you have on the equipment in order to avoid any unauthorised disclosure or breach of confidentiality. Delete such information when you no longer need it.*

## **14 Publication of Material Designed to Affect Support for a Political Party**

14.1 Under section 2 of the Local Government Act 1986 the Council is prohibited from publishing or arranging for the publication of any material which, in whole or in part, appears to be designed to affect public support for a political party. This law applies to the use by members of Council equipment.

14.2 Section 2 provides that in determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and, in particular, to the following matters;

14.2.1 Whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another.

14.2.2 Where the material is part of a campaign, the effect which the campaign appears to be designed to achieve.

14.3 *This rule is likely to apply to sending unsolicited e-mails or printed material with contents described in paragraph 14.2 to a wide number of people, particularly during an election or other political campaign.*

14.4 *This rule does not prevent:*

14.4.1 *Normal correspondence.*

14.4.2 *The receipt and retention of political material that relates to Council business.*

14.4.3 *Viewing websites of political parties and groups.*

14.4.4 *Using the equipment to discuss with other members the business of the Council including motions.*

14.4.5 *The inclusion in emails or website of factual information about a councillor provided it is not within the above meaning of political material'.*

## **15 Fax and telephone**

15.1 Apply these rules, where they are relevant, to your use of fax and telephones provided by the Council.

## **16 Enforcement**

16.1 The Standards Committee has responsibility for dealing with any breach of this protocol.

16.2 Allegations of any breach must be made in writing to the Monitoring Officer.

16.3 A breach of this protocol may also amount to a breach of the Members Code of Conduct.

## **Legal Obligations (paragraph 6.2)**

### **Computer Misuse Act 1990**

Creates criminal offences covering unauthorised accessing of computers, hacking, eavesdropping and causing virus attacks.

### **Copyright, Design and Patents Act 1998**

Enables enforcement of rights of authors and designers including those relating to software and electronically stored material.

### **Data Protection Act 1998**

Gives individuals a right of access to personal data about them held on a computer. Establishes principles for dealing with personal data and liability and offences for non compliance.

### **Defamation Law**

Defamation proceedings may be brought in relation to defamatory material published or communicated by electronic means including e-mail and websites.

### **Discrimination Law**

Use of email and websites may be evidence of discrimination.

### **Evidence**

A court or tribunal may order the production of material held electronically, including emails where relevant to legal proceedings.

### **Obscene Publications Act 1959**

The criminal offences under this legislation include the transmission electronically of obscene material.

### **Protection from Harassment Act 1997**

Provides for offences and civil remedies for harassment, evidence of which may be contained in emails and websites.

### **Protection of Children Act 1978**

Offences in relation to indecent photographs of children include those stored electronically.

### **Telecommunications Act 1984**

Use of a public communications system to transmit obscene or indecent images is an offence.

## APPENDIX 2

### PROTOCOL ON MEMBER-OFFICER RELATIONS

#### 1 Introduction

1.1 Effective local governance and community leadership depends on good working relationships between members and officers.

1.2 This Protocol provides rules (set out in **bold** type) and guidance (in *italics*) for members, co-opted members and officers in their working relations with each other.

The Protocol covers the more common working situations, but is not comprehensive. The principles underlying it may be applicable to other situations.

1.3 This Protocol applies only to working relations between members in their role as members and officers in their capacity as officers.

#### 2 Working Relations

2.1 Members and officers shall establish sound and effective working relations that seek to engender mutual respect and put aside any personal differences.

2.2 *Both councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors 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 councillors and the Council and to carry out the Council's work under the direction and control of the Council, their committees and sub-committees. Mutual respect between councillors and officers is essential to good local government. Close personal familiarity between individual councillors and officers can damage this relationship and prove embarrassing to other councillors and officers. Close personal familiarity must be avoided in the course of Council business.*

2.3 *The National Conditions of Service for Staff in Local Government provide:*

“The public is entitled to demand, of a local government officer, conduct of the highest standard.”

2.4 *Members and officers must recognise their different roles, needs and objectives. They must be ready to discuss positively how working relations between each other can most effectively be developed. Members and officers must set aside any personal differences in the interests of maintaining effective working relations.*

2.5 *It is important that officers develop political awareness of issues that are sensitive to the individual political groups represented on the Council.*

### **3 Courtesy**

- 3.1 Members and officers will adopt reasonable standards of behaviour and courtesy towards each other and will not take or attempt to take unfair advantage of their position.
- 3.2 *The use of more extreme forms of behaviour and emotion is rarely conducive to establishing mutual respect and is not a basis for constructive discussion. On the other hand, over familiarity can be misconstrued and give rise to unhelpful tensions.*
- 3.3 *Members and officers should have regard to the formality of the occasion as to the mode of address they choose to adopt. In particular, in formally convened meetings and/or meetings open to the public a formal mode of address should be adopted. In all other cases members and officers will respect preferred modes of address.*

### **4 Officers Giving Advice and Information to Political Groups**

- 4.1 Advice and information given by officers to political groups will only relate to Council business. Officers will not advise on political business.
- 4.2 Members will organise political group meetings to distinguish between Council and business. Officers will not attend political meetings whilst political business is being discussed.
- 4.3 Officers will be even handed in giving advice and information when briefing a political group or members individually.
- 4.4 Officers will respect the confidentiality of any political group discussion at which they are present or with individual members and will not relate the content of any discussion to another political group or member.
- 4.5 *The existence of political groups is recognised by legislation. It is common practice for political groups to consider matters of Council business, whether collectively within the political group as a whole or at pre-meeting briefings involving the members of the political group on the decision making body. Officer advice and information may legitimately be sought by political groups to enable them to consider the options for dealing with Council business.*
- 4.6 *Council decisions can only be made by the Council, the Executive or a delegated decision making body of the Council and not by political groups.*
- 4.7 *Officers shall tender their advice impartially and, where advice is sought from more than one political group, officers must offer the same advice to each political group. Officers may be asked questions at a briefing but these rules do not require an officer to inform other political group briefings of the questions and answers given.*
- 4.8 *Officers should be mindful that their responsibility in giving advice and information is to the relevant decision making body and that giving advice to pre-meeting briefings is no substitute.*



- 4.9 *Where officers have given advice and information in briefings to all political groups represented on the committee, it may be appropriate, with the agreement of the chair, to indicate this fact at the decision-making meeting. Officers may then state that they have no further additional advice or comment to make on their reports.*
- 4.10 *Both members and officers should be mindful that the presence of persons who are not members of the Council at political group meetings or pre-meeting briefings may limit any advice and information an officer may provide. Persons who are not members or co-opted members of the Council are not bound by the Members' Code of Conduct.*

## **5 Support Services to Members**

- 5.1 Members will, except where arrangements are otherwise approved, use support services and resources provided by the Council only for Council business. Support services shall not be used for political or campaigning activity, or for private purposes.
- 5.2 *The Council provides support services to members (including stationery, typing, printing, photo-copying, personal computers, laptop computers, e-mail and internet facilities, travel, transport and parking arrangements, etc.) to assist members in discharging their role as members of the Council.*
- 5.3 *E-mail and internet facilities must not be used by members or officers on behalf of members to publish to the public at large or a section of the public any material which, in whole or part, appears designed to affect public support for a political party contrary to the Local Government Act 1986.*
- 5.4 *In using e-mail facilities for Council business, members should address communications only to appropriate named members, officers or other persons and should avoid the use of wider circulation lists, including those to Council employees, which may constitute a section of the public under the 1986 Act.*
- 5.5 *Members should seek guidance from the City Solicitor on any communication intended for wider circulation.*
- 5.6 *Support services are provided to the political group leaders by the Chief Executive's Office. Individual services may, in addition, provide support services to an executive member with portfolio, lead members and chairs of any committee or panel.*

## **6 Communications**

- 6.1 Officers will not, without the agreement of the author, copy a letter marked as 'private' or 'confidential' or both from a member to another member.
- 6.2 Members shall not, within their communications, purport to make decisions on behalf of the Council.

- 6.3 *Most correspondence will be open and may be copied as a part of the normal arrangements for dealing with the matter within it. Members may, from time to time, raise matters confidentially with officers and such confidences shall be respected.*
- 6.4 *It may be necessary or appropriate for an officer to discuss the content of a confidential letter with another member, particularly where political consultation is required before action is taken under officer delegated powers. In these circumstances, the letter should not be copied or shown to another member or the identity of the author revealed.*
- 6.5 *Individual members (other than duly delegated executive members) have no power to make decisions on behalf of the Council. Members shall avoid suggesting or implying within their correspondence that they have made Council decisions. Members wishing to write correspondence relating to recent decisions should liaise with relevant officers in order to avoid any confusion.*
- 6.6 *Official communications letters and decision documents on behalf of the Council in relation to the Council's functions should be made by the relevant officer. In exceptional circumstances it may be appropriate for an official communication to be made by a member and this should only be undertaken in liaison with the relevant officer.*

## **7 Electronic Communications**

- 7.1 Members and officers must not use to their advantage information that has been communicated to them in error.
- 7.2 *The use of e-mail and other electronic facilities is encouraged. Whilst electronic communications will tend to involve less formality than written communication, members and officers should avoid in e-mail and other electronic communication between them a level of informality that may be perceived as close personal familiarity.*
- 7.3 *Members and officers should only circulate e-mail communications to intended recipients and wide or general circulation should be avoided.*
- 7.4 *Members and officers are advised to include a caveat within e-mails on the following lines:*
- 7.4.1 *The information contained in this e-mail is intended for the individual or entity to whom it is addressed. It may contain privileged and confidential information and if you are not the intended recipient, please notify the sender and delete the message from your system immediately.*

## **8 Specific Member/Officer Working Relations**

- 8.1 Members and officers will not allow a working relationship to become so close or appear to be so close as to bring into question the officer's ability to deal impartially with other members and political groups.

- 8.2 *There should be close working relations between, on the one hand, executive members with portfolio, executive committee and other committee and panel chairs and other members designated as having a lead, link or shadow responsibility, and on the other hand relevant members of Top Management, and other senior officers.*
- 8.3 *Executive members with portfolio, executive committee and other committee and panel chairs may routinely be consulted by officers prior to them making decisions under delegated powers. The law only allows for decisions relating to the discharge of any of the Council's functions to be taken by full Council, the Executive, a committee or member of the Executive or a committee, sub-committee or an officer. It is important that it is clear who made a decision.*
- 8.4 *The City Solicitor is responsible for determining the agenda for a formally convened meeting of a committee or panel. The chair of the committee or panel will be consulted as a part of the agenda preparation for meetings.*
- 8.5 *Officers having delegated decision-making authority are entitled, where considered expedient, to refer a matter to the Executive, Executive Committee, Governance and Audit Committee, Health and Well-Being Board, the Regulatory and Appeals Committee, Licensing Committee or appropriate sub-committee for decision. Top Management are responsible for the contents of all reports submitted in their name.*
- 8.6 *Members must acknowledge that officers within a department are accountable to their superior officer. Officers should always be prepared to assist members, but they cannot go beyond the bounds of the authority given to them by their superior officer and they should not be asked to do so.*

## **9 Overview and Scrutiny Committees**

- 9.1 *When discharging their roles of overview and scrutiny and holding the executive to account, Overview and Scrutiny Committees may request or require executive members to attend meetings and answer questions. Executive members may require briefings from officers to assist them in responding to such questioning. In responding, officers must seek to ensure that the information provided is factually correct and complete. Officers must be mindful in providing support to executive members that such support does not undermine the integrity of the member or their own impartiality as an officer. Overview and Scrutiny committee members may question officers at committee meetings and when conducting a scrutiny. Whist questions may be challenging, members should seek to question officers in a positive and constructive way and should avoid any emotive or aggressive approach.*
- 9.2 *In responding officers should be open, constructive and helpful and should seek to provide full answers.*

## **10 Involvement of Ward Councillors**

- 10.1 Ward Members will be invited to attend any public meeting organised by the Council which relates to issues within their ward.
- 10.2 *Ward Members must be appraised of local issues within their ward and involved in any public meeting or consultation exercise. They must be notified, at the outset, of any consultation on a local issue in their ward.*

## **11 Involvement on Other Bodies**

- 11.1 Members and officers are occasionally appointed as the Council's representative or nominee to another body. Members and officers may be members of other bodies other than by reason of their position in the Council. Where members or officers are in the capacity of company Director or Trustee they must, in making decisions for that body, have regard to the interests of that body. There is the potential therefore for a conflict of interest between that of the Council and the other body to occur (for example, the provision of confidential information).
- 11.2 Where members and officers are involved with other bodies, they must in their working relations with each other be mindful as to the possibility of a conflict of interest. In the case of any conflict, members and officers should seek advice from the City Solicitor.

## **12 Members Access to Information and to Council Documents**

- 12.1 Officers will provide relevant information, access to documents, advice and explanation that members may reasonably request and is necessary for them to fulfil their responsibilities as a councillor. A request will only be refused for reasons clearly stated in accordance with the law.
- 12.2 Members will use any information provided only for the purposes of properly performing their duties as councillors and shall treat as confidential all information received unless made public by law or with the express or implied consent of the Council.
- 12.3 Members will not disclose or use confidential information for personal advantage or to the disadvantage or discredit of the Council or anyone else.
- 12.4 Members are free to approach any Council department for information. A request may relate to one or more of the following:
  - 12.4.1 Information which is recorded or readily ascertainable.
  - 12.4.2 Access to a specific document or documents.
  - 12.4.3 Information which is not readily available without research.

- 12.5 A request should be made to the Appropriate Officer in the first instance, normally the responsible manager. It is for the Appropriate Officer to determine what information ought reasonably to be provided in response to the request. A response should be provided within 5 working days, but if this proves not possible, the delay must be explained and a clear indication should be given when a substantive response will be provided.
- 12.6 A 'document' includes any document or recorded information produced with Council resources whether in electronic or physical form, but does not include any document that forms a part of the internal workings of a political group.
- 12.7 Members shall, on request, be provided with a copy of any document unless it contains exempt information within the meaning of Schedule 12A of the Local Government Act 1972.
- 12.8 Members who do not sit on the Executive, a relevant committee, sub-committee or panel may only see documents which contain exempt information within the meaning of Schedule 12A of the 1972 Act if they can demonstrate a clear 'need to know'.
- 12.9 Members should, before requesting information, consider whether the information is necessary for them to discharge their duties as a councillor. Members may be asked to demonstrate their 'need to know' where this is not clear to the Appropriate Officer by virtue of their membership of the Executive, committee or panel or their representational role. Information should not be sought simply because members are curious about a matter.
- 12.10 In the event of a refusal, the Executive, the relevant committee or panel may determine the question of access to documents.
- 12.11 Members will necessarily acquire much information that has not yet been made public and is still confidential. It is a betrayal of trust to breach such confidences. Members should never disclose or use confidential information for the personal advantage of themselves or of anyone known to them, or to the disadvantage or the discredit of the council or anyone else.

### **13 Member Briefings**

- 13.1 Officers will make arrangements for briefing the Political Group leaders, executive members with portfolio and committee and panel chairs and other members designated as having a lead, link or shadow responsibility, about business within their remit.
- 13.2 *The Appropriate Officer will, except in the case of the Overview and Scrutiny Committees, the Regulatory and Appeals Committee (including panels appointed by the Committee), area committees and the Standards Committee, arrange briefings having first consulted the Leader of Council, the appropriate executive member with portfolio or their nominee as may be appropriate.*

- 13.3 *In the interests of efficiency, briefings will normally be all-group with members meeting together. There shall be a facility for breaks to take place at the request of any political group to have consultations. At the request of a political group, briefings may take place separately with each political group making the request. When undertaken separately, the Appropriate Officer will provide the same information to each political group.*

## **14 Managing Tension Between Different Roles**

- 14.1 Members and officers must recognise the different roles and responsibilities of bodies established within the constitution and the potential for tension between them.
- 14.2 Members and officers must seek to manage any such tension so as not to compromise the integrity of each other and the bodies involved.
- 14.3 *Members of bodies making requirements of officers, such as the production of a report, must acknowledge the need of officers to balance resources between competing demands of all bodies.*

## **15 Personal Interests**

- 15.1 Officers must not through their relationships with members seek to advance their personal interests or to improperly influence decisions.
- 15.2 Members must not seek to use their position as members to advance the personal interests of officers.
- 15.3 A member must not give a reference on behalf of an officer if the member is in any way involved in the recruitment process.

## **16 Publicity**

- 16.1 *The law prohibits the Council from publishing any material which, in whole or in part, appears to be designed to affect public support for a political party.*
- 16.2 *In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and, in particular, to the following matters:*
- 16.2.1 *Whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another*

16.2.2 *Where the material is part of a campaign, the effect which the campaign appears to be designed to achieve*

16.2.3 *The Council may not give financial or other assistance to a person for publication of material which the Council is prohibited from publishing itself.*

16.3 Members must not use or seek to use council money or resources including officer time, office facilities and I.T. equipment for the production or issue of any material that may contravene these requirements.

## **17 Criticism of Members and Officers**

17.1 *Members and officers shall not engage in open criticism of each other.*

17.2 *Members will not comment openly or through the media on the conduct of officers and officers will not comment openly or through the media on the conduct of members. This rule is particularly applicable to comment by a member or officer in relation to any pending or ongoing complaint or disciplinary process involving a member or officer.*

17.3 Members and officers may consider that criticism is from time to time justified. However, it is generally neither possible nor appropriate for officers or members to defend themselves in a public forum. Furthermore, open criticism may prejudice the bringing of disciplinary proceedings in circumstances where this might otherwise be appropriate. Open criticism is unlikely to be conducive to good member/officer working relations and may be damaging to morale within the Council.

17.4 Comment in relation to ongoing disciplinary proceedings may be used in the proceedings and prejudice their outcome.

17.5 Officer concern about the behaviour of members may be dealt with by reference to the appropriate provisions of this Code or under the Standards Committee Procedure Rules.

## **18 Political Group Leaders and the Chief Executive**

18.1 The political group leaders and the Chief Executive will seek to develop appropriate working relations.

18.2 Regular briefing arrangements between the political group leaders and the Chief Executive are an essential part of the democratic machinery of the Council. It is important that the Chief Executive, as Head of the Paid Service, is accessible by all political groups represented on the Council through their respective leaders.

## **19 Problems with Working Relations between Members and Officers**

- 19.1 Members and officers will seek to resolve any problems arising within their working relations.
- 19.2 The relevant political group leader and the Chief Executive will seek to resolve by mediation and conciliation any unresolved problem or breakdown in working relationships between members and officers.
- 19.3 *It is the responsibility of both members and officers to tackle and resolve problems arising within their working relationship. If this is not possible, the member and officer concerned must inform their political group leader and Chief Executive respectively. The political group leader and Chief Executive will endeavour to establish arrangements whereby any breakdown can be resolved.*

## **20 Enforcement**

- 20.1 The Standards Committee has responsibility for dealing with any breach of this Protocol.
- 20.2 Allegations of any breach must be made in writing to the Monitoring Officer.
- 20.3 The rules in this Protocol relating to officers are equivalent to disciplinary rules in respect of which the relevant disciplinary procedures may be applied, subject to the approval of the Chief Executive.
- 20.4 In the event that a problem in working relations between a member and an officer cannot be resolved under paragraph 19 above, the relevant political group leader will refer it to the Standards Committee and the Chief Executive will refer it to the appropriate disciplining officer of Senior Management.



## APPENDIX 3

### Members' Code of Conduct

This Code applies to elected Members and voting co-opted Members of City of Bradford Metropolitan District Council in all aspects of their public life. This means that the Council expects Members to follow this Code when they are conducting the work of the Council, representing the Council on any external organisation, and otherwise acting in their official capacity. The Code of Conduct does not apply to what Members do in their purely private and personal lives.

#### Part One – Standards of Conduct

You must have regard to, and act in accordance with, the following standards of conduct:

1. **Selflessness**

You should serve only in the public interest, and should never improperly confer an advantage or disadvantage on any person, organisation or group, or any other third party.

2. **Honesty and Integrity**

You should not place yourself in situations where your honesty and integrity may reasonably be questioned, you should not behave improperly and should avoid the appearance of such behaviour.

3. **Objectivity**

You must make decisions based on the information before you, having had regard to any professional advice provided to you and in accordance with your view of the public interest.

You should make decisions on merit, this includes when making appointments, awarding contracts, or recommending individuals for awards or other recognition.

4. **Accountability**

You are accountable to the public for your decisions and actions and the manner in which you carry out your duties. You must co-operate fully and honestly with any scrutiny appropriate to your office.

You should not undertake any action which would bring the Council, your position, or the position of Members generally, into disrepute.

5. **Openness**

You must be as open as possible about your actions and those of the authority, and should be prepared to give reasons for those actions.

6. **Leadership**

You must promote and maintain high standards of conduct by supporting these principles by leadership and by example, and should act in a way that secures or preserves the confidence of others.

You must have due regard to the impartiality and integrity of the authority's statutory officers and its other employees.

## Part Two – Registration and Disclosure of Interests

### Registration of Interests

7. Within 28 days of your election or co-option, you must notify the Monitoring Officer of any 'disclosable pecuniary interests' which you have at that time
8. Where you are re-elected or re-appointed, notification is only required of any new disclosable pecuniary interests within 28 days of your election or co-option.
9. You must keep your Register of Interests entry up to date by notifying the Monitoring Officer of any changes to your disclosable pecuniary interests within 28 days of the change occurring, or you becoming aware of the change.
10. A 'disclosable pecuniary interest' is an interest defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out in the table below.

<b>Subject</b>	<b>Prescribed description</b>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a member of a relevant authority in carrying out duties as a member, or towards the election expenses of a member of a relevant authority. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 <sup>(1)</sup> .
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.

<sup>(1)</sup> 1992 c. 52.

Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to the member of the relevant authority's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to the member of the relevant authority's knowledge) has a place of business or land in the area of the relevant authority; and (b) either—  (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or  (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

11. A pecuniary interest is a 'disclosable pecuniary interest' in relation to you if it is of a type described above, and either:

- (a) it is an interest of yourself, or
- (b) it is an interest of –

- (i) your spouse or civil partner,
- (ii) a person with whom your are living as husband and wife, or
- (iii) a person with whom you are living as if they were civil partners, and you are aware that that other person has the interest.

12. You are also required to notify the Monitoring Officer of any gifts or hospitality with an estimated value of at least £50 which you receive in your role as a member of Council. You must inform the Monitoring Office of any such gifts of hospitality within 28 days of receiving them so that the details can be entered into the Register of Interests.

### **Sensitive Interests**

- 13 If the nature of an interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation, the interest must not be included in any published version of the Register of Interests, or be entered into any copy of the register that is made available for public inspection.

### **Disclosure of Disclosable Pecuniary Interests at Meetings**

- 14 The following provisions apply if you are present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority, and you are aware that you have a disclosable pecuniary interest in a matter to be considered, or being considered, at the meeting.
- 15 If the interest is not entered in the authority's Register of Interests, you must disclose the interest to the meeting (unless the interest is a sensitive interest).
- 16 If the interest is not entered in the authority's Register of Interests and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
- 17 Where the interest does appear in the Register of Interests, you must bring the interest to the attention of the meeting (unless the interest is a sensitive interest).
- 18 You may not:
- (a) participate, or participate further, in any discussion of the matter at the meeting,
  - (b) participate in any vote, or further vote, taken on the matter at the meeting (unless the Member has requested and been granted a relevant dispensation by the Standards and Conduct Committee), or
  - (c) remain in the room during the discussion or vote on the matter.
- 19 Where you have a disclosable pecuniary interest in a matter to be considered at a meeting, you may attend the meeting but only for the purposes of making representations, answering questions or giving evidence relating to the matter, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. Once you have finished, or the meeting decides you have finished, you must leave the room and may not remain in the room during the discussion or vote on the matter.

### **Disclosure of other Interests at Meetings**

- 20 Where you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and identify any other interests which you feel should be declared in the public interest, such interests may be declared to the meeting.
- 21 In such circumstances you must consider whether your continued participation in the matter relating to your interest would be reasonable in the circumstances, particularly if the interest may give rise to a perception of a conflict of interests in the matter under discussion.

### **Allegations of a Failure to Comply with Code of Conduct**

- 22 All complaints alleging a failure to comply with this Code will be considered in accordance with a procedure agreed by full Council.