

PART 4 - PROTOCOL ON MEMBER/EMPLOYEE RELATIONS

1. This protocol has been designed to ensure effective working relationships between members and employees. It is intended to encourage good working practice, to give members guidance on what they can expect from employees and what rights to information they have, and to consider what to do if problems arise.

2. PRINCIPLES

2.1 Good relationships

Members and employees will at all times treat each other with courtesy and respect, accepting that everyone is acting in good faith and with integrity. Members and employees should respect each other's positions and employees should put the interests of Medway Council above other considerations. Employees will always treat members of the different party groups equally and show no favour to any particular party.

2.2 Provision of information and policy formulation

Employees will provide information, offer advice and give assistance impartially to all political groups. In relation to the formulation of policy and strategy proposals neither members nor employees should assume the participants in any such discussion are supportive of the proposals merely because they have participated or assisted in their formulation.

3. ROLE OF MEMBERS

3.1 Subject to the rules governing the Council approving the policy framework and the Cabinet acting within the policy framework all members shall engage in the Council's decision making process.

3.2 In addition, all Councillors shall:

- collectively be the Council's policy makers and carry out a number of strategic and corporate leadership functions;
- represent their communities and bring their views into the Council's decision making process and be the advocate of their communities;
- deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- balance different interests identified within the ward and/or the Council's area as a whole and represent them accordingly;

- be involved in review of the Council's decisions and services and in the services provided by others in Medway;

3.3 Where members are involved in Cabinet and scrutiny roles they will be expected to fulfil the responsibilities associated with those roles.

4. ROLE OF EMPLOYEES

4.1 EMPLOYEES SHALL:

- manage the day-to-day business of the Council in accordance with current legislation and Council policies;
- provide appropriate and impartial advice and guidance to members and support the formulation of Council policy and strategy;
- implement decisions taken by members in accordance with article 13 of the constitution.
- seek to ensure that the Council always acts in a lawful manner

4.2 A political assistant is an employee of the Council, but unlike other employees a political assistant:

- may be appointed on the basis of party political allegiance;
- may not have any powers of the Council delegated to him or her.

The role of political assistants is to support the political group to which they are appointed. A political assistant has the same rights to information that members of the Council do.

5. RELATIONSHIP BETWEEN MAYOR AND EMPLOYEES

The Mayor plays an important ambassadorial role for the Council and support to the Mayor for his/her duties will be provided by employees in the Mayor's Office. In all other respects the Mayor will be provided with the same support as other members of the Council.

6. RELATIONSHIPS BETWEEN THE LEADER AND MEMBERS OF THE CABINET AND EMPLOYEES

Support for the Leader and Cabinet will be provided by Democratic Services. Democratic Services will have responsibility for Cabinet agendas, including the forward plan, responsibility for recording and publishing decisions made by the Cabinet and ensuring follow through. Senior employees will provide the Leader and portfolio holders with briefings on matters that are the responsibility of the Cabinet.

7. RELATIONSHIPS BETWEEN CHAIRS AND MEMBERS OF OVERVIEW AND SCRUTINY AND EMPLOYEES

Support will be provided to members of overview and scrutiny by Democratic Services as well as to all members generally. Democratic Services will support the planning of agendas and forward programme of the Overview and Scrutiny Committees and commission the necessary research and hearings. They also have responsibility for the administration of the call-in process. Senior employees will provide the chairs of the Overview and Scrutiny Committees with briefings on matters which are the responsibility of these Committees.

8. RELATIONSHIPS BETWEEN CHAIRS, MEMBERS OF OTHER COMMITTEES, PARTY GROUPS AND EMPLOYEES

Democratic Services will service Full Council and all residual Committees. Senior employees will provide support and advice equally and impartially to all members on matters which are the responsibility of these Committees. Senior employees shall ensure members are informed of significant ward issues, wherever practicable.

9. WHAT MEMBERS CAN EXPECT FROM EMPLOYEES

9.1 ADVICE

- (a) Factual advice – members have a right to factual advice on any item reported to Council and its Committees (including Cabinet and overview and scrutiny). However, where the item is designated as exempt the relevance of the member's interest in most instances may need to be established before information is disclosed or advice given. Factual advice given to a chair or portfolio holder will be made available to other members of the Council.
- (b) Tactical advice – members should only seek tactical advice from directors or the Chief Executive and such advice will be provided in complete confidence. Employees should not disclose one group's tactical plans to members of another group unless authorised to do so by members of the relevant group.
- (c) Policy advice – employees who wish to bring forward new policy initiatives should first discuss their proposal with the Leader, portfolio holder and/or the chair of the Overview and Scrutiny Committee as appropriate.

Any advice given by employees will be:

- carefully researched;

- based on the relevant professional knowledge, while at the same time considering the Council's wider interests;
- discussed and agreed with relevant colleagues;
- agreed by the relevant director or assistant director;
- politically impartial.

9.2 Members have a right to receive reports that contain all the relevant issues, do not contain irrelevant matters and that set out all the options it is reasonable for the Council to consider.

10. INFORMATION AND ENQUIRIES

Enquiries by members should be made to the relevant director, assistant director or service/senior manager who will respond within a reasonable timescale. Where it is not possible to give a prompt response members will be informed of the reason why. If the matter is of more general concern or the Councillor is not happy with an operational manager's response the matter should be taken up with the relevant assistant director or director. Members should not approach more junior members of staff, except on:

- matters of day-to-day service issues, eg residents' refuse not being collected;
- discussions with member services and Democratic Services;
- meetings with staff specifically assigned to a task, panel or forum to support members in their role.

11. ACCESS TO DOCUMENTS

11.1 Members have a right to see and be given a copy of all documents as are necessary to enable them to carry out their duties as Councillors. This includes all documents available to the public as background documents. Members are also entitled to documents containing further information about any item discussed by the Council, Committees or the Cabinet, subject to certain restrictions in the case of most exempt items.

11.2 Copies of all exempt reports to Council will be provided to all members and copies of all exempt reports to regulatory Committees will be provided to all members of the relevant Committee. In addition, copies of all exempt reports to the Cabinet (or Cabinet Committees or an individual Cabinet member) will be sent to all members of the Council, subject to paragraph 26 of the Access to Information Rules in Part 2 of Chapter 4 of this Constitution.

- 11.3 Members are not entitled to see the advice provided to the Cabinet by a political assistant. Where documents are bulky copies may be made available electronically or within the members' room for reference, in these cases members will be informed that the information is available.
- 11.4 A definition of exempt and confidential can be found in the access to information rules, set out in part 2 of chapter 4.

12. COMMUNICATIONS INCLUDING MEDIA

12.1 Local government communications and publicity are strictly regulated by law and national guidelines. All members and officers must follow these when communicating on behalf of the Council. The Communications and Marketing team can provide advice and guidance about the relevant laws, guidelines and codes of conduct that should be followed.

12.2 In particular the Code of Recommended Practice on Local Authority Publicity sets out a number of important principles. It stipulates that local authority publicity should:

- be lawful
- be cost effective
- be objective
- be even-handed
- be appropriate
- have regard to equality and diversity
- be issued with care during periods of heightened sensitivity

12.3 The code provides substantial supporting detail relating to each of these principles that should be considered in the council's communications and marketing activities. This information is available to view at <http://www.communities.gov.uk/publications/localgovernment/publicitycode2011>

12.4 The Council currently has a Communications Protocol set out in Chapter 5 Part 5 of this Constitution, within which the role of councillors in communications is set out in section 3.

13. USE OF RESOURCES AND WARD WORK

13.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, word processing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

- 13.2 The Members Services section will provide Councillors with support on day-to-day correspondence. This correspondence will be on Medway Council headed paper, and Councillors should not ask employees to do anything which could be regarded as politically biased, including:
- sending letters on party headed paper;
 - photocopying material with a party logo;
 - stating political affiliation on Council headed paper.
- 13.3 Employees can often be the first point of contact for constituents. In these circumstances the employee will either advise the constituent of their ward Councillor or act as a liaison point. Members should not reply to constituents on behalf of the Council.
- 13.4 The Councillor Conduct Committee has issued guidance for Members on the use of resources and ward work and this is available on the Council's website: <http://www.medway.gov.uk/thecouncilanddemocracy/councillorsanddecisions/councillorscodeofconduct.aspx>

14. BREACHES OF THE GUIDELINES

- 14.1 These guidelines are based on good practice for dealings between employees and members, however, serious breaches of these guidelines by employees will be dealt with under the Council's disciplinary procedures.
- 14.2 Breaches of the guidelines by members may be referred to the relevant group leader for consideration as appropriate. Members should recognise that some serious matters of misconduct such as failure to declare a financial interest may be reported to the Full Council by the Chief Executive and/or the Monitoring Officer.

15. GENERAL MATTERS

15.1 Breach of trust

Where there is a suspected breach of trust between a member and an employee the matter first be taken up with the individual concerned. If the matter cannot be resolved in this way, it can then be raised with the relevant director or, as a last resort, the Chief Executive. The relevant member should be notified such action is taken.

15.2 Maladministration

Members should refer any complaints or concerns they may have in their capacity as a Councillor with regard to possible illegality, maladministration or injustice caused by the Council, to the Monitoring Officer.

15.3 Unresolved issues

Situations could arise where there is doubt about the best way forward. In such situations employees and members should take advice. Both members and employees can seek advice from the Chief Executive at any time. The Chief Finance Officer, can give advice on the proper financial administration of the Council's affairs. Advice can be sought from the Assistant Director, Legal and Governance, who is the Monitoring Officer, where there is concern about the legality of an issue. Any member with concerns about a proposed or actual transaction, or about proper conduct, can seek the advice of the Council's external auditor.

15.4 Declaring interests

- (a) The rules of registering and declaring interests by Councillors are set out in the Councillor's Code of Conduct. If an officer has a pecuniary or other interest in a matter before the Council, the Cabinet or other Committee of the Council they will declare that interest. If it is substantial they will leave the room while the matter is under discussion.
- (b) The guiding principle for both members and employees is that their conduct should be seen by the public to be beyond reproach.

15.5 Inappropriate personal relationships

Members and employees should not allow close personal friendships to develop between them. In particular, it is important to recognise that the development of an emotional or sexual relationship involving a member and employee may be incompatible with their continued membership of or employment by Medway Council.

15.6 Employee concerns

It is not appropriate for Council employees to lobby members on matters of individual concern to them and members should discourage employees from making such approaches. A member of staff who is unhappy about a matter affecting them personally should be encouraged to take this up with their manager. If they are not happy with the response the next step is to talk to their trade union or staff representative. The Council's grievance procedure is available if informal methods have not resolved the issue.

