

TITLE OF REPORT: Councillor Engagement and Development Framework

REPORT OF: Mike Barker, Strategic Director, Corporate Services and Governance

Purpose of the Report

1. To ask Cabinet to recommend the Council to agree the recently finalised Councillor Engagement and Development Framework.

Background

2. The Council has, over recent years, developed a number of procedures, processes and protocols, which, taken together, are intended to guide councillors on how they undertake their duties, in particular relating to consultation, engagement, training and development.
3. A review has taken place that looked at existing arrangements and protocols in place relating to these areas. As a result of the review, an overarching Councillor Engagement and Development Framework has been produced. Where appropriate, new protocols and procedures have been developed in line with current practice.
4. A copy of the Framework is attached at Appendix 2 and contains the following sections:
 - A foreword by the Leader of the Council;
 - How the Council works;
 - The Council's Officer structure;
 - Communication and Consultation;
 - Councillor Development;
 - Feedback, concerns and compliments;
 - ICT Provision.
5. At the end of each section, there is a 'Related Information' heading which lists documents for further reference. This list will contain hyperlinks to each document, once the Framework is published.
6. The Framework, and the amended protocols, procedures and documents have been considered by the Councillor Support and Development Group and Audit and Standards Committee, who agreed with all of the proposals.

Recommendation

7. It is recommended that Cabinet:
- agree the Framework and recommend it to Council for approval; and
 - recommend that Council agree that the Protocol on Councillors' Attendance is added to the 'Associated Protocols' within the Code of Conduct for Members.

For the following reason:

To ensure councillors and officers are able to engage effectively, and have a good understanding of arrangements, roles and responsibilities.

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Policy Context

1. The Council has, over the years, developed a number of procedures, processes and protocols which, taken together, are intended to help guide councillors on how they undertake their duties, and in particular relating to consultation, engagement, training and development.

Background

2. A review was instigated by the Chief Executive, following consultation with the Leader of the Council, to look at existing arrangements and protocols in place relating to consultation and engagement with councillors.
3. Where required, protocols and processes have been updated, and new documents produced where appropriate.
4. Some key areas that have been addressed are:

How the Council Works

This section includes a reference to the Protocol on Advisory Groups that has been updated to refer to the current Advisory Group structure. This protocol is attached at Appendix 3.

Communicating and Consulting with Councillors

The two existing protocols relating to this have been merged into one new protocol that outlines the timescales officers are expected to follow when responding to enquiries made by councillors. It also outlines when councillors should be consulted about issues affecting their wards. This is attached at Appendix 4.

Councillor/Officer Relations

This protocol has been substantially reviewed and updated. It stresses mutual respect between councillors and officers, and gives clarity on what each can expect from the other. The revised protocol is attached at Appendix 5.

Councillor Development

A new protocol on Councillors' Learning and Development has been drawn up that includes what is expected in terms of attendance at meetings, training sessions and completion of Personal Development Plans. This is attached at Appendix 6.

All training and development is important, but some areas are considered essential so councillors are asked to undertake to attend courses on:

- Ethics, probity and the Code of Conduct;
- Training relating to committee membership;
- Equalities; and
- Child Protection.

Councillor Attendance

A new protocol has been produced specifically dealing with councillor attendance at meetings. In view of the crucial importance of this area, it is considered appropriate that the Council is asked to add this protocol to the 'Associated

Protocols' in the Code of Conduct for Members, so that a failure to comply with the protocol could be seen as a breach of the Code. The protocol is attached at Appendix 7.

Outside Bodies

Most councillors are appointed to serve on outside bodies. To aid councillors' understanding of their roles and assist them to carry out their roles effectively, a role descriptor has been prepared, together with a protocol setting out general guidance and potential pitfalls. These are attached at Appendix 8.

5. Following completion of the review, a Councillor Engagement and Development Framework has been produced that encompasses all of the information relating to this area.
6. The Framework is intended to be used by councillors and officers as guidance and reference to ensure effective engagement, understanding of arrangements, roles and responsibilities, within a context of reduced resources.

Consultation

7. The Councillor Support and Development Group, Audit and Standards Committee and the Leader of the Council have been consulted throughout the process.

Alternative Options

8. There are no alternative options.

Implications of Recommended Option

9. Resources:

- a) **Financial Implications** – there are no financial implications arising from the recommended option.
 - b) **Human Resources Implications** – there are no human resources implications arising from the recommended option.
 - c) **Property Implications** - there are no property implications arising from the recommended option.
10. **Risk Management Implication** - there is no risk management implications from the recommended option,
 11. **Equality and Diversity Implications** - there are no equality and diversity implications arising from the recommended option.
 12. **Crime and Disorder Implications** – there are no crime and disorder implications arising from the recommended option.
 13. **Health Implications** –there are no health implications arising from the recommended option.

14. **Sustainability Implications** - there are no sustainability implications arising from the recommended option.
15. **Human Rights Implications** - there are no human rights implications arising from the recommended option.
16. **Area and Ward Implications** - there are no area and ward implications arising from the recommended option.

Background Information

17. Reports presented to:
 - Councillor Support and Development Group on 11 March 2015;
 - Councillor Support and Development Group on 9 September 2015;
 - Audit and Standards Committee on 7 March 2016.



Councillor Engagement and Development Framework

April 2016

IN UNITY, PROGRESS



Councillor Engagement and Development Framework

Foreword by the Leader of the Council

In Gateshead, we believe continuous councillor development is essential to ensure that councillors update their knowledge and learn new skills and behaviours to guide decision making.

To support that ambition, this framework has been developed, which is the culmination of a recent review and refresh of all aspects of engagement with councillors, and their development and support.

The framework brings together, in a clear and accessible format, all the existing protocols, which have been revised and refreshed where necessary, and establishes new ones where appropriate. Also within the framework will be the advice and guidance provided to officers on how to engage, consult and brief councillors.

Each section contains advice, guidance and protocols on the relevant aspects, in order to assist you and officers to provide the best support.

I hope you find this guide useful and use it to fully support your role as a Gateshead councillor.



Councillor Mick Henry
Leader of Gateshead Council

Contents

1. How the Council Works
2. The Council's Officer Structure
3. Communication and Consultation
4. Councillor Development
5. Feedback, concerns and compliments
6. ICT Provision

How the Council Works

In May 2002, the Council adopted a new constitution prepared under the Local Government Act 2000. The constitution is based on the following allocation of responsibilities:

- the full Council sets the budget and policies for Council services
- the Leader and Cabinet take responsibility for ensuring that these policies are delivered and for developing proposals for changes to policy or new policies
- overview and scrutiny committees (OSCs) review decisions, scrutinise performance and ensure that all agencies work together to improve the quality of life for Gateshead residents
- two advisory groups that report directly to Cabinet

The constitution requires that all decisions are made openly and transparently, after proper consultation and with regard for the principles of human rights and equal opportunities. The Council's decision-making system is designed to:

- support councillors in representing their local communities
- help councillors to identify their priorities more clearly
- provide a sound basis for tackling cross-cutting issues
- provide a focus for community leadership and partnerships with other organisations

The Council

The full Council, consisting of all 66 elected members, meets every six weeks plus an annual meeting and a budget meeting. Its role is to:

- agree the policy framework, strategies and plans
- agree the budget
- decide the political management framework
- appoint the Leader

The Council also receives reports from Cabinet members and from Overview and Scrutiny committees. Councillors can put forward notices of motion, which initiate debates on topics of major significance to the Borough. Councillors may also question the Leader and Cabinet members, and present petitions on behalf of local residents. Members of the public can also ask questions or present petitions, provided they give notice.

The six-weekly Council meeting is above all the 'public face' of decision making – the forum at which all members gather to determine, in the public spotlight, the most significant policy issues facing the Borough. To bring the Council closer to the people, some Council meetings have been held outside the Civic Centre.

The Cabinet

The Cabinet consists of ten members headed by the Leader of the Council, who appoints the nine other members, one of whom is appointed Deputy Leader. The Cabinet provides political leadership and direction across the whole range of Council services and considers all policy issues.

While the Cabinet acts collectively, individual Cabinet members have their own portfolio allocated to them by the Leader. Cabinet members work in teams, with one lead member supported by one or two others, depending on the size of the portfolio. The Cabinet collectively

makes decisions on most Council services within the budget and policy framework set by the full Council. It meets fortnightly and its meetings, like those of other Council bodies, are held in public – except where personal or confidential information is to be discussed.

Decision Making Committees

By law, decisions about planning applications, licences and similar matters may not be taken by the Cabinet. The Council has therefore set up separate committees, consisting of non-Cabinet members, to take these decisions. The main committees are:

- **Accounts** - which approves the annual statement of accounts and statement on internal control
- **Appeals** - which hears appeals on a range of service issues such as exclusion from the housing register
- **Audit and Standards** - this Committee meets, reviews, monitors and approves the Council's arrangements for audit, both internal and external, risk management and the overall control environment. It is also responsible for promoting and monitoring high standards of conduct and assists all councillors to observe the code of conduct.
- **Health and Wellbeing Board** - this Board, which comprises of councillors and representatives of partner health organisations, leads on the production of the Joint Strategic Needs Assessment and a Joint Health and Wellbeing Strategy, both of which aim to advance the health and wellbeing of residents in Gateshead.
- **Licensing** - which deals with liquor licensing and public entertainment
- **Planning and Development** - which deals with planning applications
- **Personnel Appeals** - which hears appeals from employees on matters relating to their employment
- **Regulatory** - which grants various types of licence (e.g. for hackney carriages)
- **Rights of Way** - which makes decisions on bridleways and footpaths.

Overview and Scrutiny Committees

The Council has four overview and scrutiny committees (OSCs), again consisting wholly of non-Cabinet members. Between them, the OSCs cover all the Council's services, but each OSC focuses on a specific aspect of the Council's priorities. The OSCs are:

- **Care, Health and Wellbeing** - which reviews social services (except those for children and young people) and health services
- **Communities and Place** - which examines economic development; lifelong learning; culture (including leisure); housing; physical development and regeneration; transport planning and public transport; and local environment, including climate change. There is also a Community Safety sub-committee, which looks specifically at issues relating to community safety.
- **Corporate Resources** - which focuses on the management of resources, including value for money and procurement; supporting democracy and involving local people; equalities and diversity.
- **Families** - which focuses on all services provided to children and young people, particularly education and social services. There is a Corporate Parenting sub-committee, which specifically looks specifically at the Council's role in this area.

OSCs hold decision-makers (the Cabinet and officers) to account, but also work with other parts of the Council in contributing to the development of policy. An important part of their role is to

question other agencies, public and private, whose actions affect the lives of Gateshead people, for example National Health Service Trusts.

Functions of OSCs include:

- Reviewing Council policies and making recommendations to the Cabinet and/or Council
- Considering reports on performance
- Examining decisions and, if appropriate, asking for decisions to be reconsidered before they are implemented.

Advisory Groups

Advisory Groups report directly to and advise the Cabinet. They cover all the portfolio areas and match the scope of the OSCs. There are two principal advisory groups, namely Corporate Resources and Policy. The Corporate Resources Advisory Group is chaired by the Leader of the Council and the Policy Advisory Group by a councillor nominated by the Leader of the Council, from the Policy Advisory Group pool of Chairs. All councillors can self-nominate to the pool, prior to the start of the municipal year, with the Leader appointing Chairs when required.

All councillors are invited to meetings of both of these Advisory Groups

Related information:

- *Constitution*
- *Councillors' Guide to Council Meetings*
- *Protocol on Advisory Groups*

The Council's Officer Structure

The Council employs approximately 5,000 people to provide essential services to a population of around 200,505.

The officer structure is led by the **Chief Executive**, who is responsible for:

- Working closely with the Leader of the Council, providing advice and guidance on the forward planning of objectives and the delivery of services, and in doing so, securing a corporate approach to the affairs of the authority.
- Acting as the Council's Head of Paid Service; reporting to Council on the manner in which the discharge of the Council's function is co-ordinated, the number and grade of employees required for the discharge of functions and the organisation of employees;
- Providing strategic advice and arrange other advice to the Council, Cabinet and all other council bodies;
- The strategic management of the local authority, providing advice and support to elected members; and
- Developing and maintaining key relationships with strategic partners and other agencies and bodies.

The Chief Executive leads the strategic management team (known as Strategy Group), which delivers the Council's services through the Groups outlined below.

- *Care, Wellbeing and Learning*
- *Communities and Environment*
- *Corporate Resources*
- *Corporate Services and Governance*
- *Policy, Economic Growth and Transformation*

In the absence of the Chief Executive (e.g. annual leave or otherwise uncontactable), the most appropriate Strategic Director, or in their absence a Service Director to deal with the issue, should be contacted to provide advice and support.

More detailed information can be obtained from the Guide to Gateshead Council.

Communication and Consultation

Councillors have an important role to play in their wards, taking up issues on behalf of their constituents and acting as a link between them and the Council. Councillors are entitled to expect that officers will support them in this role, and that their enquiries will be responded to in a timely manner. The protocol on Communicating and Consulting with Councillors sets out how these expectations will be realised in practice.

Councillors and officers are public servants and are indispensable to one another. Their responsibilities however are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers work under a contract of employment and are responsible to the Council. Their job is to give advice to councillors and to the Council, and to carry out the Council's work as ultimately directed by the Council's Head of Paid Service.

The relationship between councillors and officers is an essential ingredient that contributes to the successful working of the Council. The relationship within this Council is characterised by mutual respect, honesty and trust. Councillors and officers must feel free to speak to one another openly and honestly.

The Protocol on Officer/Councillor Relations provides detailed guidance to all parties and is dependent on mutual respect. In addition, a training course has been developed for officers, which looks at how officers should engage with councillors, including writing and presenting reports at committee meetings.

There are many opportunities for councillors to obtain and discuss information about issues from officers, including reports, briefings and seminars. In addition, some Services offer specific opportunities for councillors to find out about issues affecting their wards, for example the weekly road works schedule.

Councillors must also be mindful of the Code of Conduct, which is applicable to all councillors. The code is based on a model adopted by all seven North East authorities. In general, the code covers behaviour such as councillors not abusing their position or not misusing their authority's resources. In addition, there are rules on registration and disclosure of interests. Councillors are bound by the Code when they are conducting council business or representing the Council.

Two provisions of the Code apply regardless of whether councillors are conducting council business or not. Firstly, a councillor must not act in a manner that could be regarded as bringing the Council or their office into disrepute. Secondly, councillors should not use their office improperly to secure for themselves, or any other person, an advantage or disadvantage.

In particular, the Code of Conduct requires councillors:

- to promote equality by not discriminating unlawfully against any person;
- to treat others with respect;
- not to compromise the impartiality of those who work for the Council;
- not to prevent anyone getting information they are entitled to or disclose confidential information without consent;

- not to misuse the Council's resources; and
- to report a breach of the Code to the Monitoring Officer if they reasonably believe that another councillor has broken the Code.

Related information:

- *Protocol for Communicating and Consulting with Councillors*
- *Protocol on Officer/Councillor Relations including the following protocols:*
 - *Officer Attendance at Political Group Meetings and Other Political Meetings*
 - *Public Meetings*
 - *Candidates at Elections*
 - *Parliamentary Candidates*
- *Code of Conduct for Councillors*
- *Protocol on Report Formats and Preparing reports*
- *Protocol on seminars and briefings*
- *Protocol for Handing the Media*

Councillor Development

The Council is recognised as a 'politically mature' Council with a high degree of trust and mutual respect between members of different political parties. This positive relationship has enabled the Council to move forward, in terms of how it supports and develops its elected members.

More than ever, Councillors have an increasingly important role to play as community leaders, identifying and taking up issues on behalf of constituents, and acting as a link between their constituents and the Council. At Gateshead, we believe councillors are entitled to expect officers from all our services to support them in this role.

Support, training and development is driven by councillors for councillors, via a cross-party Councillor Support and Development Group, which is chaired by the Leader of the Council. All of this training and development aims to support frontline councillors as the lynch pin and recognises that the community champion role is a demanding one.

The Council was awarded the North East Charter for Elected Member Development in 2008 in recognition of its work in this area.

All councillors are encouraged to take the opportunity to draw up a Personal Development Plan (PDP), which is monitored on an annual basis. The PDP helps to identify areas where individuals would like extra training or development.

Personal Development Interviews

These interviews are confidential and the length will vary dependent upon the level of discussion. They provide an opportunity for you to reflect on your development needs in your current role and as a result, a personal development plan will be prepared tailored to your needs for the coming year. Role descriptors and the associated skills required are available to assist with this process. These interviews are optional but we would encourage you to take up this opportunity.

Your PDP will be updated at least annually and should be a "living document" that is refreshed to take into account your growing experience and changing needs.

Role Descriptors

Role descriptors have been developed for the following:

- Councillor
- Cabinet Member
- Chair or Vice Chair of a Decision Making Committee or Overview and Scrutiny Committee
- Chair or Vice Chair of the Health and Wellbeing Board
- Councillor Member of the Health and Wellbeing Board
- Planning and Development Committee Member
- Overview and Scrutiny Committee Member
- Regulatory Committee and Licensing Committee Member
- Audit and Standards Committee Member

- Appointment to Outside Bodies
- Partnership Members
- School Governor

Induction Programme for new Councillors

All newly elected councillors are encouraged to undertake the Council's induction programme. The programme has been designed over a number of years to assist new councillors in their new role with the Council. The programme offers an introduction to the Council, meetings with the Leader and Chief Executive, and meetings with the strategic management team in order to find out more about the services the Council provides to the residents of Gateshead.

New councillors are also allocated a 'buddy' – a more experienced councillor who can offer advice and support on any issue during the first few weeks and months.

In the months following the election, sessions are offered on a range of issues including Equality and Diversity, Local Government Finance, Code of Conduct for Councillors, Partnerships, Scrutiny, Risk Management and Health and Safety.

Training for new Mayors

Members who are elected to the office of Mayor will attend a specialised training session aimed at incoming Civic Heads and their teams, including Deputy Mayors. Apart from the planned content, the seminar provides an opportunity to meet and network with people in similar roles. The seminar focuses on the role of the Civic Head and there is also a session on chairing Council meetings, which includes reference to the challenges of multi-party participation. There will be an opportunity to discuss any concerns you may have and arrange further support. Further one-to-one and group sessions can be arranged on areas such as public speaking if so required.

Appointments to Outside Bodies

Most councillors are appointed to serve on outside bodies. To aid councillors' understanding of their roles and assist them to carry out their duties effectively, a role descriptor has been prepared, together with a protocol setting out general guidance and potential pitfalls.

Related information

- *Protocol for Councillor Development*
- *Personal Development Plan Template*
- *Role Descriptors*
- *Protocol on Councillors Attendance at Conferences and Training Events*
- *Protocol on Appointments to Outside Bodies: The Councillors' Roles – General Guidance and Potential Pitfalls.*

Feedback, concerns and compliments

Complaints and compliments

The Council aims to deliver the best possible services and needs to know if it is getting it right. The Council's aim is to provide the best possible services to Gateshead residents. We appreciate all our customers' comments, good or bad. An annual report is produced and available to all elected members.

Complaints

We believe that every customer has a right to complain. When residents give their views to the Council, they help us to:

- Put things right if we have made mistakes
- Continually improve our services and make sure we do not repeat mistakes.

A customer may complain because:

- We failed to provide them with a service
- We provided them with a poor standard of service
- We provided the service in an unfair or discriminatory manner.

How does the process work?

All complaints will be treated confidentially. Any information given is covered by the Data Protection Act. This means that we:

- Will keep personal data safe and secure
- Will not share it with other organisations without permission unless the law says we must and
- May use it to prevent and detect fraud.

Compliments

The Council also appreciates any comments about the services it provides. Views can be given by email, by phone, in writing or in person. This is helpful as it identifies where the Council is performing well and helps to spread good working practices.

Concerns or compliments from councillors

In the event that a councillor is dissatisfied with the conduct, behaviour or performance of an officer, the matter should be raised with the appropriate Strategic Director. Where the employee is the Chief Executive, the matter should be raised with the Monitoring Officer. Attempts will be made to resolve the matter informally but, if this is ineffective, it may be necessary to invoke the Council's disciplinary procedures.

Any positive feedback or compliments on the performance of an officer should be brought to the attention of the relevant Strategic or Service Director. To make it easier for councillors to record compliments or concerns about any issue, a dedicated inbox has been created, which is accessible only by councillors. All information received using this method will be treated as confidential and passed to the relevant Service Director.

Related information:

- *Complaints Procedure*
- *Dedicated email address for feedback*

ICT Provision

All councillors will be provided with an iPad and/or iPhone to assist with carrying out their role as a ward councillor. In addition, the Council uses mobile devices as its primary method to share agendas and papers with councillors, and communicate with them.

When using these mobile devices, councillors need to be mindful of the Councillors ICT Security Policy and will be asked to sign the Acceptable Use Policy for Mobile Devices when they receive their equipment.

The use of Information and Communication Technology (ICT) helps the Council to provide effective and efficient services and is a vital tool in the work of many councillors. The purpose of the policies is to ensure that, as users of the Council's ICT systems, you are aware of the security risks that are always present and help protect the Council's information from all threats, whether internal or external, deliberate or accidental. The adoption of the policies provides a firm indication that the Council is taking "due care" of information which is one of the basic requirements of the Data Protection Act 1998.

By following the policies, you will help minimise the potential risk of disruption to Council business and help ensure that data held on Council systems remains secure.

As well as the ICT Security Policy, there are also various laws that determine how computers should be used, such as the Computer Misuse Act 1990 and the Data Protection Act 1998. Therefore, to ensure you comply with both the law and Council policy, it is important that you:

- Never let anyone else know your password. You should treat your password as you would your bank card PIN code, and if you have reason to believe that someone knows it you should change it immediately.
- Do not allow anyone else to use equipment that is logged on under your user name.
- Do not make, or attempt to make, any changes to the operating system or settings on Council computers.
- Do not access or attempt to access any files, folders, logs, reports, messages, systems or information that you are not authorised to access.
- Take care to ensure that display screens cannot be overlooked when working on sensitive data.
- If in doubt on any matter relating to computer security, please seek advice from ICT Services.

Related information:

- *Councillors ICT Security Policy*
- *Acceptable Use Policy for Mobile Devices*



Protocol on Advisory Groups

Purpose of Advisory Groups

1. The Cabinet will draw on the advice and experience of non-Cabinet councillors and will involve them constructively in the process of policy formulation. This can be achieved partly by their involvement in Advisory Groups.
2. The purpose of Advisory Groups is to enable the Cabinet to seek advice before a firm line is fixed, in an informal setting and from a broad range of councillors. Meetings of Advisory Groups will usually be held in response to a request from the Leader or Cabinet for advice on a specific issue or issues. Meetings will focus on a discussion of issues and giving advice rather than arriving at a formal resolution.

Structure of Advisory Groups

3. There are two Advisory Groups as follows:
 - Corporate Resources Advisory Group
 - Policy Advisory Group
4. There is also one other Advisory Group:
 - Gateshead Capacity Building Fund
5. All councillors are invited to attend meetings of the Corporate Resources and Policy Advisory Groups. The Gateshead Capacity Building Fund Advisory Group has a core membership and only those councillors are invited to attend meetings.
6. The Corporate Resources Advisory Group is chaired by the Leader of the Council and the Policy Advisory Group is chaired by a councillor nominated by the Leader from the Policy Advisory Group pool of chairs.

Convening and Attending Advisory Groups

7. The Cabinet will decide whether to seek advice from an Advisory Group on any particular issue. If an officer considers that there is a need for advice to be sought from an Advisory Group then this should be highlighted to the Cabinet within a Cabinet report or approval sought from the Leader of the Council. It is essential that there is clarity why and on what issues the views of an Advisory Group are being sought.

8. Once it has been agreed that a meeting of an Advisory Group should be held, an officer of Democratic Services, Corporate Services and Governance will arrange the meeting. The officer will ensure, as far as practicable, that the meeting is arranged on a date convenient for the Chair, the relevant Cabinet members and the lead officers for that particular issue.
9. Officers should not prepare a formal report for the Advisory Group meeting. Instead, the Advisory Group will be given a presentation outlining the background to the issue, the main points and clearly stating what councillors are being asked to give views on. Officers should also prepare a discussion paper, generally no more than 1 side of A4, to assist their presentation, to be circulated prior to the meeting.
10. All members of the Strategy Group will be advised when Advisory Group meetings are being held and the issues being considered. Strategic Directors need only attend or be represented at these meetings if they consider it appropriate to do so.
11. Advisory Groups can only express views. The Democratic Services Officer will prepare minutes of the Advisory Group summarising all the views expressed, including those issues where there is difference of view. The minutes from the Advisory Group meetings should be attached to any further report prepared for the Cabinet on that particular issue.

Protocol for Communicating and Consulting with Councillors

Councillors have an important role to play in their wards, taking up issues on behalf of their constituents and acting as a link between them and the Council.

Councillors are entitled to expect that officers will support them in this role. In particular, officers are expected to:

- **Consult** councillors about proposals affecting their ward
- **Communicate** with councillors about things happening in their ward
- **Respond promptly** and effectively to ward issues raised by councillors.

This Protocol sets out how these expectations will be realised in practice.

Responding to Councillors' Enquiries

1. Officers will acknowledge all enquiries from councillors by the end of the next working day and send a full reply within five working days.
2. When an officer is unable to send a full reply within this timescale, then an explanation will be given to the councillor stating how long the response is likely to take and the reason for the delay.

Consultation

3. Officers are expected to consult councillors at the earliest opportunity on matters affecting their wards and which are required to go to Cabinet or another body for decision, or on which the officer intends to take a decision under delegated powers.
4. Before consulting with ward councillors, the officer should discuss the matter with the appropriate cabinet member and explain the issues to him/her, making it clear that ward councillors will be consulted.
5. The purpose of consulting ward councillors is to:
 - Make them aware of issues affecting their wards so that, wherever possible, councillors receive this information from the Council before hearing it from any other source;
 - Obtain information and advice from ward councillors on the matter;
 - Ensure that ward councillors' views are recorded and taken into account in the decision-making process.
6. The officer responsible for the consultation will establish personal contact with the ward councillors, either by telephone or email, or by arranging a meeting, with the Cabinet Member in attendance if they both consider it appropriate. The officer will make a written record of councillors' views.

7. While recognising that ward councillors do not have a veto over decisions, their views will always be considered seriously and included in any report to Cabinet (or other body) so that decision-makers are aware of those views. Councillors' views should be used to help inform the preparation of any report, so consultation should not just take place at the 'last minute', when a report is already prepared and may, for example, be entering the time-restricted Cabinet process.
8. The consultation section of the ensuing report should state which councillors have been consulted and any views they expressed, based on the written record referred to above.
9. Officers should be alert to the fact that an issue may affect more than one ward and all relevant councillors should be consulted. The Constitution definition of 'key decision', for example, includes where a matter affects two or more wards.
10. Existing systems in place for notifying ward councillors of planning and licensing applications, and reporting their views, will continue.

Councillors' Responsibilities

11. Councillors should avoid making unreasonable requests or putting pressure on officers to do things that they are not empowered to do.
12. Councillors should be mindful of the increasing pressure placed on officers due to reduced capacity and resources.
13. Councillors need to also bear in mind that there are some kinds of information which they are not entitled to have – for example, personal information about individuals, including their constituents, where the individual has not consented to its release.

Officer Responsibilities

14. Service Directors are responsible to their Strategic Director for ensuring that the requirements of this Protocol are met in relation to the functions for which they are responsible.
15. If more than one officer is involved, for example in a client/client-agent/consultant relationship, they should be clear among themselves who is taking the responsibility.

PROTOCOL ON COUNCILLOR/OFFICER RELATIONS

This protocol forms part of the local framework for standards of behaviour approved by the Council's Audit & Standards Committee. Monitoring of compliance with this protocol is the responsibility of the Audit & Standards Committee and the Monitoring Officer.

1. Introduction: The Underlying Principles

- 1.1. The relationship between councillors and officers is fundamental to the successful working of the Council. This relationship within this Council is characterised by mutual respect, honesty and trust. Councillors and officers must feel free to speak to one another openly and frankly. Nothing in this protocol is intended to change this relationship: its purpose is to help councillors and officers to perform effectively by giving guidance on their respective roles and expectations, and on their relationship with each other. The protocol also gives guidance on what to do on the rare occasions things go wrong.
- 1.2. The protocol must be read and operated in the context of any relevant legislation and national and local codes of conduct and any procedure for confidential reporting.

2. Roles of councillors and officers

- 2.1. Both councillors and officers are servants of the public and are indispensable to one another in the delivery of their public duties. Their responsibilities, however, 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 the Council, and to councillors in carrying out their Council duties, and to carry out the Council's work under the direction and control of the Council, the Cabinet, and relevant Committees, and Sub-Committees.

Mutual respect between councillors and officers, and a clear understanding of their respective roles and responsibilities, are essential to good local governance.

2.2. Councillors

2.2.1. Councillors have five main areas of responsibility:

- (i) giving political leadership;
- (ii) determining the policy of the Council;
- (iii) monitoring, reviewing and scrutinising the performance of the Council in implementing policy and delivering services;
- (iv) representing the Council externally; and
- (v) acting as advocates and Community Leaders on behalf of their wards and constituents.

2.2.2. Subject always to the expectations contained in paragraph 3, it is not the role of councillors to involve themselves in the day to day management of Council services.

2.3. Members of the Cabinet, Chairs and Vice Chairs

2.3.1. Members of the Cabinet and chairs and vice chairs of committees, boards, panels, etc. have responsibilities additional to those set out above, and their relationships with officers may therefore differ from, and be more complex than, those of councillors without such responsibilities; this is recognised in the expectations they are reasonably entitled to have of enhanced levels of support from officers. However, such councillors must still respect the impartiality of officers: they must not ask officers to undertake work of a party political nature, or to do anything that would put them in difficulty in the event of a change in the political composition of the Council.

2.4. Opposition councillors

2.4.1. As individual councillors, all councillors have the same rights and obligations in their relationships with officers and should be treated equally. This principle is particularly important in the context of overview and scrutiny. However, where a political group forms an administration, it is recognised that the relationship between officers (particularly those in senior management roles) and the administration will differ from that with opposition groups.

2.5. Officers

2.5.1. The role of officers is to give advice and information to councillors and to implement the policies determined by the Council.

2.5.2. In giving advice to councillors, and in preparing and presenting reports, it is the responsibility of the officer to express his/her own professional views and recommendations. Whilst an officer may report the views of individual councillors on an issue (e.g. in response to a consultation process), if the councillor wishes to express a contrary view, he/she should not seek to pressure the officer to make a recommendation contrary to the officer's professional view.

2.5.3. Certain officers (e.g. Head of Paid Service, Monitoring Officer and Chief Finance Officer [Section 151 officer] have responsibilities in law over and above their obligations to the Council and to individual councillors, and councillors must respect these obligations, must not obstruct officers in the discharge of these responsibilities, and must not victimise officers for discharging these responsibilities.

3. Expectations

3.1. Councillors can expect the following from officers:

(i) Respect, dignity and courtesy

- (ii) A commitment to the Council as a whole, and not to any political group
- (iii) A constructive working partnership
- (iv) An understanding of, and support for, respective roles, workloads and pressures
- (v) Timely response to enquiries and complaints
- (vi) Professional advice, not influenced by political views or political preference, which does not compromise the political neutrality of officers
- (vii) Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold within, or appointed by, the Council
- (viii) Equality of treatment so that the same councillors do not receive disproportionate support due to the manner in which they raise issues
- (ix) Awareness of and sensitivity to the political environment
- (x) Training and development, in order to carry out their role effectively
- (xi) Integrity, mutual support and appropriate confidentiality
- (xii) That officers will not raise personal issues with them outside the agreed procedures
- (xiii) That officers will not use their relationship with councillors to advance their personal interests or to influence decisions improperly
- (xiv) That officers will at all times comply with any relevant Code of Conduct
- (xv) Support for the role of councillors as the local representatives of the Council within any scheme of support for councillors that may be approved by the authority.

3.2. Officers can expect the following from councillors:

- (i) Respect, dignity and courtesy
- (ii) A constructive working partnership
- (iii) An understanding of, and support for, respective roles, workloads and pressures
- (iv) Political leadership and strategic direction
- (v) Integrity, mutual support and appropriate confidentiality
- (vi) Not to be subject to bullying or to be put under undue pressure; councillors should bear in mind the level of seniority of officers in determining what are reasonable requests, having regard to the power relationship between councillors and officers and the potential vulnerability of officers, particularly at more junior levels
- (vii) That councillors will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly
- (viii) That councillors will at all times comply with the relevant Code of Conduct.

3.3. Limitations upon Behaviour

3.3.1. The distinct roles of councillors and officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- (i) Close personal relationships between councillors and officers can confuse these separate roles and get in the way of the proper discharge of the Council's functions, not least in creating the

perception in others that a particular councillor or officer may secure advantageous treatment.

- (ii) The need to maintain the separate roles means that there are limits to the matters on which they may seek the advice of officers, especially personal matters and party political issues.
- (iii) Relationships with particular individuals or party groups should not be such as to create public suspicion that an officer favours that councillor or group above others. The issue of officer attendance and advice to political groups is specifically covered below.

4. Members' Code of Conduct

- 4.1 In accordance with legislative requirements the Council has a members' Code of Conduct. The Code is intended to be consistent with the Nolan seven principles of public life, and should be read in the light of those principles: namely, that councillors will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 4.2 The Code specifies what general conduct is expected of councillors, including: treating others with respect, not bullying, or conducting themselves in a manner which could reasonably be regarded as bringing the Council, or the office of councillors, into disrepute. The Code also makes provision for registering and declaring councillor interests. Detailed arrangements are also in place for dealing with complaints against councillors. The Code and arrangements can be found on the Council's website.

5 Decision-Making by Managers

- 5.1 The Constitution delegates to Strategic Directors and other managers, the power to make decisions over a wide range of matters. In some cases, the Constitution provides that the delegation may only be exercised after the manager concerned has consulted the Leader or nominated Cabinet member. Managers must consider carefully any comments made to them by the councillor(s) concerned, but must bear in mind that it is the manager, not the councillor, who takes the decision in these circumstances and is responsible for it. They must also bear in mind that no officer can be compelled to take a decision with which he/she considers to be wrong or inequitable.
- 5.2. A manager is not obliged to take a decision on a matter delegated to him/her: he/she may refer the matter to the appropriate Council body for a decision. Indeed, managers should do this if they feel that the issue is a particularly contentious one raises some new issues which were not contemplated when the delegation was first agreed.

6 The Council as Employer

- 6.1 The Council is collectively the employer of all Council employees. It is responsible for settling the terms and conditions on which people are employed, and the human resources framework by which they are managed.
- 6.2 It is important that councillors are clear about the Council's, and their own, role in relation to the management of employees. Councillors must ensure that, by their

individual actions, they do not act outside the framework established to deal with employee matters or contrary to Council policies and procedures in relation to employees.

- 6.3 Under the Constitution, the Council has delegated to managers the responsibility for appointments, dismissals and disciplinary action, and for dealing with employee matters in accordance with the Council's human resources framework and the relevant national conditions of service. Councillors are responsible for:
- (i) Certain senior appointments (through the Special Appointments Committee and/or the full Council)
 - (ii) Settling terms and conditions and the human resources framework (through Cabinet and full Council)
 - (iii) Determining appeals from employees of the Council in relation to conditions of service, discipline and so on (through the Personnel Appeals Committee).
- 6.4 It is essential to the proper running of the Council that councillors and officers do not step outside this framework. Officers must not raise with councillors personal matters to do with their job, nor make claims or allegations about other employees. For their part, councillors must not attempt to deal with any such matters raised by officers, but should remind the officer that such matters should be dealt with through the appropriate consultation, grievance or confidential reporting procedure. Councillors should not, for example, seek to 'represent' any officer during any management process such as disciplinary or grievance proceedings.
- 6.5 If a councillor has concerns about the management of a particular service, they should raise those concerns with the appropriate Service Director or Strategic Director, or ultimately with the Chief Executive.
- 6.6 Employee relations matters and disputes need to be handled particularly carefully. Councillors need to remember that it is the Council that is the employer and that every councillor is part of the Council. Where disputes arise, they will be handled corporately. It would be extremely damaging to the Council's position, and to relationships with employees, if individual councillors were to act independently of the Council. In particular, individual councillors or groups of councillors should not hold separate formal discussions with employees and purport to represent the Council.
- 6.7 In all matters relating to employees, councillors should bear in mind that because they are, collectively, the employer, the actions of an individual councillor may incur liability for the Council.

7 Councillors' Access to Information and Advice

7.1 Documents

7.1.1 Councillors' legal rights to inspect Council documents are covered partly by statute and partly by common law. Councillors generally have a statutory right to inspect agendas, minutes and background papers of the Council, the Cabinet, Overview and Scrutiny Committees, the Council's regulatory committees (e.g. Planning & Development, Licensing and

Regulatory Committees) and the Audit and Standards Committee. However, this does not apply to certain items that are regarded as exempt business: for example, because they relate to individual employees, to contract or industrial relations negotiations, to applicants for Council services and so on. These rights are set out more fully in the Access to Information Rules, which are detailed in the Constitution. Councillors also have the same rights under the Freedom of Information Act 2000 as the general public to access recorded information held by the Council.

- 7.1.2 The common law right is broader. It is based on the principle that any councillor has, on the face of it, a right to inspect Council documents if access to those documents is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council. This is often referred to as the 'need to know' principle.
- 7.1.3 It is for the councillor concerned to demonstrate that he/she has a 'need to know'. Mere curiosity is not enough.
- 7.1.4 The Strategic Director, Corporate Services and Governance will give advice on councillors' rights of access to documents and any questions on this subject should be directed to him/her.
- 7.1.5 Any Council information provided to a councillor must only be used by the councillor for the purpose for which it was provided, namely in connection with the councillor's duties as a councillor, unless the information is already in the public domain.
- 7.1.6 The Code of Conduct provides that a councillor must not disclose information given to him/her in confidence by anyone without the consent of a person authorised to give it, or unless he/she is required to do so. Equally, a councillor must not prevent another person from gaining access to information to which that person is entitled by law.
- 7.1.7 If a councillor is not receiving, or is having difficulty in obtaining, information that is needed, or to which he/she considers he/she is entitled, the councillor should contact the relevant Strategic Director or, ultimately, the Monitoring Officer, for advice.

7.2 Advice

- 7.2.1 Councillors may ask appropriate officers (normally at Service Director level or above) for advice on:
 - (i) Matters likely to come before the Council, the Cabinet or another decision-making body or an Overview and Scrutiny committee (for example, an item in the Schedule of Decisions or a planning application);
 - (ii) Matters with which they have to deal as ward councillors; or
 - (iii) Matters which they may have to deal with as a representative of the Council on an outside body.

- 7.2.2 Where advice is sought through a Strategic or Service Director, in the interests of efficiency, the Director will arrange for the advice to be provided by an officer best placed to deal with it, at whatever level.
- 7.2.3 In general, Services will adopt a 'right person, right setting' approach so that the most appropriate officer, of whatever level, will advise and assist in whatever setting, including attendance at portfolio meetings and other councillor non-decision making meetings.
- 7.2.4 Officers will provide such advice to the best of their ability, together with any relevant information to which the councillor is entitled to have access, in accordance with the principles set out in section.7 above.
- 7.2.5 Where an officer has provided advice on a matter in the Schedule of Decisions, he/she should inform the relevant Cabinet member and the Leader. Where the advice relates to a matter going before another decision-making body, such as a licensing or planning application, the Chair of that body should be informed.
- 7.2.6 If it appears that any request for advice or information is excessive or unreasonable, the matter should be taken up with the appropriate Strategic Director, ultimately, the Strategic Director, Corporate Services & Governance.

8 The Mayor and officers

- 8.1 The role of Mayor of Gateshead is not merely a traditional one, important though that is. The position is well understood and respected by the people of Gateshead, and because the Mayor is a focal point for the diverse communities of Gateshead, it is a position that contributes greatly to the Council's goal of social inclusion, and citizen engagement.
- 8.2 Officers should treat the Mayor with the respect due to his/her office. They should address him/her by his/her title. Officers must do everything possible to ensure that the dignity of the office is upheld.
- 8.3 The role of Mayor is an onerous one, and the Mayor is entitled to look for support and advice from all levels of the organisation.

9 The Leader and Cabinet and officers

- 9.1 The Cabinet collectively takes decisions in the name of the Council, provided those decisions are within the Council's budget and policy framework. In addition, Cabinet members individually have portfolios through which they lead change, publicly present issues, lead consultation exercises and generally represent the Council.
- 9.2 It is clearly important that there should be a close working relationship between Cabinet members and Strategic Directors, Service Directors and other senior managers of the authority. A similarly close working relationship should prevail

between a portfolio holder and the senior managers working in that portfolio area. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Director managers' ability to deal impartially with other members or with other elements of the Council democratic framework.

- 9.3 When dealing with portfolio issues, both Cabinet members and the officers who advise them should be aware of the wider policy implications for the Council and the need to involve other members and officers where appropriate.
- 9.4 All reports to the Cabinet are submitted in the name of the Chief Executive and/or one or more Strategic Directors. Those persons are responsible for the contents of reports submitted in their name.
- 9.5 Dialogue between officers and Cabinet members, and briefing of the Cabinet collectively and of individual members, are to be encouraged. It is also quite proper, and desirable, for officers to discuss with members alternative ways of achieving the Council's agreed policy objectives. However, authors of reports must take responsibility for their reports and must not include any advice which they do not believe to be proper or in the Council's interests, or any information which they do not believe to be correct, unlawful or illegal. For their part members must not put officers under pressure to give such advice or information. Any difficulties in this regard should be raised by the officer with his/her Service Director or Strategic Director or ultimately with the Monitoring Officer.

10 Chairs and Members of Overview and Scrutiny and officers

- 10.1 The Council does not formally separate officer support between the Cabinet and the Overview and Scrutiny function. Indeed, the Scrutiny function in Gateshead is seen as an integral part of the Council's framework, working within that framework to enhance policy making. However, officers who have to advise the Cabinet and then account to Overview and Scrutiny Committees for that advice could find themselves in a difficult position unless there are conventions in place to deal with that situation.
- 10.2 As part of the Overview and Scrutiny Rules that appear elsewhere in this constitution, the Council has adopted a number of conventions including:
- 10.3 To avoid putting junior employees under undue pressure, only officers of Service Director level or above will normally be invited to attend Overview and Scrutiny Committee meetings, although more junior officers could be invited following consultation if appropriate;
- 10.4 An officer is entitled to be accompanied by another officer. Indeed, it will often be the most effective way of responding to the Committee's enquiries if the manager responsible for the service is accompanied by a specialist officer with detailed knowledge of the topic;
- 10.5 The Chief Executive is entitled to make representations if he/she feels that an inappropriate officer has been asked to attend;

- 10.6 An officer may undertake to give a written answer, or ask for time to seek further information, if he/she feels it is appropriate.
- 10.7 When attending Overview and Scrutiny Committees, officers should confine their information and evidence, as far as possible to questions of fact and explanation relating to policies and decisions. They should also, if required, explain and justify advice they have given to the Cabinet, and the decisions they have themselves taken under delegated powers. As far as possible, officers should avoid being drawn into discussions of the merits of alternative policies where this is politically contentious, and their comments should always be consistent with their obligation to be politically impartial.
- 10.8 Members of Overview and Scrutiny Committees should bear in mind that officers' evidence should be restricted to questions of fact and explanation, and should not press officers to go outside that remit.
- 10.9 Cabinet members should bear in mind that officers who are called before an Overview and Scrutiny Committee are obliged to provide frank and honest explanations of the advice they have given, even where that advice was not taken.

11 Chairs and Members of Other Committees and officers

- 11.1 The Council has a range of committees that deal with 'non-executive' matters. The main ones are:

- (i) the Planning and Development Committee
- (ii) the Licensing and Regulatory Committees
- (iii) the Rights of Way Committee
- (iv) the Appeals Committee
- (v) the Personnel Appeals Committee
- (vi) the Audit and Standards Committee
- (vii) the Accounts Committee

- 11.2 Some officers, as part of their normal duties, will be in regular contact with the chair and members of these committees. Much of what is said in section 7 about the relationship between officers and the Cabinet will also apply, allowing for the different circumstances, to the relationship between officers and chairs/members of non-executive committees.

- 11.2.1 To summarise, the main principles are:

- (i) officers will need to maintain a close relationship with the chairs/councillors concerned, but
- (ii) that relationship must not be such as to call in to question officers' impartiality;
- (iii) there should be dialogue between senior managers and the relevant chair
- (iv) it is the authors' responsibility to ensure that reports include only proper advice and correct information; and
- (v) councillors must not put officers under pressure to give advice or information in any other way.

12 Officers and Political Groups

- 12.1 Officers are politically neutral and must be seen to be so. They serve the whole Council and not a political group. Senior officers cannot be a councillor for the employing Council, nor can they speak or publish written work for the public at large or to a section of the public with the apparent intention of affecting public support for a political party.
- 12.2 However, it is recognised that from time to time there will be occasions particularly on major policy matters, when it is in both the Council's and the group's interests that a political group should receive the professional advice of officers on a specific matter.

A protocol has been agreed to cover these situations. This is attached as Annex 3A.

13 Councillors in their Ward Role and officers

- 13.1 All councillors have a vitally important role to play as representatives of their wards and communities. Officers have a duty to support them in this role.
- 13.2 Officers should respond positively to requests for councillors, in their ward role, for advice (see paragraph 6.8) or for assistance in dealing with a ward matter.
- 13.3 Clearly, officers must not go outside the Council policy in attempting to resolve a ward issue, and there must be no suggestion that any person has received preferential treatment simply because he/she has taken the matter up through a member. For their part, councillors must not expect officers to go outside Council policy or distort the Council's agreed priorities, for example by insisting that works are undertaken when they wouldn't normally be done because of service reductions. However, if it is clear that the application of a Council policy would cause unreasonable hardship, or would have some consequence that may not have been foreseen when the policy was drawn up, it is proper and reasonable for the matter to be drawn to the attention of the relevant Strategic Director, who will then consider how the matter should be pursued.
- 13.4 Protocols have been drawn up to cover a number of specific situations relating to members in their ward role. These are:
- (i) public meetings (annex 3B)
 - (ii) candidates at local elections (annex 3C)
 - (iii) parliamentary candidates (annex 3D).

14 Other Individuals who are Members of Council Bodies

- 14.1 A modern system of local government requires the development of effective relationships between the Council and local people and organisations. Often this leads to the direct participation of local people and organisations in Council bodies.

- 14.2 This participation can take many forms. At the most formal level, church and parent governor representatives must be appointed by law to the relevant Overview & Scrutiny committee, with full voting rights on education matters. Other arrangements may be less formal, for example the co-option of individuals outside the Council (without voting rights) onto advisory groups or Overview and Scrutiny committees, or the involvement of a range of organisations on different partnership boards.
- 14.3 It goes without saying that, whatever the formal position, people from outside the Council who serve on Council bodies must be treated with respect and encouraged to feel that they have an equal contribution to make with their Council and non-Council colleagues. They should never be left feeling that they are 'second class' members of the body to which they belong. Impressions can be very important here; for example, officers should take care to include non-Council members in the informal conversations that often take place at the beginning or end of meetings.
- 14.4 Normally non-Council members will be entitled to receive the same information relating to the work of the body they serve as their Council colleagues and to be included in the same events (visits to facilities and so on). However, non-Council members will not have a right to be supplied with information that is not related to the Council business with which they are concerned - unless of course that information would be available to other members of the public.
- 14.5 Officers whose role it is to advise bodies on which non-Council members serve must ensure that they are absolutely clear about the legal status of those members - whether they have voting rights on some or all of that body's business, which items they can speak on and so on. Officers who undertake this role must be ready to give the necessary advice, but should avoid creating a difficulty where none exists.

15 Press Releases

- 15.1 Official press releases on behalf of the Council will be prepared and circulated by the Council's Communications service.
- 15.2 It is councillors collectively who are ultimately accountable for the services provided by the Council and the Council's developments and achievements. Official press releases will therefore give proper weight to the role of the relevant members in each case. In particular, Cabinet members have a role under the constitution to publicly present issues and policies as they develop and this should be borne in mind in all contacts with the media. Where practicable, ward councillors should be informed on matters affecting their wards in particular, prior to release.
- 15.3 Any official publicity must conform to the requirements of the Code of Recommended Practice on Local Authority Publicity issued by the Secretary of State under the Local Government Act 1986.
- 15.4 There is of course nothing to prevent any councillors from communicating with the media or on individual basis, but councillors should bear in mind that they

are not doing so on behalf of the Council and they should not use Council facilities for this purpose.

- 15.5 In making public statements on their own account, councillors should seek to ensure that, as far reasonably possible, they have verified the information and that such statements are justified and proportionate and do not adversely affect the interests of the Council and its residents.

16 Correspondence

- 16.1 Except in very exceptional circumstances, all letters on official Council business should be sent out over the name of the appropriate officer. (An exception might be, for example, the Leader of the Council raising an issue on behalf of the Council with a Government Minister).
- 16.2 This does not, of course, prevent a councillor responding in his/her own name to a letter addressed to him/her in his/her official capacity (e.g. Cabinet member, chair of a decision-making body) or as a ward councillor, such as a letter of complaint. In these situations, councillors are free to seek advice from appropriate officers and would often be well advised to do so, for example if approached about a planning application.
- 16.3 Letters that create obligations or give instructions on behalf of the Council should never be sent out over the name of a councillor.

17 Use of the Council's Resources

- 17.1 It is an established principle that a modern council will rely on the ability of all of its members, whether in the executive or backbench role, to adapt to different ways of working. All councils should give those serving as councillors or as co-opted members the officer support, facilities and training necessary for them to fulfil their role, be it executive or otherwise, as effectively as possible.
- 17.2 The Council endorses these principles and accordingly seeks to provide councillors with a range of support services, including:
- (i) stationery, typing and photocopying
 - (ii) The use of certain employees, such as the Councillors' Secretary and support staff in the Cabinet Office
 - (iii) An increasingly wide range of ICT services, including some services that can be used by councillors in their own homes, such as iPads, internet access and printers.

It is important that all these support services are used properly, to support the work that councillors carry out as councillors. They should not be used in accordance with policies in force, such as the Acceptable Use Policy and Councillors' ICT Security Policy.

- 17.3 In using the Council's ICT resources, councillors must comply with the councillors' ICT Security Policy. Failure to comply could have serious consequences for the Council, for example in exposing it to legal liability.

- 17.4 Councillors should take care not to put members of staff - particularly those who provide support to them - under pressure to carry out tasks that they are not authorised to do.
- 17.5 The Code of Conduct requires councillors, when using the Council's resources or authorising their use by others, to act in accordance with the Council's reasonable requirements.

18 If things go wrong

18.1 Procedure for officers

From time to time, the relationship between councillors and officers may break down or become strained. Whilst it will always be preferable to resolve matters informally through resolution involving senior management or councillors, it is open to officers to make a formal complaint under the members' Code of Conduct.

18.2 Procedure for councillors

In the event that a councillor is dissatisfied with the conduct, behaviour or performance of an officer, the matter should be raised with the appropriate Strategic Director. Where the employee is the Chief Executive the matter should be raised with the Monitoring Officer. Attempts will be made to resolve the matter informally but if this is ineffective it may be necessary to invoke the Council's disciplinary procedures.

Protocol – Officer Attendance at Political Group Meetings and Other Political Meetings

1. Introduction

- 1.1 This protocol gives guidance on responding to requests to attend political group and other political meetings, and on how officers should conduct themselves at such meetings.

2. Political Group Meetings

- 2.1 This part of the Protocol refers to meetings of any of the political groups represented on the Council.
- 2.2 The attendance of officers at political group meetings must be handled properly. Officers are, of course, politically neutral and must be seen to be so. They serve the whole Council and not a political group.
- 2.3 From time to time there will be occasions, particularly on major policy matters, when it is in both the Council's and the group's interest that a political group should receive the professional advice of officers on a specific matter.
- 2.4 When these situations arise, it is essential to have mechanisms in place to avoid any possible conflict of interest or misunderstanding. The following Rules will therefore apply:
 - (i) officer attendance at political group meetings must be agreed with the Chief Executive, who will decide who should attend and the subject matter of the item; and
 - (ii) an officer who attends a political group meeting must be accompanied by another officer.
- 2.5 At the meeting, officers should confine themselves to questions of fact and explanation relating to policies and recommendations.
- 2.6 Officers must maintain the confidentiality of proceedings of political groups. However, it is proper for an officer to debrief his/her senior officer on matters which they need to know (for example a Service Director may debrief his/her Strategic Director). It is also proper for an officer to debrief:
 - (i) the Chief Executive
 - (ii) the monitoring officer and/or the section 151 officer in relation to matters of that they need to be aware in order to carry out their statutory roles.
- 2.7 In this, as in other situations, councillors and officers will treat each other with courtesy and respect.

3. Other Political Meetings

- 3.1 Requests are also sometimes received for officers to attend other meetings of a political nature, for example a branch meeting of a political party.
- 3.2 All such requests must be referred to the Chief Executive, who will decide whether or not it should be accepted. In considering whether to accept a request, the prime consideration will be whether it is in the Council's interests, in terms of imparting information and explaining the Council's position on significant policy issues that officers should attend. There is no obligation to accept any request.
- 3.3 Where it is agreed to accept a request, the meeting must always be attended by two officers.
- 3.4 When attending political meetings:
 - (i) officers should confine themselves to questions of fact and explanation relating to policies and recommendations (paragraph 6 applies)
 - (ii) officers should maintain confidentiality, but may brief more senior officers on matters that they need to know (paragraph 7 applies).

4. Ward Surgeries

- 4.1 Officers will not normally attend ward surgeries. However, all officers will be expected to deal promptly and efficiently with any queries, service requests or other issues that may be referred to them by councillors arising from their ward surgeries.

Protocol – Public Meetings

1. Public meetings are a valuable means of consulting on issues of local concern. They provide the Council with a means of explaining its position and allowing local people to understand the issues involved.
2. The Council arranges many public meetings on its own initiative. In addition, requests for such meetings may also come from councillors and occasionally from other individuals and interested groups. Normally these requests do not cause a difficulty but occasionally the issues involved can raise local sensitivities particularly in wards where there is mixed political representation. At times, adverse comments have been made about the Council's role in providing facilities and officers to attend at such meetings.
3. To ensure a consistent approach and avoid any possibility of misunderstanding the role of officers in such situations, the following administrative arrangements will apply:
 - (i) Requests for public meetings should be directed to the appropriate officer who will;
 - consider the request in consultation with the relevant portfolio holder alongside the Council's current policy on the matter
 - ensure that there is no conflict of interest with Council policy
 - ensure all Ward councillors are invited to attend the meeting.
 - (ii) Subject to the request being made by a councillor and the above conditions having been met, the appropriate officer will be responsible for booking and paying for the accommodation and for arrangements for the attendance of the relevant officers.

No meetings should be held between publication of the Notice of Election and Election Day.

4. If an individual councillor wishes to arrange a public meeting on his/her initiative and outside these arrangements, there is nothing to stop him/her doing so, but in that case, the Council will not pay for the accommodation and officers will normally attend only if the other Ward councillors have been invited also.

Protocol – Candidates at Local Elections

1. This note gives advice to officers on dealing with requests for advice or assistance from people who are standing as candidates at local elections, whether by-elections or the annual municipal elections.
2. If a candidate asks for advice or assistance on a matter relating to a constituent or affecting the area of the ward, the request should be treated as if it was coming from an individual on behalf of a constituent. It should be dealt with like any other such request; that is with courtesy and an attempt to help.
3. Where the candidate says that the matter has been raised by a constituent or constituents, he/she should be informed that officers will look into the matter and if he/she will provide the name of the constituent(s) who have raised it, officers will write to them directly. If the issue is one of more than individual concern, such as a complaint about the tidiness of an area, the response should also say that officers will inform the ward councillors and discuss it with them. But this is not required where the issue relates to one individual or household, for example a repair request or an inquiry about re-housing.
4. Sometimes a candidate may raise a matter apparently on his/her own initiative and without making any reference to it having been raised by constituents. In this case, officers should deal with it in the normal way and respond to the candidate as to anyone else who has requested assistance or information. It will not be necessary to inform the ward councillors unless the matter is judged to be particularly significant.
5. No preference should be given to any one candidate's request and no personal or confidential information should be given to candidates.
6. The situation is somewhat different when one of the ward councillors is himself/herself a candidate at the election. In this case, he/she remains the ward councillor right up until the day of retirement (the fourth day after the election) and should continue to be treated as such. This means, in particular, that if the ward councillor raises an issue on behalf of constituents, officers will correspond with him/her directly and without involving other ward councillors.
 - a. Note: a separate protocol applies in relation to candidates at parliamentary elections.
 - b. There are sometimes circumstances where no election has yet been called but individuals hold themselves out as being candidates. In this situation, the same Rules apply.

Protocol – Parliamentary Candidates

1. The first thing to note is that, once Parliament has been dissolved, there are no longer any Members of Parliament, only parliamentary candidates.
2. All parliamentary candidates should be treated the same and given the same facilities and opportunities. No preference should be given to any particular candidate. If a candidate asks to visit a particular facility, officers should take account of the views of residents and users in deciding whether a visit can be allowed. It is quite reasonable for conditions – such as no photographs – to be attached to visits where appropriate. The key principle is that all candidates are treated equally; whatever is allowed to one candidate must be allowed to others, with the same conditions applying.
3. All candidates or their agents may hire or book rooms for the purposes of holding meetings and so on. Again, no preference should be given to any one candidate.
4. There will be no MPs surgeries during the election campaign.
5. Requests from parliamentary candidates for advice or assistance for a constituent should be processed in the normal way. Again, no preference should be given to any one candidate's request, and no personal or confidential information should be given to candidates. It is no longer a matter of dealing with MPs and therefore the request should be treated as if it were coming from an individual on behalf of a constituent. It should be dealt with as the Council would deal with any such request, that is with courtesy and an attempt to help. Officers should indicate that they are going to look into the matter and if the candidate will provide the name of the constituent(s) who have raised it, officers will write to them directly. Where the matter has been raised by the candidate apparently on his/her own initiative without reference to constituents, officers should respond directly to the candidate.
6. The situation is somewhat different when a serving councillor for the Borough stands as a parliamentary candidate for a constituency that covers his/her ward. In that case, the councillor should continue to be treated as the ward councillor in relation to any matter relating to his/her ward; if he/she raises an issue on behalf of constituents in the ward, officers will correspond with him/her directly. However, if the issue does not relate to the councillor's ward, it should be treated as if it had been raised by any other candidate and dealt with as set out in paragraph 5.
7. The statutory Rules apply in relation to party political publicity. This means that election posters clearly seeking support for a political party are not permitted on Council property. In cases of doubt please contact the Strategic Director, Corporate Services and Governance.
8. Enquiries about matters relating to the election should be directed to the Service Director, Litigation, Elections and Registrars or the Election Office. The Election Office will supply a list of candidates and election agents as soon as it is available.

Note: a separate protocol applies in relation to candidates at local elections.



PROTOCOL FOR COUNCILLOR LEARNING AND DEVELOPMENT

Gateshead Council is committed to the learning, training and development of all its councillors.

1. Roles and Responsibilities

Political group leaders have pledged their commitment to learning and development for councillors. A cross-party Councillor Support and Development Group was established in 2008, to monitor and advise on the Council's current and future arrangements for councillor development. This group is responsible for:

- Helping their peers to identify and find opportunities to meet their learning and development needs, usually via the Personal Development Plan (PDP) process.
- Creating an environment that encourages self-development and continuous learning and the sharing of knowledge and skills amongst the councillors in the political groups.
- Encouraging councillors to attend seminars and other appropriate training and development events on a regular basis
- Encouraging councillors to complete a Personal Development Plan and take part in their own political group appraisal schemes
- Assessing value for money in learning and development and ensuring adherence to equal opportunities principles
- Monitoring the application of this policy by evaluating the outcomes of what the councillors have achieved via their PDPs, as well as reviewing the framework established to support them in their development.

All councillors have individual responsibility to:

- identify their own learning and development needs by completing a Personal Development Plan
- seek opportunities to improve their effectiveness and increase their potential
- undertake to attend once during each term of office, those training courses that are essential including:
 - Ethics, probity and Code of Conduct
 - Training relating to committee membership, and
 - Equalities
 - Children and Adults Safeguarding
- share their knowledge and skills with their peers.
- review and evaluate learning and development activities so as to apply increased knowledge, skills and personal qualities developed through the activities.

2. Resources

The Council provides a budget for councillor development. This budget will cover priority needs linked to corporate, constitutional and individual learning and development requirements as identified in Personal Development Plans. The full cost

of all learning and development will be identified and monitored by the Councillor Support and Development Group through regular reviews.

Councillors' entitlements to travel and subsistence and dependent carers allowance for attendance at learning and development events, is stated in the Councillors' Scheme of Allowances.

3. Accessing Learning and Development Opportunities

The methods to be considered will be both internal and external and will cater for the variety of roles councillors are expected to undertake and will take into account the Council's priorities as well as the Councillors' Personal Development Plans.

Every effort will be made to ensure that internal resources or resources from partner groups are considered initially. They will include:

- Internal: induction, access to Intranet, Internet (per Internet Policy) and e-learning, seminars, training courses, workshops, mentoring, briefings (including repeat sessions for councillors unable to attend initial session).
- External: induction, peer support/councillor mentoring, focused visits, workshops, regional and national training courses, seminars and conferences.

4. Evaluation

So that the return on investment in learning and development is secured, it is the responsibility of the Councillor Support and Development Group, with support from officers, to ensure that evaluation takes place at the following levels:

- Immediate review (eg. that the learning and development activity was satisfactory and gave value for money) via feedback questionnaires.
- Acquisition of skill, knowledge and personal qualities (eg that the required levels of knowledge, skill or personal qualities have been acquired) via PDP reviews.
- Performance improvement (eg. knowledge, skill, new behaviours or personal qualities are being applied in practice and improvements have resulted).
- High level review (eg that increases in skills, knowledge or personal qualities acquired through learning and development have been relevant and made direct contributions to the achievement of Council objectives).



Protocol for Councillors' Attendance at Meetings

1. A proper programme of training and development will ensure councillors are able to undertake their full range of functions and, in particular, to attend and participate effectively in all meetings of Council bodies of which they are designated members.
2. Councillors should aim to attend 100% of meetings of Council bodies, unless there is a reasonable excuse for not doing so.
3. If councillors are unable to attend a meeting, they should inform the relevant Democratic Services Officer as soon as they are able.
4. A persistent failure to attend meetings, without reasonable excuse, could be viewed as bringing the office of councillor into disrepute and a potential breach of the Councillors' Code of Conduct.
5. Councillors are reminded of the provisions of Section 85 of the Local Government Act 1972, which provides that if a councillor fails to attend a formal meeting of the Authority for six consecutive months, then they cease to be a member of the Authority, unless full Council agrees the reason for the non-attendance, prior to the end of the six month period.

Role Description: Member of an Outside Body

Role	Actions	Skills/Behaviour
1. To participate in the activities of an outside body to which the councillor is appointed.	By: <ul style="list-style-type: none"> • developing and maintaining a working knowledge of the policies and practices in relation to that body • showing a willingness to learn from the experience and advice of others and to apply this learning to become more effective • exercising your right to speak and vote if eligible to do so 	These include: <ul style="list-style-type: none"> • assertiveness/assurance • listening • understanding legal basis • probity • objectivity • mediation • networking
2. To provide two way communication between the Council and the outside body	By: <ul style="list-style-type: none"> • keeping the Council informed of the proceedings of that outside body, subject to any issues of confidentiality 	These include: <ul style="list-style-type: none"> • listening • probity • understanding legal basis
3. Acting in the best interest of the body to which the councillor is appointed.	By: <ul style="list-style-type: none"> • attending board/management committee meetings and following rules on declaration of interests • demonstrating integrity and impartiality in decision making • recognising and understanding where conflicts of interests occur and seeking advice on how to handle them • taking responsibility for all main decisions in relation to the operation of the body to which you are appointed 	These include: <ul style="list-style-type: none"> • working constructively to achieve realistic solutions • ability to question and challenge. • probity
4. To comply with the Code of Conduct, unless that body is another relevant authority which has its own Code, or	By: <ul style="list-style-type: none"> • promoting and maintaining high standards of conduct for councillors 	These include: <ul style="list-style-type: none"> • awareness of the Code of Conduct • awareness of current guidance

Role	Actions	Skills/Behaviour
<p>unless observance of the Code would conflict with any other obligations (ie the duty to act in the best interests of the outside body).</p>	<ul style="list-style-type: none"> undertaking a duty of confidentiality – to both the Council and outside body. Not to take advantage of receiving confidential information or deliberately leaking information 	
<p>5. To be aware of the level of cover of any insurance or indemnity provided to members appointed to the body.</p>	<p>By:</p> <ul style="list-style-type: none"> seeking advice and support from the Council's Strategic Director of Legal and Corporate Services, regarding whether appropriate insurance cover is in place 	<p>These include:</p> <ul style="list-style-type: none"> awareness of current guidance



Protocol on Appointments to Outside Bodies The Councillors' Roles – General Guidance and Potential Pitfalls

1. Introduction

Alongside their involvement in the Council itself, it is usual for councillors to be involved in a wide range of outside bodies, including community organisations, sports and recreation clubs, housing associations and companies.

Sometimes members will be appointed to sit on these organisations by the Council itself, for example to discharge Council duties through formal partnerships, or as formal appointments to national or regional 'representative' roles, such as on the LGA, ANEC or the Combined Authority. In other cases, the member may be appointed independently of any Council involvement. This guidance deals predominantly with those instances in which the Councillor has been nominated or appointed onto the outside body by the Council.

Councils and the outside bodies themselves can gain a number of benefits from councillors being involved in their leadership and governance:

- To provide knowledge, skills and expertise which may not otherwise be available
- To provide local accountability or democratic legitimacy through the appointment of an elected representative
- To ensure that good relationships can be maintained with the body
- To deliver a partnership project that requires the input of other organisations or community groups
- To protect the Council's investment or assets: e.g. if the Council has provided grant funding or provides funding for service delivery
- To lever in external funding which would not be available to the Council on its own

There are a number of types of outside bodies in which members may become involved as a representative appointed by the Council. Some common examples are:

- National or regional body
- Charitable Trust
- School and Academies Boards of Governors
- Company limited by shares
- Company limited by guarantee
- Unincorporated association
- Industrial and provident society (mainly housing associations)

The structure of each type of organisation, the management, and the rules which govern the organisation, vary. The following table shows how each type is set up and managed:

Legal Status of the organisation	Governing Document	Management	Possible councillor involvement	Common types of organisation
A public authority	Constitution usually based on legislation	Authority	Member	Combined Authority Fire & Rescue Authority
Charitable Trust	Trust Deed	Trustee meetings	Trustee	Playing field trusts
Company limited by guarantee	Memorandum and Articles	a) Board of Directors b) Meetings of members	Director (may also be known as a trustee, governor or Board member)	Charitable organisations, housing companies, community associations, academy trusts
Company limited by shares	Memorandum and Articles	a) Board of Directors b) Meetings of shareholders	Director	Commercial organisations (e.g. joint ventures or companies providing contractual services; trading subsidiaries)
Unincorporated association	Constitution	Management Committee Members meeting	Management Committee member	Community associations

Regardless of how the appointment is made, the law lays down many requirements with which councillors must comply. These may include duties to the Council, as well as duties to the outside body and its members.

An appointment to an outside body does not, therefore, necessarily mean that you will be representing the Council's interests on that outside body. Indeed there are a number of cases, for example if you are a trustee or a company director, where you must always act in the interests of the outside body and not necessarily in the Council's interests.

This can lead to conflicts of interests between your role as a Councillor and your representative role on the outside body.

You will only be considered a representative of your Council on an outside body if you have been formally appointed or nominated by the Council to this role. You should not purport to act as Council representative on an outside body unless a formal appointment has been made.

Set out below are a number of matters that you should take into account if you act on one or more outside body.

2. Appointment and reporting back

Your appointment should be within any policy your Council has adopted for involvement in partnerships and outside bodies (for example the protocol on local authority school governors). This policy may explain some of the reasons why the Council may wish to appoint a representative e.g. in order to provide skills or democratic legitimacy, or to protect the Council's assets, or for other reasons.

You must ensure that your appointment has been made in accordance with the Council's Constitution. This is usually done either by resolution of Council or Cabinet.

It is important that anyone who is appointed to an outside body provides information and reports periodically to the Council on what the organisation is doing. The Council may have adopted an approach on how and when such reports are to be presented. You should ensure that the outside body provides you with sufficient information to enable you to make this report back. BUT - you are not required to disclose anything which is commercially confidential as this may be in breach of:

- the Members' Code of Conduct;
- your duties of confidentiality to the outside body (whether as director, trustee or more generally); or
- may be a breach of confidence in the general sense, such as releasing information covered by data protection legislation.

3. General Advice and Guidance to Councillors Appointed to Outside Bodies

As a minimum you should:

- Ensure that you know the legal status of the organisation – refer to the table above and read the governing document to understand your responsibilities; if still unclear, seek advice from the Strategic Director, Corporate Services & Governance;
- Ensure that if you are appointed a director of a Company the relevant form (form 288) is filed at Companies' House upon your appointment and resignation;
- Make any general declarations of interest at the first meeting (see section 7 below);
- Ask if there is any personal liability insurance or indemnity in place – sometimes referred to as directors' liability insurance (see section 8 below);
- Clarify whether the organisation will pay allowances or expenses (see section 8 below);
- Ensure the board or management committee has regular financial and other reports which detail the current financial situation of the organisation and any liabilities - take an interest in the business plan;
- Discuss with relevant officers any new activities that the outside body undertakes (you may need to provide them with copy papers) and ensure that risks are properly identified in reports (consistent with local authority decision making - ensure that all relevant information is presented);
- Observe duties of confidentiality (in both directions) (see section 7 below);
- Carefully consider any conflicts of interest, declare interests, and if appropriate, leave the room for consideration of the business (see section 6 below);
- Take advice from the Monitoring Officer, the Chief Finance Officer and your lead officer contact within the Council as appropriate - not just if the organisation is likely to become insolvent, but generally. Occasionally, that advice may be to seek external advice on your position, especially if there is a conflict between the organisation and the Council;
- Manage conflict - usually issues can be balanced, but ensure that when in meetings of the body you act in the body's best interests which may not necessarily be those of the Council - if all else fails, resign. Do not just remain a director and fail to attend meetings or you may find that you are in breach of your duty to act in the best interests of that organisation (see section 6 below); and
- Finally, question the need for future Council involvement! Has the organisation come of age, or has it changed direction from when the Council first became involved - what useful purpose would ongoing representation serve?

4. Particular Duties and Responsibilities of Directors and Trustees

If you are appointed a director of a company then you must act in the best interests of the company. The main duties of a director are:

- to act honestly and in good faith and in the best interests of the company as a whole;
- a duty not to make a personal profit and to take proper care of the company's assets;
- to attend board meetings and follow the rules on the declaration of interests;
- to exercise reasonable skill and care (this is a subjective test based upon the individual's own knowledge and experience and involves due diligence in the performance of his/her duties as a director); and
- to comply with statutory obligations imposed by the Companies Acts, other legislation and any procedural rules set out in the governing document.

If you are appointed as a trustee of a charity then the duties of trustees are generally the same as for a director but in addition you must make sure the trust acts in accordance with the aims and objectives of the trust and you should make sure that you have a clear understanding of what these are (there is normally a trust deed which sets these out).

If you are appointed as a School Governor to an Academy School, you are likely to be both a company director and a charity trustee in which case the above advice will be relevant (see also para 1.6 and generally *The Department for Education's Governors' Handbook for Governors in Maintained Schools, Academies & Free Schools (January 2014)* for further details on your responsibilities).

It should be noted that there is no *requirement* for academies to have local authority appointed trustees (formerly governors). All trustees will be covered by an indemnity provided for by the academy's Articles of Association.

5. General Duties of a Representative on an Outside Body

In carrying out your duties as a trustee or director of an outside body you must take decisions without being influenced by the fact that you are a councillor. Your primary duty in making management decisions for the outside body is to make these decisions in the interests of the organisation. Councillors should always ensure that their fellow directors/trustees are aware of the fact that they are councillors.

In these cases, you must act in the interests of that body and exercise independent judgement in making decisions, in accordance with your duty of care to the body. You are not there just to vote in accordance with the Council's wishes. You may have regard to the interests of the Council, but this should not be the overriding consideration. In some cases voting in the Council's interests could be a breach of your director's duty to the company.

In other cases the Council may have expressed a view or formulated a policy and would expect you to convey that view or policy to the outside body. It is acceptable for you to do this as your Council's representative provided that it does not conflict with your particular duties as director or trustee or where it is clearly not contrary to the interests of the organisation.

The overriding responsibility is to seek to avoid a situation where duty and interest conflict and therefore if you are unsure about declaring an interest, it would be wise to declare and leave the meeting during consideration of the business (or whatever is required under the outside body's own code of conduct, if it has one – see section 7, below).

6. Managing Conflicts of Interest

In general terms the purposes of the outside body and what it wants to do often coincide with the Council's interest and so conflicts may be rare. However, there may be difficulty in some circumstances: for example, if the body is not complying with the terms and conditions of a funding agreement with the Council; or the organisation wishes to appeal against a planning decision made by the Council; or where the organisation has wider objects than the reason behind the Council's appointment and wishes to pursue activities which would conflict with Council policy.

You will need to manage the conflicts that will arise appropriately and in certain circumstances may feel that your only option is to resign from the company or body. Similarly, if the Council does not feel that a representative on an outside body is properly fulfilling their role and responsibilities (e.g. the person is not attending meetings or is voting in ways which may be inappropriate) then the Council could choose to change its representation on the outside body. Clearly there is a greater scope for conflicts to arise where you hold an office in the outside body: e.g. Chair, Vice-Chair, Secretary or Treasurer, than if you are a general member.

7. Declarations of Interest and Duties of Confidentiality - the Members' Code of Conduct

When outside bodies consider issues related to the Council or where you may have a personal interest in relation to the body's activities, these need to be declared in line with the rules of the outside body and the Members Code of Conduct : see *Gateshead Council's Constitution; Part 5; Councillors' Code of Conduct ('the Code')*. The specific rules adopted by each body will vary and therefore you should ask for advice and guidance from the secretary of the organisation and/or the Monitoring Officer, as appropriate.

When the Council considers issues relating to or affecting the outside body to which you have been appointed as Council representative you must declare your personal interest in the matter in accordance with the Members' Code of Conduct : see esp. paras 16/17 Part 4 of the Code : 'Non-Participation in Council Business'.

These provisions do not apply if you hold a relevant dispensation or the matter relates to the discharge of certain Council functions: see para 19 of the Code.

You will also need to ensure details of your appointment are included on the Register of Interests kept by the Monitoring Officer: see paras 11/12; Part 2 of the Code: 'Registration of Interests'.

Confidential information must be treated with care and if you have any doubt over the status of any information then you should keep that confidential and check with the relevant officer, whether or not it is something which is already in the public domain or which may be disclosed.

The legal position is that someone who has received information in confidence is not allowed to take improper advantage of it. Deliberate leaking of confidential information will also be a breach of the Members Code of Conduct.

Where you act as a representative of the Council on an outside body, you must comply with the code of conduct of that body, if it has one. If it does not, you must comply with the Members' Code of Conduct unless observance of the Code would conflict with any other obligations (i.e. the duty to act in the best interests of a company).

Under the Code, you must not:

- disclose information given to you in confidence by anyone, or information acquired which you believe is of a confidential nature, without the consent of a person authorised to give it, or unless you are required by law to do so (para9);
- prevent another person from gaining access to information to which that person is entitled by law (para 8).

Disclosing confidential information may also contravene other parts of the Code: e.g. it may be regarded as bringing the office of councillor or the Council into disrepute; may compromise the impartiality of people who work for the Council; may improperly confer or secure an advantage or disadvantage for you or any other person (see generally paras. 1- 10, Part 1: 'General Conduct').

8. Allowances, insurances and indemnities

The Council may have authorised attendance at meetings of certain outside bodies as an approved duty for councillors, allowing travelling and/or subsistence allowances in connection with meetings of the body. Alternatively, any expenses may be defrayed by the body itself, in accordance with its own rules. If the body does pay expenses, you may not claim from the Council. For further information on allowances contact the relevant officer in the Council.

In some instances councillors who represent the Council on outside bodies may carry personal liability for decisions they make and actions which they take in their representative capacity. This is most likely to arise if you have been appointed as director of a company, or a trustee of a charity or onto the management board of an organisation. The outside body may have insurance to cover your liability in these cases and you should check with the organisation.

The Local Government Act 2000 allows the Secretary of State to make regulations giving local authorities powers to provide some protection for a Councillor or officer acting as the Council's nominated director where a claim is brought against them because of some negligent act, or failure to act, in the course of carrying out their duties as directors. These regulations are set out in the 2004 Indemnities Order which came into effect in November 2004.

Cabinet granted an indemnity under these arrangements on 18 October 2005 and reference should be made to the terms set out in that report.

However, cover can only be provided by the authority where the officer or Councillor has been specifically appointed by the authority to act as the Council's nominated director; nor can it extend to acts by the councillor or officer regarded as criminal: e.g. wrongful or fraudulent trading. It can be used to meet the costs of defending any criminal proceedings but if convicted; the costs of the defence must be reimbursed to the Council or Insurance Company.

Cover cannot be provided where there is intentional wrongdoing, fraud or recklessness. Nor can it be provided to fund an action for defamation brought by a councillor or officer against a third party (although it can extend to defending an action for defamation brought *against* a councillor or officer by a third party). The cover also extends to councillors or officers doing acts which are outside the powers of the authority (i.e. *ultra vires*) so long as they reasonably believed what they were doing at the time was within the powers of the authority.

If a Councillor is a member of a body in their personal capacity they should be alert to the potential for personal liability and seek assurances regarding the indemnity and insurance position of the body concerned.

Contact Information:

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