

Values and Ethics Sub-Committee

Agenda



Date: Tuesday, 26 March 2019

Time: 12.15 pm

Venue: Room 1P09, City Hall

Distribution:

Councillors: Adebola Adebayo, Olly Mead, Anthony Negus, Liz Radford and Clive Stevens

Copies to: Nancy Rollason (Service Manager Legal), Allison Taylor (Democratic Services Officer), Lucy Fleming (Head of Democratic Engagement) and Louise deCordova (Democratic and Scrutiny Manager)

Issued by: Allison Taylor, Democratic Services

City Hall, PO Box 3176, Bristol, BS3 9FS

Tel: 0117 92 22237

E-mail: democratic.services@bristol.gov.uk

Date: Monday, 18 March 2019



Agenda

1. Welcome, Introductions and Apologies.

2. Declarations of Interest

3. Minutes

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4. Review of the Member Officer Protocol

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5. Update Regarding Member Development

(Pages 53 - 57)

6. Guidance for Councillors re Confidential/Exempt Information

(Pages 58 - 62)



Bristol City Council
Minutes of the Values and Ethics Sub-Committee**21 January 2019 at 12.00 pm****Members Present:-****Councillors:** Olly Mead, Anthony Negus, Liz Radford and Clive Stevens**Officers in Attendance:-**

Nancy Rollason (Service Manager Legal), Tim O'Gara (Director - Legal and Democratic Services) and Sam Wilcock (Democratic Services Officer)

1. Welcome, Introductions and Apologies

Apologies were received from Adebola Adebayo. Councillor Radford was elected to Chair the meeting in his absence.

2. Declarations of Interest

There were none.

3. Minutes

These were agreed as a correct record.

RESOLVED –**That the minutes of the previous meeting be agreed as a correct record and signed by the Chair.****4. Recommendations to inform the Work plan for the Values & Ethics Sub-Committee for the 2019/20 municipal year**

The Sub-Committee considered the report of the Director: Legal and Democratic Services which proposed the work programme for 2019-20. During the presentation of the report the following points were highlighted:

1. A report would return which would set out the current position, what the LGA peer review had recommended and a way forward. Also included would be the member/officer protocol and the process for confidential information.
2. It was important to avoid duplication with the Member Development Group.
3. Member's suggestions for topics for training and development included the budget, policy changes, GDPR, Casework and roles within Outside Bodies.
4. It was suggested that some training needs could be combined with other authorities.
5. With reference to confidentiality and the management of information suggestions included a clause within the Declaration of Office and consideration of privy Councillor status for some Members who would have enhanced access to confidential/exempt information.

RESOLVED: The proposed work programme was agreed.

5. Applications for dispensations

The Sub Committee considered a report of the Service Director: Legal and Democratic Services setting out details of dispensations to the elected Mayor and councillors in respect of disclosable pecuniary interests (DPIs) to enable them to participate in discussion and vote on matters in relation to the civic budget and the setting of the council tax at the Full Council budget meeting (such dispensations to be granted for the Full Council budget meeting only).

In discussion, whilst noting that it was the responsibility of each individual councillor to complete their entry in the register of interests, it was suggested that checks to the register should be prompted more frequently and that guidance to Councillors should be issued. It was also noted that following concerns expressed, officers would check the register entries for accuracy and completeness.

With reference to sensitive interests, it was confirmed that the Monitoring Officer made the final decisions and held full records.

A note would be also sent to all Members to remind them to ensure they were up to date on council tax payments.

Noting and taking account of the above, it was

RESOLVED –

That, in relation to the Full Council budget meeting, dispensations be granted to the Mayor / councillors in respect of their disclosable pecuniary interests.

6. Any Other Business

Concern was raised regarding the Council position on basic DBS checks for Members due to the varied nature of the role. Officers agreed that the issue was complex and that basic checks would commence as soon as possible with the discussion returning to the Sub Committee in the summer.

Subsequent to the meeting it can be confirmed that Terms of Reference were appended to the report to confirm the addition of constitutional changes to the Audit Committee terms of reference.

Meeting ended at 1.00 pm

CHAIR _____

Values and Ethics Sub Committee

26th March 2019



Report of: Service Director Legal & Democratic Services (Monitoring Officer)

Title: Review of the Member Officer Protocol

Ward: Citywide

Officer presenting report: Nancy Rollason, Head of Legal Service.

Recommendation:-

1. That the Committee consider the current protocol and the comments set out in this report following an initial review by Officers.
2. That Committee members provide comment and guidance to officers on how the protocol could be amended and that the Monitoring Officer provide a draft amended version for consideration by the committee at the next meeting.

Summary

In September 2018 the LGA peer review recommended that the effectiveness of Member Officer Protocol should be reviewed. The Council's action plan in response provides that the Monitoring Officer will do this by June 2019.

Officers have undertaken an initial review of the protocol and detailed comments are set out in the report for the Committee to consider and comment on. Based on the views of the Committee, the Monitoring officer will then present a draft updated protocol to the next Committee meeting.



Policy

The Values & Ethics Sub-Committee has taken over some of the functions previously undertaken by the Audit committee and will support the Authority's duty to promote and sustain high standards of conduct within the council.

Consultation

1. Internal

Monitoring Officer, Deputy Monitoring Officer.

External

Not applicable.

Context

In September 2018 the LGA peer review report commented:

"BCC should review its governance arrangements to ensure they are more effective in enabling good decision making. Specifically addressing:

a. forward plan arrangements to make them more transparent and open, ensuring information is shared in good time and used responsibly by all

b. structure, focus and impact of its Scrutiny arrangements

c. the effectiveness of the application of its member and officer protocol

Between members and officers, for the most part we saw and heard about respectful relationships. However, this was not universally so and in some areas we heard examples where the opposite was true. BCC has this year sought to direct attention to reviewing its protocol and using the opportunity of the development of the new values and behaviours to undertake development with the senior officers within the council. The council has a Member Development Steering Group which has prioritised the need for similar training for Members. The peer team would endorse this as an effective way of ensuring the councils values are shared, owned and understood across the political as well as officer side of the council."

The Council's Action plan in response specifies that the Monitoring officer will Review the Member Officer Protocol as part of the update to the constitution by June 2019.

The Monitoring officer has started the review process. He has tasked his team to undertake an initial review. Having done so, Officers are of the view that it would be preferable to rewrite rather than amend the protocol for the following reasons:-

1. The protocol is too long, the content is not always clear and it is repetitive.
2. The text in relation to access to information needs to be simplified to be more helpful to Officers and Members.

3. The conventions are too detailed and complicated and could be edited and incorporated in to the text of the protocol.

Members are asked to consider the protocol, taking Officers comments in to consideration and provide comments and guidance to Officers in time for the Monitoring Officer to update the protocol to be presented to the committee at the next meeting.

Other Options Considered

2. None necessary.

Risk Assessment

Legal and Resource Implications

Legal implications:

As set out in the report.

Financial:

(a) Revenue

Not applicable.

(b) Capital

Not applicable.

Land/Property

Not applicable.

Human Resources

Not applicable.

Appendices:

Appendix A – Member Officer Protocol May 2018

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers: none



MEMBER/OFFICER PROTOCOL

Bristol City Council

May 2018

Member/Officer Relations Protocol

1. INTRODUCTION

- 1.1 The purpose of this protocol is to guide Members and officers of the Council in their relations with one another. The strength of the relationship between Members and officers is vital in ensuring that the Council practices the highest ethical standards in both its private and public dealings.
- 1.2 This Protocol also seeks to reflect the principles underlying the [respective rules of conduct](#) which apply to Members and officers. The purpose of the rules and this protocol is to enhance and maintain the integrity (real and perceived) of local government by demanding very high standards of personal conduct. Members and paid officers each have their own separate [Codes of Conduct](#). This protocol underpins those documents and focuses particularly on the interaction between Members and officers; deals primarily with Members' and officers' own separate responsibilities; and refers to the working relationship between Members and senior officers who formally advise the Council
- 1.3 An effective working relationship between Members and officers is crucial to the successful operation of the Council's business. This relationship within Bristol City Council is characterised by mutual trust, respect and understanding between politicians and paid officers – this is one of the keys to achieving effective local government.

2. THE RELATIONSHIP: GENERAL POINTS

- 2.1 Both members and officers are servants of the public and they are indispensable to one another but their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the authority. Their job is to give advice to all members and to carry out Bristol City Council's work under the direction and control of the Head of Paid Services and as set out by the council's committees and sub committees.
- 2.2 At the heart of the Code, and this Protocol, is the importance of mutual respect. Member/officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between members and officers should observe standards of courtesy and that neither should seek to take unfair advantage of their position or seek to exert undue influence on the other
- 2.3 Inappropriate relationships can be inferred from language/style. Therefore members and officers should always seek to address each other with courtesy.
- 2.4 A member should not raise matters relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol. This is a long-standing tradition in public service. An officer has no means of responding to such criticism in public. If a member feels she/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an officer, and fails to resolve it through direct discussion with the officer, then she/he should raise this with the Monitoring Officer or Head of Paid Service. The Monitoring Officer and/or Head of Paid Service will then look into the facts and report back to the member. Any action taken against an officer in respect of a complaint will

be in accordance with the provisions of [Bristol City Council's Disciplinary and Capability Procedures](#).

- 2.5 An officer should not raise, in public with a member, matters relating to the conduct or capability of another officer or the internal management of Bristol City Council in a manner that is incompatible with the overall objectives of this Protocol. If such issues are raised by members then the matter will be dealt with in accordance with the Employees' Code of Conduct and Bristol City Council's Disciplinary Rules and Procedures. Unwarranted criticism of officers by members is inappropriate and not permissible particularly as they cannot respond on equal terms such as at public Bristol City Council meetings.
- 2.6 Where an officer feels that she/he has not been properly treated with respect and courtesy by a member, she/he should raise the matter with his/her Director, especially if they do not feel able to discuss it directly with the member concerned. In these circumstances the Director will take appropriate action by approaching the individual member. If the matter cannot be resolved to the satisfaction of the employee concerned, the matter will be assessed by the Monitoring Officer and if appropriate be referred to the Value and Ethics Committee.

3. THE RELATIONSHIP: OFFICER SUPPORT TO MEMBERS: GENERAL POINTS

- 3.1 Members are democratically accountable and may have political affiliations. They have a clear role in providing leadership within Bristol's communities and as members of Bristol City Council to represent the constituents of their wards.

Officers are responsible for day-to-day managerial and operational decisions within the Council and provide services to the local community.

- 3.2 Certain statutory officers – the Head of Paid Service, the Monitoring Officer, Statutory Scrutiny Officer and the Chief Financial Officer (Section 151) – have specific roles and these are set out in the Constitution. These roles need to be understood and respected by all members.

- 3.3 The following key principles reflect the way in which officers generally relate to members:-

- a) Members are responsible to the electorate and serve until their term of office expires. As elected Members, they are responsible for determining Council Policy, Budget and Strategy.
- b) Officers are employed by, and are responsible to, the Council and as such are responsible for implementing policy and delivering services within budget. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council, the Executive (the Mayor, Individual Cabinet Members and the Cabinet) and their Committees, and are accountable to the Head of Paid Service.

- 3.4 On occasion, a decision may be reached which authorises named officers to take action between meetings following consultation with a member or members (Delegation). It must be recognised that it is the officer, rather than the member or members, who takes the action but it is the member who remains accountable for it.

- 3.5 Officers should always seek to assist members, however in doing so they must not go beyond the bounds of whatever authority they have been given by the Head of Paid Service. Ultimately, it is the Head of Paid Service's responsibility to direct the work of officers and

allocate duties to all officers employed by the Council and all individuals contracted by the council.

4. THE RELATIONSHIP: OFFICER SUPPORT: MEMBERS AND PARTY GROUPS

UPDATE AD4.1

It must be recognised by all officers and members that in discharging their duties and responsibilities, officers serve Bristol City Council as a whole and not any political group, combination of groups or any individual member of Bristol City Council. The role of political assistants and the role of the advisor to the Mayor are covered under specific legislation. The operational restrictions upon these roles are specified in the Job Descriptions and Political Assistant protocol.

- 4.2 It is recognised that members of Bristol City Council may belong to party groups and it is common practice for such groups to give preliminary consideration to matters of Bristol City Council business in advance of such matters being considered by the relevant Bristol City Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual members, treat them in a fair and even-handed manner.
- 4.3 Certain points must, however, be clearly understood by all those participating in this type of process, members and officers alike. In particular:
 - a. That officers do not engage in political discussion when attending party group meetings, limiting their activities to providing information on the specified business and answering appropriate questions. Officers should only attend these meetings for the length of time necessary to provide briefings and answer questions before withdrawing to allow political discussion to take place.
 - b. Party group meetings, whilst they form part of the early stages of Bristol City Council decision making, are not empowered to make decisions on behalf of Bristol City Council. Conclusions reached at such meetings do not form part of the Council's formal decision-making process and it is essential that they are not interpreted or acted upon as such; and
 - c. similarly, where officers provide information and advice to a party group meeting in relation to a matter of Bristol City Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Bristol City Council Committee or Sub-Committee when the matter in question is considered.
- 4.4 Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not members of the council or officers of the council. Due regard should be paid to the fact that such persons are not bound by the Bristol City Council Code of Conduct for Members (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers must be cautious about attending and/or giving advice to such meetings.
- 4.5 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.

- 4.6 Whilst any member may ask the Head of Paid Service for written factual information about the functions of Bristol City Council, such requests must be reasonable and not seek information relating, for instance, to case work of a confidential nature. Requests will be met subject to any overriding legal considerations (which will be determined by the Monitoring Officer), or if the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If a member requesting such information is dissatisfied by such a response, she/he should raise the matter with the Head of Paid Service who will discuss the issue with the relevant member.
- 4.7 It must not be assumed by any party group or member that any officer is supportive of any policy or strategy developed because of that officer's involvement in its design.. As per the code of conduct officers should not be put under undue pressure to recommend a particular policy or strategy. If officers perceive they are being put in such a position they should contact their direct line manager and the Monitoring Officer who will make an assessment and agree an appropriate course of action.

5. SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS

- 5.1 The only basis on which Bristol City Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport etc.) to members is to assist them in discharging their role as members of Bristol City Council. Such support services must therefore only be used on Bristol City Council business. Council resources should never be used in connection with party political or campaigning activity or for private purposes and this applies to the use of ICT and social media as set out in the [member code of conduct](#).

6. MEMBERS' ACCESS TO INFORMATION AND TO BRISTOL CITY COUNCIL DOCUMENTS

- 6.1 Members have the ability to ask for information in accordance with their legal rights. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in their role as a member of Bristol City Council. This can range from a request for general information about some aspect of Bristol City Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the relevant Service Director. In cases of doubt, members should approach the Monitoring Officer for assistance.
- 6.2 As regards the legal rights of members to inspect Bristol City Council documents, these are covered partly by statute and partly by the common law.
- 6.3 Members have a statutory right to inspect any Bristol City Council document which contains material relating to any activity of Bristol City Council. This right applies irrespective of whether the member is a member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items which may appear as a confidential item on the agenda for a meeting as set out in the Constitution:

APR21.1- Material relating to decisions

All councillors will be entitled to inspect any document which:

(a) Is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a public meeting unless either (i) or (ii)

below applies;

(b) Is a decision made by an individual member in accordance with executive arrangements;

(c) Relates to a decision published and made by an officer.

Unless

(i) It contains exempt information falling with paragraphs 1-2, 4-5 and 7 of the categories of exempt information in APR10.4; or

(ii) Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended) to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or

(iii) It contains the advice of a political adviser.

Qualifying documents must be made available for inspection immediately after the decision is made.

- 6.4 The common law rights of members remain intact. These are much broader and are based on the principle that any member has a right to inspect Bristol City Council documents so far as his/her access to the document is reasonably necessary to enable the members properly to perform his/her duties as a member of the Bristol City Council. This principle is commonly referred to as the 'need to know' principle.
- 6.5 The exercise of this common law right depends therefore, upon an individual member being able to demonstrate that she/he has the necessary 'need to know'. In this respect a member has no right to 'a roving commission' to go and examine documents of Bristol City Council. Mere curiosity is not sufficient, there must be a 'need to know'. This question of whether there is a 'need to know' must initially be determined by the Head of Paid Service (with advice from the Monitoring Officer). In the event of dispute, the question falls to be determined by the Monitoring Officer in association with the Head of Paid Service.
- 6.6 A Member's 'need to know' will normally be presumed where the information clearly relates to the discharge of a function of Bristol City Council.
- 6.7 Whilst the term 'Bristol City Council document' is very broad and includes for example, any document produced with Bristol City Council resources, it is accepted by convention that a member of one party group will not have a 'need to know' and therefore, a right to inspect, a document which forms part of the internal workings of another party group.
- 6.8 Further and more detailed advice regarding members' rights to inspect Bristol City Council documents may be obtained from the Monitoring Officer and is set out in the [Constitution](#).
- 6.9 Any Bristol City Council information provided to a member must only be used by the member for the purpose for which it was provided, i.e. in connection with the proper performance of the member's duties as a member of Bristol City Council. Therefore, for example, early drafts of Committee reports/briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied. Any unauthorised disclosure of Council documents will be treated as a breach of the Code of Conduct for Members and may also leave a member at risk of legal action from a third party.

7. CORRESPONDENCE

- 7.1 Correspondence between an individual member and an officer should not normally be copied (by the officer) to any other member without the consent of that member.

- 7.2 Most official letters on behalf of Bristol City Council will normally be sent in the name of the appropriate officer rather than in the name of a member, particularly when dealing with operational or service delivery matters. However it will be appropriate in certain circumstances (e.g. representations to Government) for correspondence to be sent in the name of member(s) or the Mayor of Bristol City Council. Letters which create legal obligations or give instructions on behalf of Bristol City Council and which are sent out in the name of a member should always be agreed in consultation with the Head of Paid Service, and on legal matters on advice from the Monitoring Officer.

8. PUBLICITY

- 8.1 Bristol City Council is accountable to the residents of the Bristol area. Accountability requires local understanding, the council therefore has a duty to publicise its services and activity and to explain its objectives and policies to the electors and rate-payers in an accessible manner.
- 8.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity is essential, therefore, to ensure that decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a code of Recommended Practice on Local Authority Publicity:
<https://www.gov.uk/government/publications/recommended-code-of-practice-for-local-authority-publicity>

The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code requires that all local authorities shall have regard to its provisions in coming to any decision on publicity.

- 8.3 Officers and members of Bristol City Council will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, officers and/or members should initially seek advice from the Head of Corporate Communications and/or the Head of Public Relations, Consultation and Engagement who will refer the matter to the Head of Paid Service as required. Particular care should be paid to any publicity used by Bristol City Council around the time of an election. Prior to each pre-election period specific guidance is provided by the Monitoring Officer to all members and officers on the necessary precautions required in the pre-election period.
- 8.4 For the sake of clarity the Code does not apply to press releases and publicity that members may arrange and distribute in their individual political capacity rather than through Bristol City Council. Members should refer to the [member code of conduct](#), which sets out the requirements related to publicity and communications. Members should not at any time use Bristol City Council resources for party political purposes nor ask officers to do so.
- 8.5 Further information and guidance specifically about media activity is available in the council's [Media Relations Protocol](#).

9. OFFICER/MEMBER PROTOCOL

- 9.1 This protocol is published on the council's website. Each member must sign to say they have received a copy of the protocol upon being declared in office. The protocol is also covered in member induction for all members.
- 9.2 Questions of interpretation of this Protocol will be determined by the Monitoring Officer in consultation with the Head of Paid Service.
- 9.3 Periodically this protocol may be updated and a new version must be signed by all elected members and records updated

APPENDIX

Appendix Part 5 (C1) provides details of scenarios and how the protocol applies to officers and members

1. OFFICER NEUTRALITY

Convention	Councillors	Officers
<p>1.1 Every officer appointment and every employment decision must be on merit alone.</p> <p>In accordance with the councils recruitment policies and practice.</p>	<p>Councillors appoint all first and second tier officers, and they have a formal role in certain employment appeals. Party political factors cannot be taken into account.</p>	
<p>1.2 Certain posts are politically restricted, including all senior posts.</p>		<p>A politically restricted officer may not:</p> <ul style="list-style-type: none"> - speak or publish written work with the apparent intention of affecting public support for a political party. - canvass on behalf of any candidate for election to a local authority or to the UK or European Parliament <p><i>(Details of which posts are political restricted and details of the restrictions on political restricted officers are set out at appendix 1).</i></p>

Convention	Councillors	Officers
1.3 Officers serve the whole council and must be politically neutral at work.	Councillors should respect officer's right to private political opinions. Any questions or concerns about an officer's neutrality should be raised with the relevant chief officer or the monitoring officer.	The council's employment procedures and codes of conduct must be observed. Failure to do so could be disciplinary matter. Policy support to councillors must conform to the " <i>unified advice</i> " principle. It must be for council, and not for party political purposes. Work which could be open to misinterpretation must be transparent and justified where necessary, particularly at sensitive times (such as a pending election). Councillors are entitled to assume that any officer advice will be corporately supported, unless told expressly that it is subject to consultation.

Convention	Councillors	Officers
1.4	<p>Close personal relationships between councillors and officers should be declared to the relevant party whip and chief officer, and entered in the members register of interests. The test is whether a member of the public might reasonably consider the relationship likely to influence the councillor or officer in their respective roles.</p>	<p>The councillor concerned should judge when a personal relationship has formed or whether a family relationship or friendship might reasonably be considered as having influence. The party whip should consider how working contact between the councillor and officer should be avoided or managed to dispel perceived bias, taking advice from the monitoring officer if necessary.</p> <p>Officers should be aware that excessive personal familiarity with councillors might be misconstrued. The relationship must be proper and professional.</p>
1.5 61 89 10	<p>Mutual respect and due courtesy between councillors and officers is essential to good local government.</p>	<p>Unwarranted criticism of officers should be avoided, particularly when they cannot respond on equal terms, such as at council meetings. Bullying by a councillor could expose the council to a claim of constructive dismissal. If a councillor has a concern about an officer then this should be raised with the relevant chief officer.</p> <p>Officers should avoid unwarranted criticism of councillors and should respect their rights under the protocol. Officers should not only be neutral, they should appear neutral. If there is a problem or perceived problem this should be raised with the relevant chief officer to consider what steps are needed to provide reassurance.</p>

2. PROVISION OF INFORMATION TO COUNCILLORS

Convention	Councillors	Officers
<p>2.1 Every councillor has the right to information, explanation and advice reasonably required to enable them to perform their duties as a member of council (the “<i>need to know</i>”) but not where:</p> <ul style="list-style-type: none"> - the information is primarily needed for a non-council purpose; or - there is a conflict of interest; or - there is an over-riding individual right of confidentiality (for example, in a children’s or employment matter); or - the resources needed to supply the information would be unreasonable. 	<p>Councillors need not state a need to know when requesting information, however it may be necessary to justify the request - mere curiosity alone does not create a need to know. Any relevant interests or non-council capacity should be declared at the time of the request. If dissatisfied with a refusal, the chief officer should be approached. If still dissatisfied the monitoring officer may be asked to determine entitlement.</p>	<p>Officers should not automatically assume that a councillor has a need to know but the burden of showing a need to know is not high. If there is any doubt then the councillor should be asked to explain why they wish to see the document(s) and, in cases of doubt, the monitoring officer may be consulted. An officer should seek clearance from their manager before embarking on a significant amount of work to provide information.</p> <p>Officers should not wait to be asked, but should try to anticipate information needs for councillors.</p>

Convention	Councillors	Officers
2.2 Councillors are normally entitled to be given information on a confidential basis, the exceptions being: <ul style="list-style-type: none"> - an over-riding council interest (for example, protecting its legal and financial position); and - natural justice (for example, giving an individual the chance to respond to allegations). 	<p>Councillors should ensure that the need for confidentiality is made clear to officers.</p> <p>It may be proper for the executive member to be informed of problems or issues.</p> <p>Correspondence between individual members and an officers should not normally be copied (by the officer) to any other member. Where exceptionally it is necessary to copy correspondence to another member, it should be made clear to the original member and permission be sought, except in exceptional circumstances. In other words, a system of "silent copies" will not be employed.</p>	The councillor must be told immediately if an exception applies

Convention	Councillors	Officers
2.3 Councillors must respect the confidentiality of confidential council information and must use such information only for the purpose it is given (for example, information supplied in confidence to an executive member or scrutiny chair cannot be used to pursue a special ward interest).		"Managed Access" may be offered when information is particularly sensitive or need interpretation. This involves inspection of the file combined with a briefing. Names and supporting evidence may need to be withheld. The officer must be clear as to whether or not any information is confidential -and where appropriate set that out in writing.
2.4 Councillors with a particular role have a special need to know arising from that role, for example: <ul style="list-style-type: none"> - party leaders; - executive members (or executive assistant): matters relating to their portfolio; - scrutiny chair and party spokespersons: matters relating to their terms of reference and committee business; - ward member: matters with special implications for the ward (ie significantly more than the general implications for the city). 		<p>Whenever a public meeting is organised by the council to consider a local issue, all members representing the ward(s) affected should, as a matter of course, be invited to attend the meeting.</p> <p>Whenever the council undertakes any form of consultation exercise on a local issue, the ward members must be notified at the outset.</p>

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3. ENTITLEMENT TO BRIEFING

Convention	Councillors	Officers
3.1 Councillors are entitled to be briefed in accordance with their need to know, taking account of any particular role they have. There are the same restrictions as for information (convention 2.1). Councillors with a particular role should be briefed about relevant matters without having to make a request (convention 3.4 and 3.5).	Councillors should declare any relevant interest when requesting or receiving a briefing. If dissatisfied with a refusal to brief, the chief officer should be approached. If still dissatisfied, the monitoring officer may be asked to determine entitlement.	Officers should be clear about the capacity in which the councillor is being briefed and the implications of any interest. In cases of doubt, the monitoring officer may be consulted. The officer should always make it clear if a briefing is not based on unified advice, (ie is still subject to consultation with other officers). Otherwise the councillor is entitled to assume unified advice is being given.

Convention	Councillors	Officers
3.2 A party group meeting may be briefed by a first or second tier officer, provided: <ul style="list-style-type: none"> - the relevant chief officer knows of and approves the briefing; - all groups are informed and offered the same briefing; - more than one officer attends - if practicable; - officers withdraw after briefing and questions, and before political discussion; - officers should not service political groups eg by writing political reports. 		<p>Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings, or parts of meetings, when matters of party business are to be discussed.</p> <p>Party groups meetings, whilst they form part of the preliminaries to council decision-making, are not empowered to make decisions on behalf of the council. Conclusions reached at such meetings do not rank as council decisions and it is essential that they are not interpreted or acted upon as such.</p>

Convention	Councillors	Officers	
3.3	The content of briefings is confidential to the councillors concerned. Confidentiality extends to the questions asked by the councillors.	When officers provide information and advice to a party group meeting this cannot be a substitute for providing all necessary information and advice to the relevant executive member, committee or sub-committee when the matter in question is to be considered. Relationships with a particular party group should not be such as to create public suspicion that an officer favours that group above others.	
3.4	Executive members, individually and collectively are entitled to regular confidential briefings on matters relevant to their portfolios and in support of the policies they are developing prior to them formulating formal proposals.	Informal briefings cannot be a substitute for providing all necessary advice in the formal decision-making process. Officers must ensure that their objective professional advice is robustly presented in the formal report.	
3.5	Commission chairs and party spokespersons are entitled to regular and confidential briefing on matters relating to commission business (as a group, or individually).	The relevant executive member or the cabinet collectively determines whether confidential briefing material may be released to others for consultation or otherwise. When the stage for formal proposals is reached, supporting officer advice becomes publishable in conjunction with the proposals.	A briefing to help a councillor respond to a question may be in the form a suggested reply. It should be confined to factual and professional matters and to explanations of existing policy, leaving the councillor to add any political comment.

Convention	Councillors	Officers
3.6 It is expected that there will be an agenda meeting prior to full Commission meetings to which the chair and party spokespersons will be invited. These meetings may be varied with the agreement of the chair and party spokespersons. If there is a disagreement then the final decision as to the conduct of the meeting will be the responsibility of the chair.		
3.7 Councillors must respect any confidential information supplied in briefing and must use it only for the purposes for which they would have been entitled to receive it (for example, information supplied as executive member or scrutiny chair may not be used to pursue a special ward interest, if it would not have been supplied to the ward councillor).		

4. CABINET AND COMMISSION MEETINGS

Convention	Councillors	Officers
<p>4.1 An officer preparing a report for the executive or any committee (which, for the avoidance of doubt, includes commissions) must ensure that:</p> <ul style="list-style-type: none"> - it is made clear what stage in the process has been reached and what is required from councillors; - there is a clear recommendation or options presented in a way which enable councillors to choose between them; - it is clear who is responsible for action and to what timetable (including further reports); - all relevant factors are included and the issues are presented with professional objectivity; - associated briefings and presentation are also professionally objective. 	<p>Executive members may introduce reports at cabinet. Officer advice should be obtained, if possible, before the meeting on any alternative recommendation to be moved to ensure that operational, financial and legal factors are taken into account.</p> <p>Councillors must recognise and accept the role and function of professional officer advice and not seek to inappropriately limit or control its expression.</p>	<p>The principle of unified advice requires that meaningful and timely consultation is completed before finalising a report (particularly on financial and legal implications, on which the consultees should be named). Options and recommendations, may properly take into account political priorities, values and objectives and so reflect political realities, provided that all realistic options are addressed in a way which is professionally objective and sustainable. The professional advice should be robust and clear.</p> <p>It is not always necessary to recommend the course of minimum risk, provided risks and reasons for taking them are made clear.</p> <p>The Article 13 principles of decision making must be embodied in the report.</p>

Convention	Councillors	Officers
4.2 Executive members, individually or collectively, may determine the timetable for developing their policies, including: <ul style="list-style-type: none"> - the point at which confidential ideas become formal proposals for publication; - who to consult and to what deadline; - the timing of executive reports. 	Deferring a report is an executive decision and responsibility (within legal restraints). A scrutiny commission may ask for more time, information or other views before responding to executive consultation, provided: <ul style="list-style-type: none"> - the executive agrees to additional time and consultation (these being matters for the executive); and - the relevant chief officer agrees that further information can be provided at reasonable cost and use of officer time. 	Withdrawing a report is an officer decision and responsibility. The chief financial officer and the monitoring officer each have the power to require a report to be withdrawn.

Convention	Councillors	Officers
4.3 It is for a scrutiny commission to determine its programme for scrutinising the implementation of decision and for recommending policy changes to the executive. It is expected that reports commissioned and evidence requested will: <ul style="list-style-type: none"> - avoid duplicating work which is contemplated or already being undertaken in support of developing executive policies; - involve reasonable costs and use of officer time. 	Where the executive and a scrutiny commission are considering the same service area, the executive, the scrutiny commission chair and party spokespersons and the chief officer(s) should agree a joint programme of work and the order in which reports should be consulted upon and presented.	A scrutiny commission does not have the power to require a department to prepare reports for it, but the chief officer must make all reasonable efforts to support the work of a commission and to comply with all reasonable requests from the commission and scrutiny officers. <i>NB: The obligation upon officers is to make all reasonable efforts to support scrutiny therefore a chief officer will only refuse a request in exceptional circumstances.</i> If an impasse is reached then the monitoring officer and head of scrutiny and equalities should be consulted as to the best way to resolve the problem.
4.4 Any member / co-optee of a scrutiny commission (or any two councillors who are not members) may place an item on the next available agenda. The right does not apply when the item has been on the agenda within the previous six months.	It is for the scrutiny commission to decide what to do with the item and it may deal with the item. Immediately based upon any report and the discussion at the meeting; or at a future meeting, requesting any appropriate report.	Where a scrutiny commission seeks a report in response to an item raised by a member, then, where this relates to a matter concerning the executive, the chief officer, in consultation with relevant councillors (including the relevant executive member, the chair and the party spokespersons) should decide what, if any, report to present to the meeting.

Convention	Councillors	Officers
4.5 Guidance to officers on all matters of scrutiny commission business and procedure shall, subject to full commission decisions as appropriate, be agreed by the chair and party spokespersons normally at an agenda briefing, including: <ul style="list-style-type: none"> - agenda contents; - dates and times of meetings; - evidence to be presented at a future meeting; - interested parties to be invited to attend and participate at future meetings. 	<p>There is a standing offer by and invitation to the relevant executive member and chief officer to attend commission meetings with a view to explaining matters relevant to the agenda.</p> <p>A formal request may be made to an executive member, or first or second tier officer if they are required to attend to explain:</p> <ul style="list-style-type: none"> i) any particular decisions or series of decisions; ii) the extent which the actions taken implement council policy; and iii) the performance of their duties (Overview and Scrutiny Rule 14). <p>It is expected that the relevant executive member would attend a commission when it is considering proposals at the request of the executive.</p>	<p>Scrutiny commissions are supported by:</p> <ul style="list-style-type: none"> - Scrutiny officers attached to each commission who are responsible for undertaking any investigatory and research work required by the commission and for working in collaboration with departments to produce reports as required, and - Councillor support officers who provide procedural advice and guidance at meetings and at other times, as well as administrative support for the committee process.

Convention	Councillors	Officers
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Convention	Councillors	Officers
4.6 The chair is expected to conduct scrutiny commission meetings so as to ensure: <ul style="list-style-type: none"> - the basis of participation by non-members of the commission is made clear at the outset (e.g. question and supplementary, statement, or participation in debate); - the questioning of executive members, officers and others is properly structured, and conducted in a courteous, seemly and constructive manner; and - questions are properly directed to the executive member (for example justifying policy) or the chief officer (for example, progress with implementation) inviting both to attend where necessary. 		

Convention	Councillors	Officers
<p>4.7 Notice of, and all reports to formal executive, scrutiny and quasi-judicial meetings must be published, giving 5 clear working days notice.</p> <p>The sole exceptions to this requirement are for:</p> <ul style="list-style-type: none"> - urgent items of business: ie items which were not available at the time of agenda despatch , but which must be determined at the forthcoming meeting for reasons of urgency, or - supplementary information received since a report was despatched, which augments the information which has already been provided in the report. <p>However such information may only be taken if the reporting officer is of the view that , had it been available at the time of the writing of the original report, it would not have caused them to write a materially different report, or tender a different recommendation to that in the published paper.</p>	<p>The chair or executive member (as appropriate) will decide whether or not the business is urgent - details of which must be stated in the record.</p>	<p>In the event of uncertainty, the monitoring officer will adjudicate and his decision will be final.</p> <p>If the reporting officer thinks that the supplementary information would have led to the writing of a report materially different to the one published, then the agenda should be withdrawn and a new report forward to a subsequent meeting.</p>

5. REGULATORY COMMITTEES

Convention	Councillors	Officers
5.1 Page 33	<p>Development control, licensing and other quasi-judicial matters must be dealt with solely in accordance with the relevant policies and legal requirements, and in particular:</p> <ul style="list-style-type: none"> - the appearance of decisions being based on party political consideration must be avoided; - if officer recommendations are not accepted, care should be taken to ensure that any decisions can be justified. 	<p>A code of conduct for members sitting on development control committees was agreed by Council on 9 April 2002 (a similar code for Licensing Committee members will be developed during 2002/3). Particular care should be taken to declare interests in formal meetings, at site visits and in formal discussion and, if necessary avoid participation. Potential interests should be raised with the monitoring officer before meetings.</p>
5.2	Councillors will be expected to attend the appropriate training sessions within twelve months of taking up office.	<p>Any untrained councillor asked to participate in a decision should request training, which will be fast-tracked if possible - <i>NB there are some committees (e.g. the Selection Committee) where training is a pre-requisite.</i></p>
5.3	Reports to regulatory meetings should comply with convention 4.1 except that political considerations are inappropriate.	

6. COUNCILLOR INVOLVEMENT IN CASEWORK

Convention	Councillors	Officers
<p>6.1 Officers must implement council policy within agreed procedures. An individual councillor cannot require an officer to vary this and cannot take a decision or instruct an officer to take action. The councillor's role in relation to case work is:</p> <ul style="list-style-type: none"> - to be briefed or consulted where there is a need to know; - to pursue the interests of individuals by seeking information, testing action taken and asking for the appropriateness of decisions to be reconsidered. <p>A councillor's entitlement to be involved is based on the "<i>need to know</i>" and determined in accordance with conventions 2 and 3.</p> <p>Access to files may need to be denied or restricted if one of the exceptional circumstances in convention 2.1 and 2.2 applied. Any access then allowed may need to be "<i>managed access</i>" (as described in convention 2).</p>	<p>Councillors should avoid becoming unduly involved in individual cases and operational detail, except within clear procedures. Involvement in legal proceedings and audit investigations carries special dangers of prejudicing the case, and of personal embarrassment.</p> <p>A councillor lobbied on an issue (especially planning policy) should explain that any views expressed are personal and they cannot commit or anticipate the council's decision.</p>	<p>Officers should take the lead in pointing out where the boundaries lie in particular areas, recognising that:</p> <ul style="list-style-type: none"> - councillors legitimately adopt different approaches; - councillors may legitimately pursue non-ward issues (for example, a city-wide community of interest); - the special local knowledge of particular councillors may be useful to a particular case. <p>Officers should point out to the councillor when a restriction on the need to know may apply, explore entitlement with the councillor and, in cases of doubt, consult the monitoring officer.</p> <p>Chief officers should ensure that their staff know how to obtain appropriate senior management support (particularly out of hours) when the extent of a councillor's involvement is an issue needs to be clarified.</p>

Convention	Councillors	Officers	
6.2	A councillor pursuing a ward matter on behalf of a close family member or friend should declare the relationship and consider whether to ask another councillor to pursue the matter.	A close relationship should be judged as in convention 1.4.	
6.3	Councillors should not act as an individual's " <i>friend</i> " or provide a reference in relation to staffing matters within the council (except in exceptional circumstances). They should avoid involvement in staff lobbying outside formal procedures	<p>The main procedures for councillors involvement in staffing matters are:</p> <ul style="list-style-type: none"> - formal machinery for taking individual staffing decisions. - arrangements for staff representatives to submit views when staffing issues are before councillors. 	
6.4	Staff may raise issues with their councillor as citizens. They should not lobby a councillor inappropriately on personal employment or budgetary matters except within the proper management and representative procedures (in the interests of balanced, unified advice to councillors).	Councillors should refuse to respond to inappropriate lobbying and inform the relevant chief officer who should direct the staff towards the appropriate channels. This applies if the approach is superficially to a ward councillor, but in reality amounts to an employment matter.	Chief officers should ensure their staff are aware of these requirements and the proper channels for their views to be put forward.

Convention	Councillors	Officers
6.5 A councillor's right of access to council premises and to bring in guests is based on the " <i>need to know</i> " (that is, to perform the councillor's role). In addition to the general restrictions, it is subject to ensuring: <ul style="list-style-type: none"> - operational continuity; - confidentiality; - compliance with health and safety arrangements; - compliance with security requirements. 	<p>When visiting council premises, a councillor should:</p> <ul style="list-style-type: none"> - make prior arrangements whenever possible for visits outside the main council offices; - check in on arrival with reception or the site manager; - observe the site manager's requirements in relation to health and safety and so on; - expect to be denied access or asked to leave in circumstances where compliance with the requirements cannot be guaranteed or the councillor's behaviour might bring the council into disrepute. 	Chief officers should ensure that their staff are aware of these requirements and know how to obtain appropriate senior management support (particularly out of hours).

Convention	Councillors	Officers
6.6 Councillors' guests should: <ul style="list-style-type: none"> - be properly checked in and out; - explain the purpose of their visit, if requested; - observe the site manager's requirements; - not be admitted after normal business hours, except for notified evening meetings and by special arrangement for particular purposes. 		Chief officers should ensure their staff are aware of these requirements and how to obtain appropriate senior management support (particularly after hours). They should also ensure staff are aware exactly when guests may be admitted outside normal opening hours.

7. MEDIA RELATIONS AND PUBLISHED MATERIAL

Convention	Councillors	Officers
7.1 Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the council is unavoidable, particularly given the need for councils to consult widely whenever material issues arise. Such publicity should be handled with particular care. Issues must be presented clearly, fairly and as simply as possible, although they should not oversimplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.		
7.2 Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe an individual councillor's policies and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals.		

8. ELECTION PERIODS

Convention	Councillors	Officers
<p>8.1 From the notice of a Parliamentary or local election until election day:</p> <ul style="list-style-type: none"> - nothing should be published (including the council's website) on a politically controversial issue, or which identified views or policies with individual councillors or party groups; - in parliamentary elections, nothing should be published which mentions or includes a picture of any prospective candidate; - any publicity should be strictly objective, concentrating on facts or explanations; - during local elections, no council newspaper, corporate or departmental should be published; - councillors and officers should take particular care to keep officers distant from party political matters; - councillors requesting information should make their "<i>need to know</i>" clear and the "<i>need to know</i>" principle should be strictly observed; - prospective parliamentary candidates (including current MP's) should be treated equally; - officers should avoid any appearance of political bias. 		<p>Subject to this convention, publicity is permitted of a councillor speaking on behalf of the council about an approved policy.</p> <p>External comments should be on strictly factual or professional matters. Care should be taken to avoid being misquoted or inadvertently associated with a particular candidate or political perspective.</p>

9. PARTNERSHIPS

Convention	Councillors	Officers
9.1 Any partnership in which the council participates must be asked to adopt the general principles of conduct (<i>appendix 2</i>) or to justify any departures.		
9.2 The partnership must be asked to observe the rules in <i>appendix 2</i> and to have an item on all agendas requesting that interests be declared.		

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10. RESOLVING PROBLEMS

10.1 Councillors and officers should try to interpret and apply the Conventions consistently. Those concerned should first try to resolve any problems between themselves.	Councillors should raise unresolved problems with the relevant assistant director or chief officer necessary the group whip or monitoring officer should be consulted.	Officers should raise any unresolved problem with their Assistant Director or chief officer who will advise or take the matter up with the relevant councillors. If necessary, the monitoring officer should be consulted. The monitoring officer may involve the relevant group whip.
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POLITICALLY RESTRICTED POSTS

1. The Local Government and Housing Act 1989 introduced a regime aimed at ensuring the key local authority employees are politically impartial. The Act designates certain posts as “*politically restricted*” and those who holds such posts are disqualified from holding office as a Member of Parliament or a local authority.
2. Regulations have been published (The Local Government Officers (Political Restrictions) Regulations 1990 which specify what politically restricted officers cannot do.

Which posts are politically restricted?

3. a) The head of paid service;
- b) The monitoring officer and the chief financial officer;
- c) The chief officers and deputy chief officers;
- d) The political assistants;
- e) Listed posts i.e.
 - i) any one who earns more than spinal column 44 - this sum is presently £29,847;
 - ii) part-timers who would earn more if they were employed as full time;
 - iii) those who regularly advise the authority or any of its committees;
 - iv) those who regularly speak to journalist or broadcast on behalf of the authority.

(It is possible for officers to apply to be removed from the list and details can be obtained from the monitoring officer).

The restrictions

4. A politically restricted officer may not:
 - [a] act as an election agent or sub-agent;
 - [b] act as a party or branch officer or as a member of a party or branch committee for a committee party if his or her duties would be likely to require participation in the general management of the party or branch or action on behalf of the party or branch in dealings with people who are not members;
 - [c] canvass on behalf of any candidate for election to a local authority or to the UK or European Parliament;

- [d] speak to the public, or a section of it, with the apparent intention of affecting public support for political party unless it is necessary for the performance of his or her official duties or publish as author or editor; or
 - [e] cause, authorise or permit any other person to publish any written or artistic work if the work appears to be intended to affect public support for a political party unless it is necessary for the proper performance of his or her official duties. (The officer is, however specifically allowed to display a poster in the window of his or her home or car).
5. The requirements set out at (d) and (e) do not apply to those appointed as political assistants. Political assistants are subject instead to the following requirements:
- [a] not to speak to the public at large or to a section of the public in circumstances or terms which are likely to create the impression that he is speaking as a authorised representative of a political party whether he is so authorised or not; and
 - [b] not to publish any written or artistic work of which he is the author (or one of the authors) or any written work or collection of artistic works in relations to which he has acted in an editorial capacity or cause, authorise or permit any other person to publish such a work or collection in circumstances which are likely to create an impression that the publication is authorised by a political party, whether or not it is so authorised.

CODE OF PRACTICE ON PUBLICITY**Subject matter**

1. Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972, sections 69, 88 and 90 of the Local Government (Scotland) Act 1973 and sections 15 and 16 of the Local Government and Planning (Scotland) Act 1982; but there are several others.
2. Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. For example, section 142(1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them or by other local authorities; and Section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.
3. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.
4. In considering the subject areas in which publicity is to be issued, the following matters will be important:
 - (i) the publicity should be relevant to the functions of the authority.
 - (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority.

Costs

5. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.
6. For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.

7. To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.
8. Local authorities should therefore always have in mind the extent to which expert advice is needed for publicity.
9. In some cases publicity may justify its cost by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as compared with other uses to which the resources could be put.
10. In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant:
 - (i) whether the publicity is statutorily required or is discretionary.
 - (ii) where it is statutorily required, the purpose to be served by the publicity.
 - (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity.

Content and Style

11. Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.
12. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.
13. Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative, and accurate. It should aim to set out the reasons for the council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.

14. Publicity relating to the provision of a service should concentrate on providing factual information about the service.
15. In some cases promotional publicity may be appropriate - for example about the local authority's sports and leisure facilities or about tourist attractions.
16. Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the council, is unavoidable, particularly given the importance of wide consultation whenever material issues arise. Such publicity should be handled with particular care. Issues must be presented clearly, fairly and as simply as possible, although councils should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.
17. Publicity should not attack, nor appear to undermine, generally accepted moral standards.
18. Publicity campaigns by local authorities are appropriate in some circumstances: for example, as part of consultation processes where local views are being sought, or to promote the effective and efficient use of local services and facilities, or to attract tourists or investment. Publicity campaigns may also be an appropriate means of influencing public behaviour or attitudes on such matters as health, safety, crime prevention or equal opportunities.
19. Legitimate concern is, however, caused by the use of public resources for some forms of campaigns, which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority's policies in relation to that function and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.

Dissemination

20. The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs; to allow local people to have a real and informed say about issues that affect them; to explain to electors

and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.

21. Information and publicity produced by the council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.
22. Where material is distributed on matters closely affecting vulnerable sections of the community - for example, the elderly - particular care should be taken to ensure that it is unambiguous, readily intelligible, and unlikely to cause needless concern to those reading, seeing or listening to it.
23. Local authority newspapers, leaflets, other publicity distributed unsolicited from house to house and information on websites are able to reach far wider audiences than publicity available on application to the council. Councils should give particular consideration to the use of electronic and other new media communication systems. However, councils should ensure that they do not rely solely on such mechanisms and that they do not exclude those without access or easy access to such systems.
24. Such publicity should be targeted as appropriate for its purposes, taking particular care with material touching on politically controversial issues.
25. there is no paragraph 25
26. Local authority newspapers or information bulletins are a special case. They are often a cost-effective means of disseminating information, or facilitating consultation and can provide a means for local people to participate in debate on decisions the council is to take. The advantage of using websites and other information technology for consultations should also be considered. Inevitably such publications will touch on controversial issues and where they do they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11-19 of the Code.
27. Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations, and making use of electronic communication systems.

Advertising

28. Advertising, especially on billboards or on television and radio, is a highly intrusive medium. It can also be expensive. It may however provide a cost-effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities on promoting the social, economic and environmental well-being of the area.
29. The primary criterion for decisions on whether to use advertising should be cost-effectiveness.
30. Advertisements are not normally likely to be appropriate as a means of explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments, and markets views and opinions.
31. Advertising in media which cover an area significantly wider than that of the authority is not likely to be an appropriate means of conveying information about a local authority's policies as opposed to attracting people to the authority's area or to use its facilities.
32. The attribution of advertising material leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.
33. It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation.
Such support should be given openly through the normal grant arrangements. However, the conditions attached to a grant may require the provision of publicity, including publicity for the work of the authority.
34. Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.
35. Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

Recruitment Advertising

36. Local authorities have respected in their staff employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority staff are expected to serve the authority as a whole, whatever its composition from time to time.
37. The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local authority staff.
38. Advertisements for staff should not be placed in party political publications.

Individual Councillors

39. Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example, member of the Executive or Chair of Overview and Scrutiny Committee), and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided.
40. Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/his position and responsibilities within the Council, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals.

Elections, referendums and petitions

41. The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members. However, it is

acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a member level response to an important event outside the authority's control. Proactive events arranged in this period should not involve members likely to be standing for election.

42. The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000 (which apply under the Local Government Act 2000 to county councils, district councils and London borough councils) prohibit an authority from incurring any expenditure to
 - Publish material which appears designed to influence local people in deciding whether or not to sign a petition requesting a referendum on proposals for an elected mayor;
 - Assist anyone else in publishing such material; or
 - Influence or assist others to influence local people in deciding whether or not to sign a petition.

Publicity in these circumstances should, therefore, be restricted to the publication of factual details which are presented fairly about the petition proposition and to explaining the council's existing arrangements. Local authorities should not mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view in relation to petitions generally or on a specific proposal.

43. County councils, district councils and London borough councils should ensure that any publicity about a referendum under Part II of the Local Government Act 2000 (the 2000 Act) either prior to or during the referendum period is factually accurate and objective. The referendum period means the period beginning with the date on which proposals under Part II of the 2000 Act are sent to the Secretary of State and ending with the date of the referendum. The publicity should not be capable of being perceived as seeking to influence public support for, or opposition to, the referendum proposals and should not associate support for, or opposition to, the proposals with any individual or group. Local authorities must conform with any specific restrictions on publicity activities which are required by Regulations under section 45 of the 2000 Act.

Assistance to others for publicity

44. The principles set out above apply to decisions on publicity issued by local authorities.

They should also be taken into account by local authorities in decisions on assistance to others to issue publicity. In all such decisions local authorities should, to the extent appropriate:

- (a) incorporate the relevant principles of the Code in published guidance for applicants for grants;
 - (b) make the observance of that guidance a condition of the grant or other assistance;
 - (c) undertake monitoring to ensure that the guidance is observed.
45. It is appropriate for local authorities to help charities and voluntary organisations by arranging for pamphlets or other material produced and paid for by the organisation to be available for collection by the public in public libraries and other suitable locations. Such material should not offend against any legal provision, (authorities may be able to draw on their powers of well-being in section 2 of the Local Government Act 2000) but (subject to this) any such facility should be made available on a fair and equal basis.

PROBITY RULES FOR PARTNERSHIPS WITH COUNCIL PARTICIPATION

Any partnership in which the Council participates must be asked to observe the General Principles of Conduct (or justify any departure) and to observe the following rules.

Public Duty and Private Interest

1. If you have a private or personal interests in a question which is to be considered by the partnership, you should declare your interest and have it formally recorded.
2. You should never do anything which you could not justify to the public or to your organisational management.
3. It is not enough to avoid actual impropriety. You should always avoid the opportunity for suspicion or appearance or improper behaviour.

Pecuniary and other interests

4. Agendas will have an item requesting that interests be declared.
5. If you have a pecuniary interest in a question which is to be considered by the partnership, you should declare your interest, have it formally recorded and vacate the room.
6. If you have an interest in which you might appear at risk of bias by putting private considerations above the public interest, you should declare your interest, have it formally recorded and vacate the room.
7. In considering interests, consideration should be given to the interest of a partner, close relatives or other person forming part of the same household, again applying the principle of avoidance of suspicion.

Gifts and Hospitality

8. If you receive any gift or hospitality as a member of a partnership, in that capacity, you should notify and have it formally recorded within your own organisation.

Membership of Partnership

9. The value is well recognised of different agencies and organisations playing an active part in partnerships. Whatever role you have, you must ensure that your responsibilities within the partnership do not clash with other responsibilities you also hold - whether as an elected member, company director or employee, paid official or in a voluntary capacity - so that your position is weakened to such an extent that your position becomes untenable.

Values and Ethics Sub Committee

26th March 2019



Report of: Service Director Legal & Democratic Services (Monitoring Officer)

Title: Update Regarding Member Development

Ward: Citywide

Officer presenting report: Lucy Fleming, Head of Democratic Engagement

Recommendation:-

That the Committee considers and comments on the update regarding Member Development.

Summary

The report sets out the provision of Member Development during the 18/19 Municipal Year as well as emerging plans for the cohort of Members who will begin a new term of office following the 2020 elections.



Policy

Responsibility for Member Development sits with the Member Development Steering Group (see appendix A for membership) but it's been agreed that the Values and Ethics Sub Committee of the Audit Committee will retain a watching brief.

The City Council is committed to supporting Members with their development to ensure they have the necessary training to discharge their democratic duties.

Consultation

1. Internal

Member Development Steering Group

External

Not applicable.

Context

The Member Development Steering Group is beginning to plan the induction programme for the new intake of Councillors that will begin a term of office for 4 years from 2020. This will be in line with best practice and ultimately will aim to meet the requirements of South West Council's Member Development Charter.

In the meantime, the Member Development Steering Group have identified a selection of activities to take place in 18/19 in order to meet emerging training needs and to ensure Members are kept up to date with key information. Details as follows;

Local Government Association Training Sessions;

- Community Leadership in a Changing Environment - complete
- Effective Scrutiny - complete
- Leadership Essentials – complete
- Effective Engagement – 29th March 19

Bristol City Council Internal Training Sessions;

- Safeguarding and equalities – 10th April and 3rd May (provisional)
- Finance – date TBC
- Appeals – 1st May (provisional)
- Regulatory matters – May TBC
- GDPR – May TBC
- ICT – Office 365 – complete, various dates
- Companies – April/May TBC
- Modern.Gov – ongoing as needed
- Governance – Outside Bodies, WECA etc – April/May TBC
- Mental Health Awareness – 11th April

In addition, the following Member briefings have taken place/been diarised;

- Consultation Institute session - 23rd, 24th April & 1st May
- Benefits Briefing To Members - 26th April
- Youth Services Briefing - 17th May
- GDPR - 22nd May -
- Floating Harbour and River Avon Programme - 21st, 29th & 30th May
- Councillor drop-in sessions about Short Breaks - 4th & 7th June
- 20mph Review - 6th June
- Consultation and Engagement Strategy - 18th June
- Impact Grenfell and Fire Safety - 5th July
- Training: Unconscious Bias - 18th July
- Information Advice and Guidance services - 1st August
- Clean Air Engagement Programme - 2nd August
- SEND - 12th August
- MetroBus Briefing - 20th & 24th September
- Future Library Engagement - 16th & 17th October
- City Leap and Scrutiny Councillor's Briefing - 22nd November
- Universal Credit - 28th & 29th November & 7 December
- Future Bright - 12th December
- Joint Strategic Needs Assessment (JSNA 2018) - 12th & 18th December
- Bristol Temple Meads and Bristol Temple Quarter Plan - 14th, 16th, 18th January
- Local CIL and Devolved S106 - 28th & 30th January
- Libraries Engagement Drop In - 28th January & 11th February & 6th March
- Supportive Council Tax Recovery - 12th February x 2
- Place Based Directory of Services - Information, Advice and Guidance Innovation in Adult Social Care - 20th Feb & 4th March
- One City - 4th March
- Place Based Directory of Services - 4th March
- Personal Security (with Avon & Somerset Constabulary) - 6th March & 25th March

Other Options Considered

2. None necessary.

Risk Assessment

Not applicable.

Legal and Resource Implications

Legal implications:

Not applicable.

Financial:

(a) Revenue

Not applicable.

(b) Capital

Not applicable.

Land/Property

Not applicable.

Human Resources

Not applicable.

Appendices:

A – Membership of the Member Development Steering Group

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers: None

Appendix A – Member Development Steering Group Membership

- Councillor Nicola Bowden-Jones
- Councillor Tony Carey
- Councillor Harriet Clough
- Councillor Martin Fodor
- Councillor Margaret Hickman
- Councillor Helen Holland
- Councillor Tim Kent
- Councillor Clive Stevens

Values and Ethics Sub Committee 26th March 19



Report of: Tim O'Gara, Service Director – Legal and Democratic Services

Title: **Guidance for Councillors re Confidential/Exempt Information**

Ward: All Wards

Officer Presenting Report: Nicholas Mimmack

Contact Telephone Number: 0117 922 2787

Recommendation

That the Sub-Committee notes the legal position regarding confidential/exempt information and endorses the guidance attached at Appendix A.

Summary

The report provides information to enable the Sub-committee to consider and decide whether to endorse the guidance on confidential/exempt information.

The significant issues in the report are:

As set out in the report and the appendices to the report.



Policy

1. This guidance will assist in supporting the Council's duty to promote and sustain high standards of conduct, one of the functions of the Value & Ethics Sub-Committee.

Consultation

2. N/A

Context

3. Questions around access to confidential/exempt information arise frequently in relation to access by councillors. Additionally one of the key recommendations of the LGA Corporate Peer Challenge was 'ensuring information is shared in good time and used responsibly by all.' It was therefore felt that it would be useful to provide further guidance to councillors in this regard.
4. This report summarises the legal position relating to confidential/exempt information. It also provides some practical guidance about how councillors should handle confidential/exempt information, as set out in Appendix A.

Legal Position

5. The meetings of Full Council, its committee and sub-committees are required by law to be open to the public and press. However there are circumstances under which the Council either must or may exclude members of the public/press.

Confidential Information

6. A local authority must exclude the public and press from a meeting during an item of business if it includes confidential information. Confidential information includes information:
 - Provided to the local authority by a government department that forbids disclosure of the information to the public;
 - That is prohibited from being disclosed to the public under legislation or Court Order.
7. A resolution does not need to be passed during a meeting where an item of business that includes confidential information will be considered, as a statutory requirement will already be in place to exclude the public/press. It is therefore sufficient for the chair of the meeting to request that the public leave the room so that the item of business containing confidential information can be dealt with in private.
8. Any relevant documents should have been marked as confidential when published in advance of the meeting in order that the public/press are on notice that they will not be able to attend this part of the meeting. If possible, then any confidential information should be placed in a separate appendix in order that the remainder of the report may be read.

Exempt Information

- 9.** Exempt information includes information relating to:
- An individual (including information that reveals the identity of an individual);
 - Financial and business affairs of people or companies (including the authority holding the information);
 - Any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority;
 - Legal professional privilege;
 - A proposal by an authority to either give a notice imposing requirements on an individual or to make an order under any enactment;
 - Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- 10.** The information in the first four categories listed above may only be considered to be exempt if the public interest in maintaining the exemption outweighs the public interest in disclosure. The above exemptions and full list of qualifications may be found at Appendix B.
- 11.** A local authority can exclude the public or press from a meeting by resolution for the course of the discussion relating to that item if it includes exempt information. A resolution must:
- Identify the proceedings (or part) to which it applies; and
 - Describe the category of exempt information that gives rise to the decision to exclude the public from the meeting.
- 12.** If a local authority is satisfied that the above criteria have been met, it will pass a resolution allowing it to lawfully exclude the public during the relevant proceedings at a meeting.
- 13.** The same provisions apply as regards confidential information in that any documents containing exempt information should be marked accordingly when published and any exempt information should, if possible, be placed in an exempt appendix in order that the remainder of the report may be read.
- 14.** A local authority must act reasonably when exercising its discretion to exclude the public/press from a meeting if an item of business includes exempt information. It must justify its action by referring to the statutory list of items of exempt information at Appendix B.

Practical Guidance for Councillors relating to the handling of confidential/exempt information

- 15.** Councillors should take their responsibilities relating to the handling of confidential/exempt information seriously. Appendix A to this report sets out some practical guidance for councillors.

Risk Assessment

- 16.** All councillors are likely to have access to confidential/exempt information at some point. This report and the associated guidance highlight the legal obligations of councillors relating to

confidential/exempt information and will reduce the risk that information is inadvertently disclosed.

Public Sector Equality Duty

17. Nothing arising directly from this report.

Legal Implications

18. As set out in the report.

Resource Implications

19. None arising directly from this report.

Appendices:

Appendix A – Guidance for Councillors re Confidential/Exempt Information.

Appendix B – Categories of Exempt Information

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

None



PRACTICAL GUIDANCE FOR COUNCILLORS RE HANDLING OF CONFIDENTIAL/EXEMPT INFORMATION

1. Confidential/exempt information relating to business to be conducted at meetings will be provided to councillors via modern.gov, clearly stating the category of confidential/exempt information.
2. The exception to the above is where information is of a sufficient level of sensitivity as to, in the opinion of the Monitoring Officer, warrant managed access. Information relating to the Council's companies falls into this category and other information may also do so on a case-by-case basis.
3. Under managed access, councillors may inspect and annotate documentation in the presence of a member of the Democratic Services Team. They will then be provided with the annotated version of the document at the meeting to which it is pertinent. The document will then be collected once consideration of that item has been completed.
4. Councillors should ensure that any confidential/exempt information is not shared with members of the public or the press.
5. Where a councillor is participating in a meeting at which confidential/exempt information is to be considered, the confidential/exempt details should not be discussed until the public and the press have been excluded from the meeting.
6. There is an ongoing obligation to ensure that the information remains confidential/exempt (see para 2.4(c) of the Member Code of Conduct). The details of the confidential/exempt information should not be shared following the meeting at which the information is considered.
7. Councillors should consider whether they need to retain copies of confidential/exempt information (that is not subject to managed access) following the meeting at which the information is considered. If a councillor determines that they need to retain the confidential/exempt information for future reference, then they have a duty to ensure that the information is stored in a secure way and cannot be accessed by any third party. Best practice is to securely destroy any hard copies and to access the information solely via modern.gov.
8. There may be circumstances when information can be released at a future date. Advice must be sought from the Monitoring Officer if it is felt that there is a justification for releasing confidential/exempt information at a future date.
9. Councillors should familiarise themselves with the categories of confidential and exempt information as set out in the Council's Access to Information Procedure Rules.
10. Further advice can be obtained from the Monitoring Officer.

	Category	Qualifications
1	Information relating to any individual.	
2	Information which is likely to reveal the identity of an individual.	
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>Information falling within this paragraph is not exempt information by virtue of this paragraph if it is required to be registered under:</p> <ul style="list-style-type: none"> (a) the Companies Act 1985 (b) the Friendly Societies Act 1974 (c) the Friendly Societies Act 1992 (d) the Industrial and Provident Societies Act 1965 to 1978 (e) the Building Societies Act 1986; or (f) the Charities Act 1993.
4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour matters relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	
5	Information in respect of which a claim for legal professional privilege could be maintained in legal proceedings.	
6	Information which reveals that the authority proposes: <ul style="list-style-type: none"> (a) to give any enactment under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment. 	
7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

	Category	Qualifications
8		Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

Information which falls within any of sections 1 to 7 above; and is not prevented from being exempt by virtue of the qualification in section 8 or the qualification to section 3 is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.