

# Protocol on Member/Officer Relations

## Introduction

Mutual trust and respect between Members and Staff is at the heart of the Council's good governance. Both are essential if the partnership necessary for the effective and efficient running of the Council is to succeed.

### 1.0 Definitions

Unless the context indicates otherwise, references in this Protocol to the following terms shall have the following meanings:

- 1.2.1 Member includes a non-elected i.e. co-opted member as well as elected members of the Council.
- 1.2.2 Member body includes the Council, the Cabinet, Scrutiny and Regulatory Committees, and all other committees, sub-committees and panels described in the Constitution.
- 1.2.3 Cabinet Member refers to the leader and other members of the Cabinet under the Council's constitutional arrangements.
- 1.2.4 Officer means all persons employed by the Council.
- 1.2.5 Chief Officer means the Chief Executive and the corporate directors
- 1.2.6 Designated Finance Officer means the Director of Corporate Resources exercising the duties prescribed by law for the financial administration of the Council.
- 1.2.7 Member Liaison Officer means an officer who may be appointed by the Chief Executive to deal with members and their enquiries on specific matters.
- 1.2.8 Monitoring Officer means the Director of Corporate Governance and is the officer with statutory responsibility for ensuring that the Council acts within the law and in accordance with its Constitution.
- 1.2.9 Political Group means any formally recognised group of elected members on the Council who are either members of the same political party or independent members.

### 2.0 Scope

2.1 This Protocol is designed to:

- Promote trust, openness, fairness and honesty by establishing clear ground rules;
- Define roles so as to clarify responsibilities;
- Avoid conflict;

- Prevent duplication or omission;
- Secure compliance with the law, codes of conduct and the Council's own practising procedures; and
- To lay down procedures for dealing with concerns by Members or Officers.

2.2 The Protocol represents the central element of the Council's corporate governance and provides the framework for dealing with a wide range of circumstances applying to relations between Members of the Council and its Officers.

2.3 This Protocol covers the main issues which may arise in Member/Officer relations but this is not intended to be comprehensive. Members and Officers should seek advice from the [Chief Executive or the](#) Monitoring Officer on any matter not covered by this Protocol or on issues of uncertainty.

### 3.0 Purpose

3.1 Together Members and Officers combine the essential skills, experience and knowledge to manage an effective public sector organisation. Members provide a democratic mandate to the Council whereas Officers contribute the professional expertise and experience to deliver the policy framework agreed by Members.

3.2 Whilst collaborative working is the accepted norm for Member and Officer relations at the Council it is important to recognise and take account of their different roles. This is important for day to day interaction between Members and Officers and for the public perception of the Council by ensuring transparency between the political role of Members and the professional impartial role of Officers.

3.3 This Protocol is intended as a written guide on the basic elements of the relationships between Members and Officers to fulfil the purposes set out above and as a means of demonstrating to the public at large that local government is serious about protecting and enhancing its integrity and reputation. This Protocol has been adopted by the Council in order to achieve these objectives and seeks to maintain and enhance the reputation and integrity of local government in general and this Council in particular.

### 4.0 Status

4.1 This Protocol establishes a set of principles to assist members and officers to work together.

4.2 Members and Officers must at all times observe this Protocol.

4.3 This Protocol is part of the Council's [Constitutional documents](#) and its importance is recognised by its adoption by full Council at its meeting on the ..... day of ..... with the support of all political groups represented on the Council.

### 5.0 Principles

5.1 As in all effective partnerships Member/Officer relations are based on the following principles:

- Mutual trust and respect of the different roles of Members and Officers;
- ~~A common purpose; providing the best possible service to the residents and other stakeholders of Thanet District Council; and~~
- A commitment to non-adversarial resolution of disputes.

5.2 At the Council mutual respect between Members and Officers is an essential part of the way we work. Conflict and challenge are inevitable and necessary parts of the democratic process in a local authority. Demonstrating mutual respect in instances where Members disagree with specific Council policies or actions demands the highest standards of personal conduct.

5.3 Mutual respect is based upon an understanding of the distinct contributions Members and Officers make in respect with the boundaries between those roles. ~~The~~ A key principle for Officers is ~~now~~ their a political impartiality; they serve the whole Council and not particular groups or Members. This is particularly important for Chief Officers and other senior officers who are prevented by law from political activities beyond party membership.

5.4 Further some Chief Officers hold posts with mandatory statutory responsibilities notably the Chief Executive, the designated Finance Officer and the Monitoring Officer. Further information about this is provided in Article .... of Part 2 of the Constitution. Members must respect these duties and recognise that these Officers may be required to give advice or make decisions which Members may not agree with or support.

5.5 Members and Officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take an early advantage by virtue of their position.

5.6 Whilst Members and Officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate, ~~and serve only as long as their term of office lasts.~~ Officers are accountable to the Council as a whole. Their job is to give advice to Members (individually and collectively) and to carry out the Council's work under the direction of the Council.

5.7 To carry out their duties effectively, Members must have broad access to Council information. The following principles apply here:

- Members' enquiries will be dealt with promptly and effectively and within corporate timescales;
- Members ~~who have~~ access to information will be compliant with their statutory and common law rights (see the access to information procedure in Part ? of the Constitution);
- Officers will not without good reason, withhold information from a Member who is entitled to receive it;
- Where confidential, personal or otherwise sensitive personal information is provided to a Member that Member will not disclose it to any other person, without authorisation.

5.8 The Council has adopted a code of conduct for Members which is set out in Part ? of the Constitution and an employee code of conduct which is set out in Part ?. The Members' code follows the ~~national code which entails based on the~~ general principles governing Members' conduct enshrined in law. These are:

- Selflessness – serving only the public interest;
- Honesty and integrity – not allowing these to be questioned;
- Not behaving improperly;
- Objectivity – taking decisions on merit;
- Accountability – to the public, being open to scrutiny;
- Openness – giving reasons for decisions;
- Personal judgment – reaching one's own conclusions and acting accordingly;
- Respect for others – promoting equality; avoiding discrimination; respecting others;
- Duty to uphold the law – not acting unlawfully;
- Stewardship – ensuring the prudent use of the Council's resources;
- Leadership – acting in a way which has public confidence.

**Comment [ECC1]:** Have deleted the words rather than trying to find an alternative because the Thanet code actually follows the former legislation.

5.9 The same principles underpin this Protocol ~~and also underpin the code of conduct for officers.~~

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5.10 Until such time as a new national code appears Officers are bound by the Council's own employee code of conduct and in some cases by the codes ~~and of~~ their professional association.

## 6.0 Roles

A quick guide to Member and Officer roles:-

Members	Officers
Democratically elected and accountable to the electorate	Employees accountable to the Council
Community leader for their ward <del>and the district as a whole</del>	Serve the whole Council
Add a political dimension <u>And may take a role as Cabinet member</u>	Impartial
Set policy and strategy	Ensure operation delivery and provide advice

Bound by a statutory code of conduct	Bound by their conduct of employment
Involved in Chief Officer appointments only	Day to day management of staff

## 6.1 The role of Members

- 6.1.1 Members have a number of different roles and need to be alert to the potential for conflicts of interest which may arise between them. Where such conflicts are likely and Members may wish to seek the advice of senior colleagues, the [Chief Executive](#) [relevant Chief Officers](#), and/or the Monitoring Officer.
- 6.1.2 Collectively Members are the ultimate policy-makers, determine the core values of the Council and approving the Council's policy framework, strategic plans and budgets.
- 6.1.3 Members represent the community, act as community leaders and promote the social, economic and environmental wellbeing of the community often in partnership with other agencies.
- 6.1.4 Every elected member represents the interests of ~~and is an advocate for,~~ his or her ward and individual constituents. He or she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies and often serves on local bodies.
- 6.1.5 Members are responsible for the decisions taken by Member bodies upon which they sit.
- 6.1.6 Some members may be appointed to represent the Council on local, regional or national bodies.
- 6.1.7 As politicians, elected members will make statements that are representative of the political groups to which they belong.
- 6.1.8 The role of opposition members in offering alternative policies and holding the administration group to account will inevitably involve those ~~mMembers in a challenging -decisions sometimes criticising decisions- and care should be taken to ensure that such challenge is directed at the Cabinet Member concerned and not at officers who are charged with implementation. taken by the Cabinet and Officers. All Members should take care to direct public criticisms at the Cabinet Members responsible for the service and not at the Officers who have implemented it. This applies irrespective of whether a decision has been delegated to Officers.~~

## 6.2 The role of Officers

- 6.2.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles. ~~in~~ in doing so Officers will take into account all available relevant factors.
- 6.2.2 Under the direction and control of the Council (including, as appropriate, the Cabinet, committees and sub-committees), Officers ~~managing to~~ [and](#) provide the Council services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.

- 6.2.3 Officers have a duty to implement lawful decisions of the Member bodies ~~and~~ which have been properly approved in accordance with the requirement of the law and the Council's Constitution and duly minuted.
- 6.2.4 ~~The~~ Officers have a contractual and legal duty to be impartial as well as to place their skill and judgement at the disposal of the Council, ~~they—They~~ must not allow their professional judgment and advice to be influenced by their ~~own~~ personal view.
- 6.2.5 Officers must assist and advise all parts of the Council. They must always act to the best of their abilities and in the best interests of the Council.
- 6.2.6 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public and advise accordingly.
- 6.2.7 Officers have the right not to support Members in any role other than that of an elected councillor, and not to engage in actions incompatible with its Protocol. In particular there is a statutory limitation on Officers' involvement in political activities from those Officers employed in politically restricted posts.

## 7.0 Conduct

### 7.1 Attitude and Behaviour

- 7.1.1 The conduct of Members and Officers should be such as to instil mutual confidence and trust.
- 7.1.2 The key elements are recognition of, and a respect for, each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other both publicly and privately.
- 7.1.3 Members should be aware that Officers are constrained in the response they may make to public comments from Members. Members should not criticise Officers personally in public or through the press nor seek to undermine their position by abuse, rudeness or ridicule. This in no way reduces the right of Members to criticise, in a constructive manner, the report or actions of a department or section of the Council where they believe such criticism is well-founded.
- 7.1.4 Discussions and correspondence between Members and Officers should at all times be well-mannered and professional.
- 7.1.5 Informal and collaborative two-way contact between Members and Officers is encouraged, but personal familiarity can damage the relationship as might a family or business connection.
- 7.1.6 Members and Officers should inform the Chief Executive or Monitoring Officer ~~if the latter is not available Monitoring Officer or Chief Executive~~ of any personal relationship between each other which might be seen as unduly influencing their work in their respective roles.
- 7.1.7 It is not enough to avoid actual impropriety. Members and Officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed those concerned should avoid a situation where conflict could be perceived. Specifically a

Member should not sit on a body or participate in any decision which directly affects the Officer on a personal basis.

7.1.8 Members of staff should not discuss with a Member personal matters concerning themselves or another individual employee. This does not prevent them raising on a personal basis and in their own time a Council service related matter with their ward Member.

7.1.9 Members and Officers should respect each other's free (i.e. non-Council) time.

7.2 **Conduct of scrutiny reviews *all O and S meetings and associated business to be included?***

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7.2.1 Directors of services covered in the terms of reference of the Overview and Scrutiny ~~Committees Panel~~ will maintain regular contact with the Chairman of the relevant committee panel usually through regular informal meetings. In consultation with the Chairman it should be the responsibility of directors to ensure that those Members of the Overview and Scrutiny Committee Panel who need to know of matters being proposed or brought forward for executive Cabinet decision-making well in advance.

7.2.2 The Chairman of the Overview and Scrutiny ~~Committees Panel~~ should maintain regular contact with the Officers providing the principal support to the overview and scrutiny function staff in consultation with the Chairman. It should be the responsibility of the latter to ensure that those who need to know of matters being considered or for possible future consideration are so informed.

7.2.3 The Overview and Scrutiny Panel ~~A Scrutiny Committee~~ or its Chairman acting on its behalf may require Officers to attend scrutiny meetings. Members should not normally expect junior officers to give evidence but directors of services will be expected to comply with the (scrutiny procedure rules). All requests should be made to Chief Officers in the first instance.

7.2.4 When making requests for Officer attendance, scrutiny members shall have regard to the work load of Officers.

7.2.5 It is recognised that Officers appearing required to appear before the an Overview and Scrutiny Committee Panel may often be those who have advised the Cabinet or another part of the Council on the matter under investigation. In these circumstances an Officer may have a conflict of interest although not a personal interest. Both Members and Officers need to consider the severity of the conflict. If deemed appropriate research and advice may be sought elsewhere.

7.2.6 Subject to the provisions of 7.2.5 Officers should be prepared to justify advice given to a Member body even when the advice is not accepted.

7.2.7 Officers must also be prepared to justify decisions they have taken ente-under delegated powers.

7.2.8 In giving evidence Officers must not be asked to give political views.

7.2.9 Officers should respect Members in the way they respond to Member's questions.

7.2.10 Members should not question Officers in a way that could be interpreted as harassment neither should they ask about matters of a disciplinary nature.

7.2.11 Scrutiny proceedings must not be used to question the capability or competence of Officers. Chairman and Members need to make a distinction between reviewing the policies and performance of the Council in its services and ~~appraising a place in~~ the personal performance of Officers. The matter is not an overview and scrutiny function.

7.2.12 In exercising the right to call in a decision of the Cabinet scrutiny Members must seek Officer advice if they consider the decision is contrary to the Council's approved budget or policy framework or is unlawful.

## 8.0 Decision making and matters specific to ~~executive Cabinet~~ business

### 8.1 Roles

8.1.1 ~~Cabinet Executive~~ Members will take decisions in accordance with the Constitution and will not otherwise direct staff. Directors will be responsible for instructing staff to implement the ~~Executive's Cabinet's~~ decisions.

8.1.2 Cabinet members are responsible for providing leadership and direction on policy matters. Day-to-day managerial and operational decisions on the delivery of services should remain the responsibility of the Chief Executive and other officers

8.1.3 Cabinet members will routinely be consulted as part of the process of drawing up proposals for consideration on an agenda for a forthcoming meeting, but it must be recognised that in some situations an officer will be under a professional duty to submit a report. Similarly, a Director or senior officer will always be fully responsible for the contents of any report submitted in their name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between a Cabinet member and a Director in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

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8.1.24 In addition to individual Members of the ~~Cabinet, Executive, the Chief Executive,~~ Directors (including the Section 151 Officer) and the Monitoring Officer have the right to submit papers to the ~~Executive Cabinet~~ as a whole or to individual ~~Executive Cabinet~~ Members for consideration.

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8.1.35 Before any formal decisions are taken by the ~~Executive Cabinet,~~ the Section 151 Officer) and the Monitoring Officer and the Director(s) of the service involved must be consulted. This is to ensure that budget holders are aware of the proposed decision, that the decision's legal implications can be considered, ~~that have~~ the opportunity to offer advice has been identified, and that officers are subsequently able properly to authorise the various financial and legal transactions and requirements needed to implement decisions.

8.1.46 The Chief Executive, Directors and ~~Executive Cabinet~~ Members shall agree mutually convenient methods of regular contact, in the form of briefings as set out in [4.3?] above, regular meetings between ~~Executive Cabinet~~ Members and the Directors of their respective portfolio areas, and/or any other appropriate method which complies with law and the Constitution. Before taking any formal decisions, the ~~Executive Cabinet~~ will seek appropriate professional advice including, without exception, the



Chief Executive, the Monitoring Officer and Section 151 Officer, and will not direct Officers in the framing of recommendations.

8.1.57 When formal advice is given by the Chief Executive, Monitoring Officer and/or the Section 151 Officer in the furtherance of their statutory duties, Members should be expected to follow it. However, it is recognised that circumstances may arise where they may wish to ignore such advice. Members may make decisions contrary to the advice of officers generally, and Statutory Officers in particular, but should note the following:

- (a) Decisions so made may be in breach of the Council's legal duties, particularly the Public Sector Equality Duty;
- (b) Decisions may have unforeseen, negative consequences on the local community, which officers may not have had an opportunity to consider in advance of a decision being made contrary to their advice;
- (c) Even where a decision made by Members contrary to officer advice is not contrary to legislation, it could still render the Council subject to successful legal action, further to a judicial review, action for breach of contract or action for negligence, or all three;
- (d) Such successful action could make the Council liable for damages (whose quantum may not, at the point of decision, be apparent) and against which the Council may not be insured;
- (e) Such successful action would result in reputational damage to the Council and a broken relationship of trust with any person adversely affected by the decision.

8.1.68 Where, notwithstanding the above, Members wish to make a decision contrary to advice, all correspondence relating to the decision must be transacted in writing, including the officer advice itself and the reasons given by Members for acting against it.

## 8.2 — Information

~~8.2.1 Any document which is held by the Executive, and which contains information, explanation or advice which relates to any issue due to be discussed at a public meeting, must be available for inspection by any Member. This includes any information which relates to business which may have been transacted at a private meeting.~~

~~8.2.2 Members are not entitled to access any information which is exempt from publication under Part 1 of Schedule 12A to the Local Government Act 1972, other than where information would be covered by provisions relating to commercial confidentiality, and where the document(s) relate to council contracting.~~

~~8.2.3 Sections 8.2.1 and 8.2.2 above are subject to the general provisions on information provision in Section 2.~~

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Comment [AH2]: Query whether this is in TDC access to information rules

### 8.32 Decisions by individual members

- 8.32.1 An individual ~~Cabinet Executive~~ Member who is minded to write or commission a report or to make a decision about a matter within his/her portfolio must ensure that those other Members and Officers who need to know of the matter are informed. There is a particular requirement to involve other ~~Executive Cabinet~~ Members on cross-cutting issues.
- 8.32.2 Executive Members when making decisions must state the reasons for those decisions in the written record.

### 8.43 Decisions made by officers under delegated powers

- 8.43.1 Officers taking decisions under their delegated powers must **exercise their judgement and** consult with the relevant **Cabinet Member (s) Executive Member(s)** in advance when the matter to which the decisions relate are likely to be sensitive or contentious, where the Officer considers that the decision may have wider policy implications, or where the **Cabinet Member (s) Executive Member(s)** has/have previously informed the Officer that particular decisions or classes of decisions may have such implications.
- 8.43.2 Officers are responsible for implementing Member decisions and in the case of Cabinet decisions Chief Officers will be responsible for instructing staff to implement decisions.
- 8.43.3 Apart from the formal decision making process, Officers work to the instruction of their managers and not individual members. Officers will try to comply with all reasonable requests from Members but Members cannot instruct Officers to do any piece of work or take any course of action.
- 8.43.4 Officers must observe the requirements set out in the office of delegations in Part ?, Schedule ? of the Constitution when taking decisions and ensure that decisions falling outside it are referred to the appropriate Member body for decision unless action is to be taken under standing order ?
- 8.43.5 When taking decisions under their delegated powers Officers should be aware of decisions which are likely to be sensitive or contentious. In such cases Officers should inform the relevant Cabinet Member(s) and where appropriate ward Members of their intentions in advance.
- 8.43.6 Officers should also keep Cabinet Members informed in advance of any decisions which they take that have wider policy implications.
- 8.43.7 While Officers will support, advise and respond to Members' requests they must not be asked to exceed the bounds of authority they have been given by their manager.

### 8.24 Decisions affecting Council ~~staff~~

- 8.24.1 The role of Members in employment matters are limited to:
- Determining significant human resources policies and conditions of employment;
  - The appointment and discipline of Chief Officers;

**Comment [ECC3]:** Need to renumber throughout

- Hearing and determining appeals.

| 8.24.2 Members shall not act outside these roles.

| 8.24.3 Officers are responsible for the appointment and discipline of all other Officers.

| 8.24.4 In participating in the appointment of Chief Officers, Members should:

- Respect the confidentiality of the process and in particular the identity of the candidates.
- Remember that the sole criterion is merit;
- Never canvass support for a particular candidate;
- Not take part where one of the candidates is a close relative or friend;
- Not be influenced by personal preferences; and
- Not favour a candidate by giving them information not available to the other candidates.

| 8.24.5 Officers will not seek any Members' support in any employment matter.

| 8.24.6 When discussing or making decisions about industrial relations matters, Members must remember that they represent the Council as an employer and are not a representative of the employees. If a Member considers that they cannot undertake this task from this perspective they should withdraw from this role.

## 9.0 Support for Members

### 9.1 Members' enquiries and access to Officers

9.1.1 Members enquiries may be made by any means including verbally, email or in writing.

9.1.2 Members should normally direct their requests and concerns in relation to policy, spending and other major issues to the relevant Director in the first instance. Chief Officer or to a specific Member Liaison Officer within a department. Failure to do so would have the effect of depriving Members of formal, informed and accountable advice they have a right to expect from senior officers Chief Officers and which they have a duty to consider.

| 9.1.3 Approaches by Members to other Officers, are proper way-when they are seeking clarification of a response from that Officer or where the nature of the enquiry is routine and requires a detailed knowledge of the issues.

9.1.4 Members' enquiries will be dealt with promptly and effectively. A substantive response to a Member enquiry should be sent within ten working days of receipt.

- 9.1.5 Officers receiving Member enquiries should ensure that if they are absent or unavailable for more than one working day that their email is checked by a colleague. Out of office email replies should always give an alternative contact.
- 9.1.6 If it is not possible to respond within ten working days, Officers must explain in writing:
- The reason for the delay;
  - What action is being taken to pursue the enquiry; and
  - A deadline by which a substantive response will be sent.
- 9.1.7 Members' enquiries which are in fact constituent complaints will be handled under the Council's complaint procedure.
- 9.1.8 The Chief Executive and corporate directors are responsible for ensuring that Member enquiries are dealt with promptly and accurately by the department.
- 9.1.9 In seeking to deal with constituent's queries or concerns Members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested timescale and may need to seek instructions from their manager. Where an enquiry imposes a disproportionate burden on Officers' workloads, this should be explained and discussed with the Member concerned and Chief Officers to agree an alternative deadline or response.
- 9.1.10 This Members' enquiry procedure supplements but does not replace Members' statutory and common-law rights to information.
- 9.1.11 Co-opted and independent Members' rights to access to information will be limited to those areas that fall within the remit of the body to which they are appointed and their statutory rights.
- 9.1.12 An Officer should not copy correspondence which they have had with a Member to any other Member unless:
- That Member agrees; or
  - The other Member is entitled to the information under the Freedom of Information Act 2000 or the Data Protection Act 1998; or
  - The correspondence from the Member includes a circulation list with other Members' names on it when the response can be copied to the persons on the list; or
  - A response has been given to a question raised at a meeting of a Member body when the response can be copied to other Members. The above does not prevent an Officer copying correspondence to other Officers unless there are confidentiality issues.

A member may copy correspondence which they have had with an Officer to other Members and third parties unless it contains confidential personal or otherwise

sensitive information. For the avoidance of doubt correspondence containing such information should state that it is confidential.

## 9.2 Briefings for political groups

9.2.1 Chief Officers may be asked to contribute to deliberations of matters concerning Council business by political groups.

9.2.2 Chief Officers have the right to refuse such requests and will normally not attend a meeting of a political group where some of those attending are not Members of the Council.

9.2.3 Officer support will not extend beyond providing the factual information or professional advice in relation to matters of Council business. Chief Officers must not be involved in advising on matters of party business and therefore should not be expected to be present at meetings or parts of meetings where such matters are to be discussed.

9.2.4 Political group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions. The presence of a Chief Officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.

9.2.5 Where Chief Officers provide factual information and advice for a political group in relation to a matter of Council business this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.

9.2.6 It must not be assumed that a Chief Officer is supportive of a particular policy or view considered at a political group meeting simply because they have attended or provided information to the meeting.

9.2.7 Chief Officers will respect the confidentiality of any political group discussions at which they are present and unless requested to do so by that political group will not relay the contents of such discussions to another party group or to any other Member. This shall not prevent a Chief Officer providing a feedback to other Chief Officers.

9.2.8 In their dealings with political groups Chief Officers must treat each group in a fair and even-handed manner.

9.2.9 Members must not do anything which compromises or is likely to compromise Chief Officers' impartiality.

9.2.10 ~~The duration of a Chief Officer's attendance at a political group meeting will be at the discretion of the group but a Chief Officer may leave at any time if they feel it is no longer appropriate to be there.~~

9.2.10 A Chief Officer accepting an invitation to the meeting at one political group shall not decline an invitation to advise another group about the same matter. They must give substantially the same advice to each.

9.2.11 Only a Chief Officer or their nominee shall be entitled to attend a political group meeting.

**Comment [ECC4]:** I have deleted this on the basis that on reflection the requirement for fairness and even handedness in 9.2.8 covers it?

- | 9.2.132 A Chief Officer should be given the opportunity of verifying comments and advice attributed to them in any written record of a political group meeting.
- | 9.2.143 No Member will refer in public or at meetings of the Council to advice or information given by Chief Officers to a political group meeting.
- | 9.2.154 At political group meetings where some of those present are not members of the Council care must be taken not to divulge confidential information relating to Council business. Persons who are not Members are not bound by the Members' Code of Conduct. They do not have the same rights to Council information as Members.

### 9.3 Access to information

- 9.3.1 To carry out their duties effectively, Members must have broad access to Council information. This is a complex area which is subject to a wide range of legislation as well as the common law and the detailed rules are set out in the access to information procedure rules, Part ? of the Constitution (and standing order ?). The remainder of this section deals with some specific points.
- 9.3.2 Members' access to information will be compliant with their statutory and common law rights.

The common law right of Members is based on the principle that any Member has a prima facie right to inspect Council documents as far as their access to the documents is reasonably necessary to enable them to perform their duties as a Member of a Council. This principle is commonly referred to as the "need to know" principle.

The exercise of this common law right depends therefore upon the Members' ability to demonstrate that they have the necessary "need to know". In this respect a Member has no right to a "roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must initially be determined by the particular Chief Officer whose department holds the document in question (with advice from the Monitoring Officer).

In some circumstances (e.g. a committee member wishing to inspect documents relating to the functions of that committee) a Member's "need to know" will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms.

- 9.3.3 Officers will not without good reason withhold information from a Member who is entitled to receive it.
- 9.3.4 Any disputes relating to access to information will be referred to the Monitoring Officer for determination.
- 9.3.5 Where confidential personal or otherwise sensitive information is provided to a Member they will not disclose it to any other person without authorisation.

#### 9.4 Use of Council resources

9.4.1 The Council provides all Members with services such as ~~typing, printing and photocopying and goods such as stationery and~~ computer equipment to assist them in discharging their role as Members. These ~~goods and services~~ are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.

9.4.2 Members should ensure that they understand and comply with the Council's own rules about the use of such resources particularly:

- Where facilities are provided in Members' homes at the Council' expense and regarding ICT; and
- Regarding ICT use and security.

9.4.3 Members should not put pressure on Officers to provide resources or support which Officers are not permitted to give. Examples are:

- Business which is solely to do with a political party;
- Work in connection with a ward or constituency party political meeting;
- Electioneering;
- Work associated with an event attended by a Member in a capacity other than as a Member of the Council;
- Private personal correspondence;
- Work in connection with another body or organisation where a Member's involvement is other than as a Member of the Council; and
- Support the Member in their capacity as a councillor for another local authority.

#### 10.0 Public relations

##### 10.1 Relations with the media

10.1.1 The Media and Communication Team is responsible for:

- Making official press/media statements relating to the function and business of the Council, consulting with the relevant Cabinet Member, Committee Chairman or Officer as appropriate; and
- Dealing with day-to-day media enquiries.

In making a press or media statement regard must be had to the law on Local Authority publicity and the relevant code of practice.

10.1.2 Cabinet Members and Committee Chairman may also make statements to the press/media on Council matters and they represent the Council in media interviews. If a Cabinet Member or Committee Chairman wants to speak to the press or media in

a personal capacity or as a representative of their political group they should make this clear at the outset.

10.1.3 If other Members wish to speak to the media they will do this in a personal capacity or as a representative of their political group.

10.1.4 Chief Officers (or their nominees) may deal with any request for information or questions asked by the press/media and may represent the Council in media interviews.

10.1.5 Any Member or Officer who speaks to the press or media on an issue should:

**Comment [AH5]:** Include requirement to talk to comms team in advance?

• Consult with the Communications Team for the Council in advance of speaking to the press or to the media

- Be sure of what they want to say or not say;
- Consider the likely consequences for the Council of their statement;
- Never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
- Consider whether to consult other relevant members; and
- Take particular care in what is said in the run-up to local or national elections to avoid giving the impression of electioneering unless they have been contacted as an election candidate or political party activist.

10.1.6 Press releases or statements made by Officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.

10.1.7 Before responding to enquiries from the media, Officers shall ensure they are authorised to do so.

10.1.8 Likewise Officers will inform the Council's communication and media section of issues likely to be of media interest when they have been contacted by the media since that unit is often the media's first point of contact.

## 10.2 Correspondence

10.2.1 Correspondence between an individual Member and an Officer should not be copied to another Member unless the author expressly intends and states that this is the case or consents. Where correspondence is copied this should always be made explicit and there should be no "blind" copies.

10.2.2 Official letters written on behalf of the Council should normally be in the name of the relevant Officer.

10.2.3 The Leader may initiate correspondence in their own name.

10.2.4 Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a Member.



10.2.5 When writing in an individual capacity as a ward Member, a Member must make clear that fact.

10.2.6 Correspondence between Members and staff should reflect mutual trust and respect which is essential to the relationship.

## 11.0 What to do when things go wrong

### 11.1 Procedure for Officers

From time to time the relationship between Members and Officers may become strained or break down. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or Members, Officers will have recourse to the Council's Grievance Procedure or to the Council's Monitoring Officer, as appropriate to the circumstances. In the event of the basis for a grievance or complaint being found, the matter will be referred to the Chief Executive, who, having advised the Leader of the Council and the appropriate group leader, will refer it to the Standards Committee for consideration and determination.

### 11.2 Procedure for Members

In the event that a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the appropriate Head of Service. Where the Officer concerned is a Head of Service or Director of Service the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with the Director of Finance and Corporate Services. If the matter cannot be resolved informally, it may be necessary to invoke the Council's Disciplinary Procedure and, where appropriate, act in accordance with a report of a "designated independent person" (see Prescribed Standing Order 10). [Note – check reference to elsewhere in the document on completion]

#### Some more general points:

- In the meeting I also suggested that you give consideration to particular reference in the protocol to the duties of members on planning/ licensing/ other regulatory committees in terms of propriety of decision-making. Note, for example, that the previous draft had a line at the end of para 4.2.4 which aimed to go some way in that direction
- The previous draft, in the introduction, said that the protocol was designed to 'avoid conflict, and to manage it where it occurs';- the second part of this clause is omitted in the new version and I wasn't sure why
- The previous draft, in the definition, said 'Officers and staff mean all persons employed by the Council either directly or through contractors';- the current draft removes reference to contractors – are you sure you wanted that?
- Para 3.1.5 of the draft protocol which came to the Board in April has a number of elements relating to members' responsibilities, not all of which have carried through to this draft, which I would suggest are helpful- if you have gone through a thought process which has led you to decide these aren't necessary, fine, but I wanted to check this wasn't an oversight
- In the previous draft, at 4.0 there was a helpful line – 'The general rule to be applied is that information will be available to Members unless there is a specific reason why it needs to be withheld.'- I would suggest this is a useful tone to set, and slightly wider than

the current wording at 8.2. The tone of this whole section, and that at 9.3, has changed from one which is focused on transparency with appropriate limitations, to one which appears to be starting from the point of view of 'why do you need access to this?' It is a very subtle point, but given the sensitivity of this issue in Thanet previously, I would suggest that the tone you set in documents such as these influence the wider culture. I appreciate that there have been very good reasons why the council has taken the decisions it has about access to information in the past, but would suggest you have an opportunity here (and in many other ways) to set a tone of transparency, which I don't think the current drafting fully does

- In section 4.3 of the previous draft there was a bit about officers' role in briefing chairs of committees etc – I couldn't see this in the new draft (apologies if I missed it). While you might think this provision was 'business as usual' and therefore didn't need stating there was an important bit about confidentiality of information given in those briefings which you might not want to lose
- There was a para at section 6.2.3 of the previous draft which stressed the need to carry out scrutiny work in a consensual manner, and highlights the need for pre-meeting discussions which will secure maximum value for the committee. This had more of an enabling tone, rather than being restrictive/ identifying what people must/ must not do, and was designed to facilitate a more constructive view of scrutiny. I commend it to you!
- I'm presuming that the detail that was in the previous draft on dealing with the media has been removed because it duplicates the council's own procedure note on members/ officers and media handling – if so, then it would be good if the protocol gave a reference to this – and if the council doesn't have one then I suggest it needs one!
- The previous version had a section on visits by members to council sites – I'm not sure why this would have been removed but am flagging it up in case it was an oversight