

SECTION 3 – PROTOCOLS ON MEMBER/OFFICER RELATIONS

1. *Underlying Principles*

- 1.1 The following general principles apply to all relations involving members and officers.
- 1.2 All relations shall be conducted:
- With respect for others and in a way, which promotes equality.
 - With honesty and integrity.
 - Acknowledging the duty to uphold the law and act in accordance with the trust placed in them by the public.
 - In a way that promotes objectivity, accountability and openness.
 - Acknowledging the duty of confidentiality that exists in relation to information given in confidence and information which the council is entitled by law to treat as confidential.
 - With a view to establishing and promoting positive working relationships.

2. *Roles of Members*

- 2.1 All members will have important roles including representing the views of their constituents, acting together as full council, and membership of committees and sub-committees.
- 2.2 Elected member role profiles are attached as an appendix to these protocols. In carrying out their roles, members should respect the political neutrality and integrity of all officers employed by the council.

3. *Roles of Officers*

- 3.1 The role of officers is to work for and serve the council as a whole. They are responsible for the day-to-day managerial activities and operational decisions which the council takes and should provide support to all members in their several roles. Officers should at all times maintain impartiality and be aware of the potential for conflict in providing effective support to members.
- 3.2 The chief executive, strategic directors and heads of service shall be entitled to offer advice at meetings of all member bodies if he/she thinks it is necessary to ensure that all relevant matters are taken into account.
- 3.3 Where an officer feels that his/her political neutrality or integrity is being compromised in any way, he/she shall notify his/her head of service and strategic director.

4. The Leader and the Cabinet

4.1 Procedural Matters

- 4.1.1** The leaders of political groups representing over 10% of the membership of the council or their representatives may attend cabinet meetings as non-voting invitees. Standing orders give any member the right to attend any meetings as non-speaking observers.
- 4.1.2** Draft minutes of cabinet meetings and leader or portfolio holder decision-making sessions will be placed on the electronic information system by 5.00pm on the second clear working day after the meeting/session.
- 4.1.3** The leader and the cabinet can and should consult with whoever it thinks appropriate and should take an inclusive approach to its work by consulting others, including partner bodies as well as members of the wider community.
- 4.1.4** The leader and the cabinet are responsible for policy development. Overview and scrutiny committees have a role in assisting the leader and the cabinet to develop policy. Cabinet portfolio holders should maintain an effective two-way dialogue with the relevant overview and scrutiny committees. Regular communication between portfolio holders and committees, chairs, and spokespersons aids effective policy development.
- 4.1.5** If the cabinet establishes a policy panel it should be chaired by the relevant portfolio holder and should be time limited.

4.2 Relationship between the Leader, Portfolio Holders, Cabinet and Officers

- 4.2.1** The leader, portfolio holders and the cabinet shall seek advice from relevant officers before taking decisions. It may also invite them to attend its meetings as necessary.
- 4.2.2** Reports are prepared by officers and contain professional views and advice for all members. Whilst members may be invited to comment on reports, attempts should not be made by members to change the advice given in reports.
- 4.2.3** Officers shall consult the relevant portfolio holders on draft reports to be presented to meetings of the cabinet or for decision by the leader or portfolio holder and circulate a copy of the draft report to the following:
- Relevant spokespersons for information; and
 - Local members where the decision would have a specific impact on certain electoral divisions – ‘for comment’
- 4.2.4** Officers shall consult portfolio holders and the relevant chair on draft reports to overview and scrutiny committees and circulate a copy to:
- The vice-chair and other relevant spokespersons on the overview and scrutiny committee for information; and
 - Local members where the decision would have a specific impact on certain electoral divisions – ‘for comment’

- 4.2.5** The current convention is that there is no consultation with members on officer reports to the other non-executive bodies i.e. full council, Audit and Standards Committee, Regulatory Committee, Staff and Pensions Committee and sub-committees.

5. Overview and Scrutiny Committees

5.1 Procedural Matters

- 5.1.1** Unless otherwise stated, each overview and scrutiny committee shall set its own programme of work. Any member of an overview and scrutiny committee, including co-opted members, can propose items for consideration. The chair's decision is final in deciding the agenda for any particular meeting.
- 5.1.2** Officer reports to overview and scrutiny committees should be presented in a way which encourages free-flowing debate. Officers should consider shorter briefing papers with options for the committee to receive further information, through presentations, visits, questions at the meeting etc. as opposed to traditional reports.
- 5.1.3** Only in exceptional circumstances should there be urgent or unplanned reports to overview and scrutiny committees, as they are not decision-making bodies and items of this nature would ordinarily be routed to the leader or cabinet or the appropriate decision-making person or body.
- 5.1.4** Briefings for chairs, vice-chairs and spokespersons prior to the committee meetings will be focused on the management of the meeting and the work programme of the committee not on the content of reports/items on the agenda.
- 5.1.5** The chair, vice-chair and spokespersons will be given an opportunity to meet to consider the work programme of the committee.
- 5.1.6** Regular briefing meetings will be arranged between the relevant cabinet portfolio holder(s) and overview and scrutiny chairs and spokespersons. The strategic director and/or appropriate heads of service will attend. The meeting will identify any key issues for dissemination to the wide council membership, which will form a bulletin to be issued to all members as soon as possible after the meeting. The meeting will also be provided with an overview of overview and scrutiny, cabinet and council work programmes to enable overview and scrutiny members to consider whether they wish to make any changes to their work programme. (These meetings should assist in ensuring the programmes progress in year and that any other important strategic issues that arise in year are accommodated). The aim should be to have these meetings every two months to ensure timely exchange of information and onward briefing of members.
- 5.1.7** The overview and scrutiny committees should report to full council once a year on the work undertaken.
- 5.1.8** Where matters fall within the remit of more than one overview and scrutiny committee, the relevant chairs shall decide which of them will assume responsibility for that particular issue. Joint meetings of overview and scrutiny committees should be avoided, as these are generally too large to carry out effective scrutiny.

Alternatively, the relevant overview and scrutiny committees may decide to form a small joint scrutiny panel to examine cross-cutting issues.

- 5.1.9** Reports from overview and scrutiny committees to the cabinet/portfolio holders and/or full council shall be in the name of the chair. Where the professional advice of the chief executive or strategic director or other statutory officer does not support the content or recommendation in the report, this will be made clear in the report.
- 5.1.10** An overview and scrutiny committee shall be entitled to invite any person to address its meetings, to discuss issues of concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector.
- 5.1.11** An overview and scrutiny committee will normally invite members who have called- in an executive decision to attend the meeting to explain the reasons for the call-in.
- 5.1.12** If an Overview and Scrutiny committee establish a task and finish group it should be time limited.

5.2 Scrutiny Role

- 5.2.1** Overview and scrutiny should be evidence based, constructive and focused on outcomes which make a positive difference to people living and working in Warwickshire. Overview and scrutiny committees should not normally scrutinise individual decisions made by committees or officers, particularly in respect of development control, licensing, registration, consents and other permissions. Scrutiny should not be viewed as an alternative to normal appeal procedures. Nor should it be used as a vehicle to pursue issues relating to matters concerning individual electoral divisions.
- 5.2.2** The overall purpose of a scrutiny review is to:
- Assist the council to achieve its corporate aims and objectives; and
 - Deliver positive outcomes for local people.
- 5.2.3** Overview and scrutiny committees should take the following matters into account when deciding whether to conduct a particular scrutiny:
- Would the issue have a significant impact on Warwickshire?
 - Is it a matter which would be of general public concern?
 - Does the issue relate to a key deliverable of a strategic and/or partnership plan?
 - Does it relate to a key performance area where the council needs to improve?
 - Are there adequate resources available to do the activity well?
 - Is the overview and scrutiny activity timely?
 - Is there a clear objective for scrutinising this topic?
 - Is there evidence to support the need for overview and scrutiny?
 - What are the likely benefits to the council and its customers?
 - Are we likely to achieve the desired outcome?
 - What are the potential risks?
- 5.2.4** Overview and scrutiny committees should consider rejecting a scrutiny review for the following reasons:

- The issue is already being addressed/examined elsewhere and change is imminent;
- The issue is not relevant to all or large parts of the council;
- There is little evidence to support the need for a review;
- The issue is the subject of current consultation by the council;
- The topic would be better addressed somewhere else (and will be referred there);
- Scrutiny involvement would have limited/no impact upon outcomes for local people;
- The topics may be sub-judice or prejudicial to the council's interest;
- The topic is too broad to make a realistic review;
- New legislation or guidance relating to the topic is expected within the next year;
- The topic area is currently subject to inspection or had recently undergone substantial change.

5.2.5 Overview and scrutiny committees or sub-committees may question the leader, members of the cabinet or other committees, strategic directors, heads of service or their nominee, about their decisions and performance of services. The member or officer concerned will be given at least 10 working days written notice of the meeting, which will include details of the item and whether there is any background information.

5.2.6 Where, in exceptional circumstances, the relevant person or their nominee is unable to attend on the required date, an alternative date shall be arranged in consultation with him/her.

5.2.7 Overview and scrutiny committees should always bear in mind that when officers appear to answer questions their contribution should, as far as is possible, be confined to questions of fact and explanation relating to policies and decisions.

5.2.8 Officers may explain what the policies are, the extent to which those objectives may have been met and how administrative factors may have affected both the choice of policy measures and the manner of their implementation.

5.2.9 Officers may be asked to explain the advice they have given to the leader, portfolio holder or cabinet prior to decisions being taken and they may also be asked to explain the decisions they have taken themselves under delegated authority.

5.2.10 As far as possible, officers should avoid being drawn into discussion about the merits of alternative policies where this is politically contentious. Any comment by officers on the policies and actions of the leader, portfolio holder or cabinet should always be consistent with the requirement for officers to be politically impartial.

5.2.11 Where an Overview and Scrutiny committee conducts investigations (e.g. with a view to policy development) and asks people to attend meetings to give evidence, such meetings are to be conducted in accordance with the following principles:

- the investigation is conducted fairly and all members of the committee shall be given the opportunity to ask questions, contribute and speak;
- those assisting the committee by giving evidence are treated with respect and courtesy; and
- the investigation is conducted to maximise the efficiency of the investigation or analysis.

5.3 Relationship between Overview and Scrutiny Committees and Officers

5.3.1 Overview and scrutiny committees shall seek advice from relevant officers when considering any report or matter.

5.3.2 Where an overview and scrutiny committee considers that there is doubt about whether an executive decision is contrary to the budget and/or the policy framework they shall seek the advice of the monitoring officer and other relevant officers.

5.4 Councillor Call for Action

5.4.1 A councillor call for action should not be seen as the first step in resolving a matter. The member should talk to relevant officers and the portfolio holder(s) before using this process

5.4.2 Steps which a councillor could take before using the councillor call for action process include:

- Contact with the local office or body concerned to attempt to resolve the matter;
- Contact with the relevant portfolio holder;
- Use of appropriate complaint procedures; and/or
- Use of an appropriate locality forum where the issue has a multiagency dimension.

5.4.3 The notice to the monitoring officer should set out clearly what the issue is about, what resolution is being sought, what steps have already been taken and the outcome. The member should enclose any relevant papers and copies of any relevant correspondence.

5.4.4 The following are excluded matters:

- issues where there are clear appeal processes such as planning
- issues where the action being suggested would be unlawful
- individual staff matters
- issues which would be dealt with under the council's or another body's complaints procedures
- litigation/court processes
- vexatious/repetitive complaints

5.4.5 In deciding whether or not to conduct any particular scrutiny arising from a councillor call for action the overview and scrutiny committees should apply the same considerations as it would to any other suggested topic for scrutiny.

6. Relationship between Other Committees and Officers

Committees shall seek advice from relevant officers before taking decisions and when considering any report or matter.

7. Chairing Meetings

Vice-chairs shall be appointed for overview and scrutiny committees, Regulatory Committee and Staff and Pensions Committee. In the absence of the chair, the vice-chair will chair the meeting. In the absence of both the chair and vice-chair, those present shall choose another member from the same political group as the chair to chair the meeting.

8. Appointments and Disciplinary Appeals

Any meeting of a sub-committee shall include elected members from at least two political groups. Each sub-committee shall elect a person to chair the meeting.

9. Agenda Management

Unless otherwise stated, the monitoring officer will determine whether a particular agenda item is within the remit of a particular member body.

10. Committee Management Information System (CMIS)

10.1 Draft reports for comment or information will be circulated electronically via CMIS. This will be the principal method of circulation to ensure a proper audit trail is maintained.

10.2 Agendas and public reports are normally published at least 5 working days before the meeting. All members will be notified of the publication of reports by email with a link to the relevant papers.

10.3 The minutes of cabinet meetings will normally be published within 2 working days of the meeting and for other bodies the minutes will normally be published within 5 working days of the meeting. All members will be notified of the publication of minutes by email with a link to the relevant minutes.

11. General Principles of Support from Officers to Members

11.1 Officers should provide support and information to the leader, cabinet, the overview and scrutiny committees, other committees and individual members in order to meet reasonable requests to enable the relevant member or body to carry out their role(s) as elected representatives.

- 11.2 Officers should not be requested to provide support and information to members in pursuit of political activities of any kind.

12. *Party Group Meetings*

- 12.1 Meetings of party groups shall not be deemed to be meetings for the purposes of this constitution.
- 12.2 The underlying principles as set out above shall apply to officer relations with party groups. Additionally, where officers are required to attend political group meetings, members present should be particularly mindful of the political neutrality of officers.
- 12.3 Members should avoid making any comments, which would compromise the integrity and impartiality of the officer's present. They should also avoid situations which involve conflicts between the interests of the political group and the interests of the council.

13. *Members in their Local Role and Officers*

- 13.1 Officers should notify members of any significant issues which particularly affect the member(s) electoral division(s). This should include any changes to services in the area, such as opening times and use of buildings, including any temporary changes or temporary closures. This requirement does not normally apply to details relating to individual recipients of council services.
- 13.2 Officers should endeavour to ensure members are kept informed of progress of projects within their division, including capital projects and highway works.
- 13.3 Officers should seek the comments of the local elected members on reports which particularly affect their electoral division(s) and where appropriate indicate their comments in the text of the report. There may be occasions when the impact of proposals is wider than the local member. On these occasions the other members within the relevant areas should be consulted.
- 13.4 Where officers are uncertain whether a particular decision is a key decision because of its effect on an area they should consult the member(s) whose electoral division(s) is particularly affected.
- 13.5 Local members shall seek advice from relevant officers before taking decisions under delegated powers and when considering any report or matter.

14. *Councillor access to documents and information*

- 14.1** Members have certain statutory rights to access documents and information arising out of their role as councillor (e.g. the right to see documents relating to business to be transacted by the council, the right to inspect accounts and take copies and the right to inspect books, deeds, contracts, bills, vouchers and receipts).
- 14.2** In the absence of a specific statutory right, members can access council documents and information if it is reasonably necessary for the purposes of performing their duties as a councillor. There is no automatic right of access and the need to know must be demonstrated by the member concerned. Any matters of dispute are to be resolved by the monitoring officer.
- 14.3** Confidential or exempt information should not be shared with anyone outside the council.

15. *Members on Outside Bodies – Reporting Back*

The nominees appointed to the listed outside bodies will report back at least half yearly to the appropriate council body on the key issues for the outside body and any potential impact for the council. The outside bodies are:

- Local Enterprise Partnership
- Eastern Shires Purchasing Organisation Management Committee
- Local Transport Board
- LGA General Assembly
- County Councils Network
- LGA Urban Commission
- Rural Commission
- Fire Commission
- Warwickshire Waste Partnership
- Any others which may be added from time to time

16. *Other Individuals who are Members of Council Bodies*

- 16.1** Other individuals who are members of council bodies shall follow and shall be treated in accordance with the underlying principles set out at 1 above. Additionally, any duties of confidentiality which they owe to the body they are representing shall be respected.
- 16.2** Such individuals have the right to advice from officers on council related matters.

16.3 Conflicts of interest between a person's personal, professional or business interests and those of the council may arise from time to time. Such conflicts shall be declared and dealt with in accordance with 18 below.

17. *Press and Media*

Officers dealing with the press and media, and any press/media releases that are issued, should not seek to further the interests of a political party or a particular member other than as a representative of the council.

The council will follow such national codes and guidance on press and publicity as are in force from time to time.

18. *Conflicts*

All members have undertaken to comply with the Members' Code of Conduct. The monitoring officer is there to provide advice on the interpretation of the code and assist members to decide whether or not they may have a conflict of interest. Members are encouraged to seek early advice whenever they feel there is the potential for a conflict of interest to arise.

Where conflicts arise in member/officer relations these should either be dealt with under the relevant code of conduct under part 4 of this constitution or referred to the chief executive who, in consultation with the leader, and/or other group leaders as necessary, shall decide on the most appropriate course of action.