# PROTOCOL RE: MEMBER AND EMPLOYEE RELATIONS

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1. INTRODUCTION

1.1 Barking and Dagenham has traditionally enjoyed excellent relations between Members and employees. Mutual respect and understanding between both is essential to good local government.

1.2 The purpose of this Protocol is to guide Members and employees of the Council in their working relations with one another. It brings together many of the practices and values which have previously contributed to a successful partnership but also acknowledges areas which have sometimes caused embarrassment or difficulty. The Protocol also reflects the cultural change which has occurred under modernisation and has regard to the increasing joint working between Members and employees, and with external partners. Equalities, natural justice and reasonableness are strong underlying intentions throughout.

1.3 The Protocol is intended to be clear and understandable by all. Importantly, it seeks to exclude any scope for misunderstanding which might lead to unreasonable behaviour or inappropriate action. The Protocol therefore offers some form of protection for both Members and employees.

1.4 The Protocol is underpinned by the separate Codes of Conduct which apply to Members and employees.

1.5 The Protocol also operates under the general premise that both Members and employees are working towards the same goals and priorities. It has regard to the Council’s wish to be open and honest in its dealings within and outside the Council, to work corporately, and to do so in a manner which encourages a participative culture.

1.6 The Protocol has been endorsed by the Standards Committee, the Assembly, the majority and minority party groups individually, the Chief Executive and his Management Team, and the Trade Unions. It will be reviewed annually by the Standards Committee who will make recommendations to the Assembly as appropriate.

1.7 The Protocol first came into effect in May 2001. It applies to all elected Members of the Council, and, where relevant, statutory co-opted members, and to all employees of the Council, with the exception of those who are employed at schools. It is also intended that the Protocol should apply to any consultants, contractors or agency personnel working on behalf of the Council and it is the responsibility of the employing manager to ensure that relevant sections of the document are brought to the attention of such workers at the beginning of their employment.

2. THE DISTINCTIVE ROLES OF MEMBERS AND EMPLOYEES

2.1 It is important that both Members and employees respect their distinctive roles in order for relations to be clear and appropriate.
2.1.1 **Members:**

(i) Members are elected democratically. It is their policies, ideas and decisions that people vote for.

(ii) It is their role to:

(a) Represent the local community and ensure that its best interests are considered during policy making
(b) Set the Council's strategic direction, the policy framework, corporate goals, overall priorities and targets
(c) Develop policy proposals with professional advice from employees
(d) Monitor the implementation and effect of their decisions
(e) Add a political dimension when appropriate

2.1.2 **Employees:**

(i) Employees are employed by the Council to undertake an organisational role. It is their job to:

(a) Deliver services to the community according to the policies and requirements set by the Council
(b) Draft policy proposals which accord with the overall framework set by Members
(c) Give professional advice in the course of policy development
(d) Manage the organisation

2.1.3 Put simply, Members are responsible for determining policy and the Council's strategic direction; employees are responsible and accountable for suggesting and implementing policy, and delivering services.

2.1.4 Given these roles, employees are employed to work within and pursue Council policies and priorities, unaffected by personal inclinations.

2.1.5 Employees are accountable to their managers and ultimately their Chief Officer. They work to the instructions of their manager, and not to individual Members of the Council - whatever office a Member might hold. Members should not interfere with matters that are properly the responsibility of employees. It follows that Members should not get involved in any operational situations. If a Member considers that something is seriously of concern, they should report the matter to the relevant Corporate Director or Divisional Director and leave it with them to sort out as necessary. Members should not engage with staff on the ground regarding what they perceive to be a problem, nor must they inflame any such problem by engaging with any customers who may be in the vicinity at the time.

2.1.6 The Council's Scheme of Delegation (Part C of the Constitution) explains in more detail where specific responsibilities lie.
3. WHAT MEMBERS CAN EXPECT OF EMPLOYEES

3.1 Members can expect employees:

3.1.1 To do their job effectively and efficiently

3.1.2 To strive to provide services which offer best value

3.1.3 To behave in a manner which accords with the standards set by the Council

3.1.4 To be helpful, respectful and courteous to Members

3.1.5 To assist Members in carrying out their role as Members of the Council in connection with Council business (employees cannot, however, assist with party political or campaigning activity, or with private business)

3.1.6 To deal with Members' enquiries fairly and efficiently

3.1.7 To be open and honest with Members. To tell the whole story, giving any bad news as well as the good.

3.1.8 To keep Members well informed

3.1.9 To work with all Members equally and fairly

3.1.10 To act lawfully

3.1.11 To give advice or recommendations based on reasoned options

3.1.12 To ensure that Members have all the information necessary to make informed judgements in a timely fashion and presented in a way which is easy to understand in accordance with Plain English guidance wherever practicable

3.1.13 To maintain confidentiality where it is proper for them to do so

3.1.14 Not to canvass Members or otherwise seek to gain favour from them for personal or career advantage

3.1.15 To have regard to social hours and generally to be sensible about contacting Members at potentially inconvenient times, unless in an emergency or otherwise agreed

3.1.16 Not to raise personal issues related to their employment with Members.

4. WHAT EMPLOYEES CAN EXPECT OF MEMBERS

4.1 Employees can expect Members:

4.1.1 To accept that employees are accountable to their Manager
4.1.2 Not to become involved in the day to day management of the Council

4.1.3 To fully consider advice and recommendations for the purpose of making informed judgements

4.1.4 Not to ask employees to breach Council policy or procedures, or to act unlawfully, or outside the terms of their job

4.1.5 Not to exert influence or pressure, or request special treatment, because they are a Member

4.1.6 Not to request unauthorised access to resources or information held by the Council

4.1.7 Not to attempt to intervene in case management nor attempt to delve into the personal details of individuals and families

4.1.8 To accept that employees act independently of political bias

4.1.9 To treat employees in a reasonable manner and with respect

4.1.10 To be open and honest with employees

4.1.11 To act lawfully

4.1.12 To maintain confidentiality when appropriate to do so

4.1.13 To respect that employees have private lives and not to contact them outside normal working hours, or at home, unless in an emergency, or if the employee is officially working from home, or otherwise agreed.

5. POLITICAL NEUTRALITY AND IMPARTIALITY OF EMPLOYEES

5.1 The National Code of Conduct for local government employees states:

“Employees serve the Authority as a whole. They must serve all Councillors and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected”.

5.2 Members should understand that employees will generally operate in a politically neutral capacity. By law, some posts are specifically designated as “politically restricted”, meaning that they cannot be filled by employees who are linked to a political party or group, either through direct involvement or by, for example, canvassing on their behalf. These are mainly posts at a senior level within the organisation or where the post-holders are regularly involved, as part of their work, in advising Members.

5.3 Members should not discuss party politics with employees nor must they assume that there is an allegiance to a particular party. Members should not place employees in an embarrassing situation where, for example, they feel they have to agree with a particular political line, whether this be nationally or
locally based, although employees must follow the overall objectives of the Council and must not work against them.

5.4 Within the framework of a formal meeting, however, it is natural that Members will make political statements. Employees should have a general awareness of the Council’s political direction and acknowledge that at a strategic level this is bound to have an influence. But, it is not for employees to challenge such direction and they will co-operate with it – unless it is illegal.

5.5 It is not improper that employees may sometimes wish to seek political guidance in framing policy proposals. However, when they write reports or give advice they have a duty to give professional advice and to make Members aware of all the options available.

5.6 Employees must not demonstrate their personal political allegiances or intentions in carrying out their duties and must not display any party political literature in or on Council premises, equipment, or Council vehicles etc.

6. PARTY GROUP MEETINGS

6.1 It is common practice for party groups to give preliminary, informal consideration to Council business in advance of the formal decision making process. Whilst it is not normal practice, employees may be asked to attend party group meetings to brief Members in a professional capacity. However, this is seen as happening rarely, not regularly, and attendance may only occur with the express permission of the Chief Executive. Such attendance will be on the understanding that other party groups will be similarly served should they so request. The political neutrality of any employee attending a group meeting must be respected.

6.2 Employees will respect the confidentiality of any party group discussions at which they are present and, in particular, not relay any such discussion to another group.

6.3 All requests for an employee to attend a party group meeting should be made through the Chief Executive (or, in their absence, another member of the Management Team, i.e. a Corporate Director) who will judge which employee is the most appropriate to attend. This avoids any danger of an individual employee being identified with the party concerned. The employee will be at senior (usually Corporate Director or Senior Manager) level.

6.4 Employees may not attend Group Meetings in a private capacity without the express permission of the Chief Executive. Employees’ attendance at Group Meetings will take place in the presence of London Borough of Barking and Dagenham Members only.

6.5 Employees may also be asked to give support in other ways such as briefing Chairs or spokespersons prior to a formal meeting. Again, whilst in practice such support is likely to be in most demand from whichever party group is in control of the Council, such support is available to all groups.
6.6 In all these instances it is important that Members and employees understand the following:

6.6.1 Employee support cannot extend beyond providing information and advice in relation to Council business – employees cannot be involved in party business. Where possible, this rule can be assisted if employees are not present when party business is being discussed – thought should be given to the way in which the business for the meeting in question is structured.

6.6.2 Party group meetings cannot make Council decisions and any conclusions reached cannot be interpreted as such or acted upon.

6.6.3 Where employees provide information and advice to a political group this cannot act as a substitute for providing all necessary detail to a formal meeting.

6.7 Special care is needed where employees are involved in providing information or advice to a party group which includes non-Members of the Council. Such people are not bound by the Members Code of Conduct (in particular the provisions concerning declaration of interests and confidentiality). Employees may not, therefore, be able to provide confidential detail as they would to a Members only meeting.

6.8 Any cases of particular difficulty or uncertainty in relation to employee advice to party groups should be raised with the Chief Executive.

7. GENERAL CONTACTS WITH EMPLOYEES

7.1 Members are free to approach any Council department for any information, explanation or advice that they need to assist them in carrying out their role as a Member.

7.2 Contact between Members and employees should be via the relevant Corporate Director or Divisional Director with the exception that all case work should be channelled through a Members’ Casework officer, details of whom will be provided to Members. The other exceptions are Members Support and Democratic Services officers for day to day general support and matters relating to meetings.

7.3 Members should always contact the Corporate Director or Divisional Director, or the Council’s Monitoring Officer, regarding anything very serious or sensitive.

7.4 Care must be taken to ensure that a complaint, as opposed to an enquiry, on behalf of a constituent is put through the official complaints procedure, and in so doing that an email is acknowledged within one working day, letters and faxes within five working days and that a full response to a letter, fax or email is provided within ten working days.
7.5 Details of an appropriate contact employee is given in all written communications with Members.

7.6 Members are required to ensure that Members' Services are provided at all times with an address for the delivery of any hard copy correspondence. As far as possible, however, written communications will be through email. Electronic communications with Members will only be via recognised council email addresses.

7.7 Members should not put pressure on any employee in relation to matters which have been delegated to employees. This might lead employees to make decisions that:

7.7.1 are not objective and cannot be accounted for; or

7.7.2 unfairly favour one Member or group of the public over another

7.8 Equally, Members should avoid bringing any influence to bear on an employee to take any action which is:

7.8.1 against normal procedures or Council policy

7.8.2 a breach of the Code of Conduct for Employees

7.8.3 in conflict with the Council's Constitution

7.8.4 unlawful

7.8.5 related to commercial transactions

7.9 Meetings which take place between Members and employees are effectively private meetings to discuss Council-related business. Members should not therefore invite external visitors such as party officials or workers, or commercial representatives, to such meetings.

7.10 Employees have a duty to report to their Corporate Director any attempt to exert improper influence. The Chief Executive will also personally wish to be made aware of any such instances and investigate as necessary.

7.11 Members must avoid becoming involved in any employee related matters as this could jeopardise official consultation, grievance, disciplinary and appeal procedures.
7.12 Members should similarly not seek to obtain staff views on any particular situation with a view to using the information to promote something for their personal advantage.

(See also the section on Documents and Information - Accessibility and Confidentiality).

8. ROLES ON OUTSIDE ORGANISATIONS AND GROUPS

8.1 It is natural that some Members and employees will be members - in their own right - of organisations or groups (political, voluntary or otherwise), within the community. Some Members and employees may work for such bodies.

8.2 It is essential that Members and employees do not use their Council position to obtain preferential treatment for the organisation or group concerned in a way that a non-Member or non-employee could not. To do so would be totally improper. In particular it would make it very awkward for staff who might find it difficult to suggest that a Member should use the proper channels when they are clearly not carrying out constituency work.

8.3 If a Member or employee has a role on an outside organisation or group, whether it be in a personal capacity or as a result of a position held on the Council, it is important to be aware that this could create a conflict of interest. A Member can act in the interest of the external body but must recognise the need not to take part in any Council decisions that affect the organisation or group - whether they be nominated by the Council or not - or to take part in any work associated with the organisation or group which could place them in a situation whereby they might be asked to make a judgement on a Council action.

8.4 Members and employees should remove themselves from any potential conflict of interest. Where there is doubt, it is always wise to err on the side of caution.

9. FAMILIARITY, FRIENDSHIPS AND RELATIONSHIPS

9.1 Close personal familiarity, in the office or at meetings, between individual Members and employees should be avoided as this can damage working relationships and prove embarrassing to colleagues on both sides. In particular, it could bring into question an employee's ability to deal impartially with other Members, and vice-versa.

9.2 However, it is recognised that personal, family or business relationships or friendships will exist between some Members and employees. These should be made known by a Member to the Leader of the party group (or another Member of the group if so designated as the contact point), and by an employee to their Corporate Director - for their information. The Corporate Director will inform the Chief Executive and the Divisional Director of Human Resources and Organisational Development.

9.3 Persons engaged in such friendships or relationships should take special care not to seek, or be seen, to influence their positions through their respective
friend or partner. Name dropping to seek advantage is totally unacceptable. People should also go out of their way to ensure that colleagues are not placed in an awkward or embarrassing situation as a result of a friendship or relationship.

9.4 A Member involved in a relationship or otherwise associated with an employee should declare an interest if, on any occasion, they are involved in decision-making directly related to the employee concerned, or the service in which they work. Where appropriate, they should seek to avoid being a member of a related meeting.

9.5 Certain informal gestures in a formal work setting may be innocently made but could be perceived by the recipient to be unwelcome or embarrassing. Such gestures should always be avoided. Similarly, jokes or pranks should be avoided.

9.6 Members must be careful never to become engaged in any matter related to an individual officer's employment (except through formal meetings when these are relevant). Any officer attempting to raise such issues with Members should be advised to take the matter up with their manager and/or their trade union representative, and the Member should take no part in any discussion.

9.7 Members should not invite or encourage employees to partake in unofficial social activities, irrespective of whether this is outside normal working hours. This could be perceived by the recipient to be unwelcome and may result in them feeling obliged to become involved.

10. EMPLOYEES AND THEIR PERSONAL LIFE

10.1 Many employees live in the Borough and may wish to attend local events or public meetings in a personal capacity - for example, a Ward Surgery. Members should respect this and not seek to "use" the individual concerned as an employee at such times.

10.2 Where necessary, for example, in a Ward Surgery, anything discussed by an employee (in confidence or otherwise) as a resident should be so respected by the Member and not discussed in the workplace.

10.3 At public meetings and the like, an employee, as a resident, may wish to voice concerns about certain services or facilities in the area, or to ask questions or make suggestions. This is natural and acceptable to a certain degree. However, that person should not maliciously undermine the Council by adverse or negative comments. At all times, employees must observe the standards set out in the national Code of Conduct for Employees. Also, any employees who hold politically restricted posts are generally prohibited from speaking publicly with the apparent intention of affecting support for a political party.

10.4 The area in which an employee lives should have no bearing on their employment and Members should not, at any time, show favour to those who live in the Borough or those who originated from the area. Employees should
not publicly demonstrate support for a political party in carrying out their duties.

11. **MEMBERS AND THEIR USE OF COUNCIL SERVICES AS A RESIDENT OF THE BOROUGH**

11.1 There will be many times when Members use Council services as a resident - sometimes the service may be of a sensitive, confidential or personal nature (e.g. a social service, financial benefits etc.) and there may be some awkwardness or embarrassment on either side.

11.2 In all instances, the employee providing the service will maintain full confidentiality where this is appropriate and will treat the Member concerned in the same way as any other customer. The Member will not seek or expect any preferential treatment.

12. **TRADE UNIONS**

12.1 The Council has traditionally welcomed and recognised trade union membership and the important role that trade union involvement and participation offers. Relations are generally very good.

12.2 The Employee Joint Consultative Committee provides a forum for effective communication and consultation between employee representatives and the Council. This meeting is represented on the Council side by Members and on the employee side by trade union officials. It provides an opportunity to promote and foster good employee relations, and prevent or remove any friction or misunderstanding.

12.3 Trade union representatives may sometimes express views on behalf of their union which may be critical of the Council as an employer. This is acceptable in this context and a normal part of trade union negotiations or discussions. The fact that a representative may speak out in this way on behalf of colleagues should not be held against that person in their personal employment.

13. **CONDUCT AT MEETINGS AND EVENTS**

13.1 Members and employees should observe the degree of formality in behaviour that is appropriate to the event.

13.2 A formal approach should generally be applied in open meetings although the use of first name terms is acceptable if there is a consensus. The important issue is that the audience should be able to identify who is speaking or being addressed.

13.3 Such formality between Members and employees is not usually necessary at social events. However, any event attended as a result of the Member or employee's role with the Council should have regard to the fact that close personal familiarity might embarrass others or damage external relationships, and therefore should be avoided. Where there is doubt, a more formal approach is potentially less damaging than a casual one.
14. DOCUMENTS AND INFORMATION - ACCESSIBILITY AND CONFIDENTIALITY

14.1 General

14.1.1 Members are free to approach any Council Department to provide them with such information, explanation or advice (about that Department's functions) as they may reasonably need to assist them in carrying out their role as a Member of the Council. This can range from a request for general information about some aspect of a Department's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the relevant Divisional Director or service manager. Employees have a duty to assist Members with their requests subject to any statutory limitations referred to in this document. Where an employee is unable to assist they should provide a full explanation.

14.1.2 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a committee meeting. This right applies irrespective of whether the Member is a member of the committee concerned. This right does not, however, apply to any matters which are subject to restricted circulation and Members should not pressure an employee to provide such reports or tell them what they are about. In the main, these reports will contain personal information about named employees (further detail is provided in the Appendix).

14.1.3 The common law right of Members is much broader and is based on the principle that any Member has a right to inspect Council documents provided they can justify that the information is reasonably necessary to enable the Member to perform their duties as a councillor. This is commonly referred to as the "need to know" principle. It can sometimes be unclear.

14.1.4 The exercise of this right depends, therefore, on the Member's ability to demonstrate that they have the necessary "need to know". In this respect a Member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. However, on the other hand, subject to any Data Protection issues, Members would have a right to trawl files and documents should they feel this would be beneficial to any scrutiny investigation.

14.1.5 A service manager may make the judgement but if they are in any doubt they will seek advice from their Corporate Director or Divisional Director. In the event of dispute, the Chief Executive will determine the matter. The judgement about documents required for scrutiny purposes is the responsibility of the Divisional Director of Legal & Democratic Services.

14.1.6 In some circumstances (e.g. a committee Member wishing to inspect documents relating to the functions of that committee), a Member's "need to know" will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms, in writing to the Chief Executive.
14.1.7 Whilst the term "Council document" is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a "need to know", and therefore has no right to inspect a document which forms part of the internal workings of another party group.

14.1.8 Any Council information provided to a Member must only be used for the purpose for which it was provided i.e. in connection with the proper performance of their duties as a Member of the Council.

14.1.9 Where any document, copy correspondence or information is so marked or said to be confidential, Members and employees must strictly observe this. This also applies to any information which is generally recognised as being of a confidential nature. It is always best to err on the side of caution or seek advice if necessary.

14.1.10 There will be occasions when Members may find themselves in the position of having to refer child protection concerns to the Corporate Director of Children’s Services and/or vulnerable adult protection concerns to the Corporate Director of Adult and Community Services. It is important for Members to understand that in doing so the department cannot guarantee anonymity and the Member’s identity may become known should the case progress to Court.

14.1.11 A Member must not prevent another person from gaining access to information to which that person is entitled to by law.

14.2 Data Protection

14.2.1 It is very important that Members obtain a constituent's consent to enable them to act on their behalf and to receive personal data about the individual or family concerned in connection with a case. Members must understand that if a constituent gives consent it only entitles them to receive data which is relevant to the matter concerned, and they can only use it for that purpose.

14.2.2 Employees who hold data have to be extremely careful about the release of personal information. However, they are generally advised that if a Member states that a constituent has given consent to them, the employee should accept their word and regard this as sufficient for their purposes. Members must, however, understand that the onus is on them should there ever be any data protection repercussions.

14.2.3 Members may, of course, choose, for their own protection, to obtain written consent from the constituent and clearly this is advisable wherever possible. Either way, the responsibility lies with the Member to (a) satisfy themselves that the constituent is who he/she claims to be, (b) specifically ask the constituent if he/she wants the Member or MP to act as their representative, and (c) if so, explain that this will mean that the Member will be asking the Council's employees to reveal personal data about them. They should check that the constituent is happy with this. The Member should keep a
brief record of any such conversations and relay this information to the department concerned when passing on the enquiry or complaint.

14.2.4 If an enquiry is referred by a Member by telephone, email or letter and this very clearly includes significant, detailed personal data which has been given to the Member by an individual, this will normally be sufficient to prove to the employee that the constituent has approached the Member with a view to them acting on their behalf. Where a telephone enquiry is made and the employee concerned does not recognise the Member’s voice, the employee may wish to telephone the Member back or ask him/her a particular question to satisfy him/herself that it actually the Member making the enquiry.

14.2.5 Where third parties are involved it is essential that the consent of the individual who is the subject of the enquiry, has given their consent, for example, in the case of a son enquiring about his mother’s tenancy.

14.2.6 If employees have any doubt whatsoever about revealing personal data to a Member they will consult a manager immediately.

14.2.7 Data Protection Regulations also set out the circumstances in which sensitive personal data can be provided to Members. Sensitive data is that which includes information relating to a person’s:

(a) racial or ethnic origin
(b) political opinions
(c) religious or other similar beliefs
(d) trade union membership
(e) physical or mental health or condition
(f) sexual life
(g) offences (including alleged offences)
(h) criminal proceedings (including outcomes and sentences)

14.2.8 The Regulations are quite complex and there are numerous conditions that apply in different circumstances. Members only need to be aware of the existence of the regulations and understand that any requests for access to such sensitive data must be dealt with on a case by case basis. Detailed advice can be obtained from the Divisional Director of Legal and Democratic Services.

14.2.9 Where sensitive data can be provided to Members there may be reasons why that data cannot be passed on by the Member to the individual who the information relates to. Briefly, this relates to situations where the individual may harm themselves or others as a result of having access to the information. Similarly it is necessary to safeguard the employees and other professionals dealing with the individual.

14.2.10 Any request for information which falls within the description of sensitive personal data, can only be made to the Chief Executive as he/she is the person designated by the Council as having responsibility for ensuring that the Council complies with its obligations under the Data Protection legislation.
14.2.11 All requests must be in writing and signed by the Member and, where possible, the individual concerned. A form has been devised for this purpose. To enable the process to function speedily and efficiently, the Chief Executive can ask the relevant Corporate Director or Divisional Director to assist in any dealing with requests for sensitive personal data, but the initial request must be to the Chief Executive.

14.2.12 On receiving any sensitive personal data a Member continues to be subject to the same degree of confidentiality and restriction of disclosure as the Council and its employees. This means that the information must only be used for the purpose for which it was provided. It can only be shared with individuals who are covered by the same confidentiality agreement or who the Chief Executive (or Corporate Director/Divisional Director) has agreed can have access to the information.

### 14.3 Summary of Members' Right of Access

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<td>Open agenda reports and supporting documentation</td>
<td>Full and unrestricted access to all Members</td>
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<td>Member of a committee with a restricted access report</td>
<td>Full and unrestricted access to the Members of that committee only</td>
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<tr>
<td>Member but not of a Committee with a restricted access report</td>
<td>Access depends upon Members demonstrating:</td>
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<td></td>
<td>• &quot;Need to Know&quot;</td>
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<td>• Exception identified in this guidance</td>
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<tr>
<td>Member wishes to see employee details</td>
<td>Disclosure if within exceptions of &quot;Employee Related Information&quot; otherwise no disclosure</td>
</tr>
<tr>
<td>Member without written authorisation to inspect/receive sensitive personal information</td>
<td>Seek initial advice from the Divisional Director of Legal Services before making a formal request to the Chief Executive. Each case will depend on the circumstances</td>
</tr>
<tr>
<td>Member with written authorisation to inspect/receive sensitive personal information</td>
<td>Member will need to show written authorisation to inspect/receive sensitive personal information</td>
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<tr>
<td>The Full Electoral Register</td>
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<tr>
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14.4 Employee Related Information

14.4.1 Information about individual employees will, generally, not be released. This is because, as an employer, the Council is obliged to respect confidentiality. There are Data Protection and Human Rights issues.

14.4.2 There will, however, be some circumstances when the general principles will be set aside. These are:-

(1) where an employee's action or inaction has led to potential or actual harm to the community, or presents a serious risk to the community;

(2) where the employee's action or inaction has caused serious financial loss to the Council or the community;

(3) where the employee's action or inaction has caused damage to the Council's reputation;

(4) where the actions or inaction of the employee has caused, or is likely to cause, an issue relating to public confidence in the Council's services;

(5) where the action or inaction of the employee has caused or is likely to cause an issue relating to statutory or government bodies' confidence in the Council's services;

(6) where the employee's action or inaction needs to be informed to Members for them to make decisions in relation to Council business;

(7) where a Corporate Director, in consultation with the Chief Executive and the Divisional Director of Human Resources and Organisational Development, reaches the view that the matter is of such gravity that Members should be informed and, if need be, consulted as to action that needs to be taken;

(8) where it will be necessary for Members to authorise action, including legal action, directed either at the employee concerned or that business to which the employee's action or inaction relates.

14.4.3 In any of these instances, details may be passed to the following Members only on a strictly confidential basis on advice from the Chief Executive: Leader and Deputy Leader of the Council.

14.4.4 Only with the Chief Executive's authority, in consultation with those Members, will the information be released to other Members.

(A specific protocol on dealing with human resource issues at meetings is attached as an appendix to this document)
14.5 Requests by Other Elected Representatives

14.5.1 For clarity, this section of the Protocol also deals with other elected political representatives including Members of the UK Parliament (MPs), the European Parliament (MEPs) and the Greater London Authority (MGLAs).

14.5.2 Other elected representatives' right of access to Council Agenda Reports is no greater than a member of the public. They therefore have a right to access all open agenda material. They do not have a right to access any material, which is exempt from publication under Schedule 12A of the Local Government Act 1972 (as amended). They do not have any right to access details about employees.

14.5.3 The right of other elected representatives to sensitive personal data will depend upon the context that a request is made and, as with Members, advice should be sought from the Divisional Director of Legal and Democratic Services.

14.6 Summary of Other Elected Representatives Right of Access

<table>
<thead>
<tr>
<th>Situation</th>
<th>Right of Access</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open Council agenda reports and supporting documentation</td>
<td>Full and unrestricted access</td>
</tr>
<tr>
<td>A restricted access Committee report</td>
<td>No access</td>
</tr>
<tr>
<td>Employee details</td>
<td>No access</td>
</tr>
<tr>
<td>Without written authorisation to inspect or receive sensitive personal information</td>
<td>Seek initial advice from the Divisional Director of Legal Services before making a formal request to the Chief Executive. Each case will depend on the circumstances</td>
</tr>
<tr>
<td>With written authorisation to inspect/receive sensitive personal information</td>
<td>Will need to show written authorisation to inspect/receive sensitive personal information</td>
</tr>
<tr>
<td>The Full Electoral Register</td>
<td>MPs: Information relating to the MPs Constituency MEPS and MGLAs: Information relating to both constituencies</td>
</tr>
<tr>
<td>The Edited Register</td>
<td>Information across both constituencies</td>
</tr>
</tbody>
</table>
15. CORRESPONDENCE

15.1 Correspondence (hard copy or email) between an individual Member and an employee will not normally be copied (by the employee) to another Member. Where the employee feels that this is appropriate, it will be made clear to the original Member. Clearly this will not apply to any correspondence which is marked ‘Confidential’ unless there are justified reasons which will be discussed with the originating Member.

15.2 A Cabinet Member has no special right of access to copies of correspondence passing between another Member and an employee which relates to the Cabinet Member’s portfolio.

15.3 When writing to a Member, or group of Members, the correspondence will clearly indicate the names of any others who have been sent the same correspondence, including any who have been copied in for their information. This is in the spirit of openness and to avoid any surprises or later allegations around ‘silent copies’.

16. COMPLAINTS, ALLEGATIONS AND CRITICISM

Sadly, but inevitably in such a large organisation, there will be occasions (hopefully rare) when a Member or employee may wish to complain about the other, make allegations, or criticise actions. It is important that procedures are in place to deal with any such cases and these are detailed below.

Note: all references to “complaints” below include complaints, allegations and/or criticisms.

16.1 Complaints by Members about employees

16.1.1 All complaints must be in writing, marked "private and confidential" and sent to the individuals referred to in the following paragraphs, who will determine how best to deal with the matter. Where necessary, the recipient of the complaint will consult with other senior officers and/or Members, as considered necessary, including the Section 151 Officer regarding any matters of financial control or fraud, and the Divisional Director of Human Resources and Organisational Development where procedural advice is necessary.

16.1.2 A complaint by a Member about an employee should be made to the Corporate Director of the service in question. If, however, a Member feels that the matter is one which could be determined by the Divisional Director, the complaint may be referred directly to that person with a copy to the relevant Corporate Director.

16.1.3 A complaint by a Member against a Corporate Director should be made to the Chief Executive.

16.1.4 A complaint by a Member against the Chief Executive should be made to the Leader of the Council.
16.1.5 A complaint by a Member against an employee (at any level) **and** the Chief Executive should be made to the Leader of the Council.

16.1.6 A complaint by a Member against an employee (at any level) **and** a Member of the Council should be made to the Monitoring Officer.

16.1.7 A complaint by a Member about a former employee should be made to the Corporate Director of the former employee's department.

16.1.8 Members have a right to know if action has been taken to correct a matter, but they must not either:

(i) insist, or be seen to insist, that an employee is disciplined; or

(ii) influence the level of any disciplinary action which might be taken against an employee.

16.1.9 In all cases, Members and employees have an obligation to maintain confidentiality throughout.

16.1.10 As soon as possible but within ten working days, the recipient of the complaint will acknowledge receipt in writing and give an indication of what action they intend to take and/or what procedures they intend to follow, together with an estimation of any time lines.

16.1.11 Members have a right to be told the outcome of any employee disciplinary case, but no entitlement to detailed information about the hearing or its conduct.

16.1.12 If a Member is not satisfied that action has been taken to set an employee matter straight, they may refer the matter directly to the Chief Executive for independent assessment or, if the case is about the Chief Executive, to the Divisional Director of Human Resources and Organisational Development.

16.1.13 Members must not sit on any meeting of the Personnel Board dealing with an employee case which they have been involved with.

16.1.14 Members have the right to generally question, criticise or complain about reports or the actions of employees, but they should always:

(i) avoid personal attacks on employees; and

(ii) ensure that any criticism is constructive and well founded with relevant evidence at the outset where appropriate.

16.1.15 Members should avoid undermining employees at meetings, or in any public forum. This would be damaging, both to effective working relationships and to the public image of the Council.

16.1.16 Where a Member has had reason to question, criticise or complain about the actions of a particular employee, once the issue has been dealt with through
appropriate mechanisms, irrespective of the outcome, professional behaviour is expected from both parties - there must be no grudge to bear on either side. To do so openly or behind the scenes will only fuel continued unrest and is not in the Council's interests. Any such difficulties will be referred by the employee to their Corporate Director, or in the case of a Corporate Director to the Chief Executive, or by the Member to their respective party group leader.

16.2 Complaints by Employees

16.2.1 Any complaints by an employee about a Member or a former Member should be discussed confidentially in the first instance with the employee’s Divisional Director or Corporate Director who, in turn, will discuss with the Monitoring Officer the best course of action. However, where a breach of the Members Code of Conduct is alleged, the complaint must be in writing using the form available on the website at the following link:

http://www.lbbd.gov.uk/CouncilandDemocracy/Complaints/Pages/CouncillorComplaint.aspx

and must be sent to the Monitoring Officer, marked “private and confidential”. The Monitoring Officer will refer the matter, as appropriate, to the Council’s Standards Committee.

16.3 Complaints by Members about Members

16.3.1 A complaint by a Member about another Member should be made in writing marked “private and confidential” to the Monitoring Officer. If the complaint alleges a breach of the Members' Code of Conduct the complainant should use the form available for this purpose on the website at the following link:

http://www.lbbd.gov.uk/CouncilandDemocracy/Complaints/Pages/CouncillorComplaint.aspx

The Monitoring Officer will refer such complaints, as appropriate, to the Council’s Standards Committee.

16.3.2 If, however, the matter is a party issue, it should be dealt with through party mechanisms with no officer involvement.

16.4 Complaints by Employees about Employees

In most circumstances it will be appropriate to use the relevant procedure (such as the grievance, or harassment and bullying procedures). If the complainant can show that none of these are appropriate the matter should be referred by the complainant to his/her line manager or the Divisional Director of Human Resources and Organisational Development.

17. BREACHES OF THE PROTOCOL
17.1 Relevant Sections offer advice as to how to deal with any difficulties around or breaches of this Protocol. It is hoped that these routes will successfully and quickly resolve any issues.

17.2 A breach of the Protocol by a Member may be reported to the Monitoring Officer, who will decide how the matter should be dealt with. Where a breach of the Protocol constitutes a breach of the Members’ Code of Conduct, the Monitoring Officer will refer the matter to a Standards sub-committee for assessment.

17.3 The Monitoring Officer will acknowledge receipt of the complaint within five working days and give an indication of how it is proposed to deal with it.

17.4 In instances of a breach of the Protocol by an employee, the matter will be dealt with through the Council’s disciplinary or other relevant employee related procedures.

18. REVIEW AND REVISION

18.1 This Protocol will be reviewed annually by the Standards Committee who will make any recommendations for revision to the Assembly.

18.2 The Protocol is part of the Council's Constitution and the Assembly is responsible for its adoption and any revisions necessary.

18.3 Any typographical or minor revisions can be agreed by the Divisional Director of Legal and Democratic Services.

(Contact Officer: Divisional Director of Legal & Democratic Services: Tel. 020 8227 2114)
APPENDIX TO MEMBER/EMPLOYEE RELATIONS PROTOCOL

DEALING WITH HUMAN RESOURCE ISSUES AT COUNCIL MEETINGS

1. Introduction

1.1 When Members consider items about the people we employ, in their capacity as the employer, they must be mindful of a number of matters:

1.1.1 Employees have rights, on an individual basis, to be treated fairly. (This includes expecting the employer to maintain confidentiality about an individual's personal and employment details).

1.1.2 Information relating to employees is often confidential in nature and should not be available widely throughout the organisation (at Member or employee level). Only those who need to know should know.

1.1.3 Members, as the employer, should have the opportunity to consider, debate and decide upon issues without managers/employees being present.

1.1.4 A variety of decisions on Human Resource (HR) matters, including the fair treatment of people by their employer, are subject to external scrutiny.

1.2 For these reasons:

1.2.1 Written information to Members on HR management and/or personal HR matters, which address employee's issues in respect of an individual, should be restricted to relevant Members and appropriate employees. This information should not be included as part of the usual circulation for a report.

1.2.2 The meeting considering these matters should be conducted in private and those people who should not be in attendance should be asked to leave the meeting.

2 Guidelines

2.1 The following persons should have access to all private and confidential reports about Human Resources matters which relate to individual employees and attend Council meetings where such matters are dealt with (no other persons should have such access or attend meetings unless otherwise determined by the Chief Executive and/or the Divisional Director of Human Resources and Organisational Develop):

2.1.1 Members of the meeting considering the matter;

2.1.2 Other Members of the Council – only if they can demonstrate a “need to know” as specified elsewhere in this guidance;
2.1.3 The Chief Executive;

2.1.4 The Divisional Director of Human Resources and Organisational Development;

2.1.5 The Divisional Director of Legal & Democratic Services (Monitoring Officer);

2.1.6 The Corporate Director of the relevant department;

2.1.7 Any other officers authorised by the Chief Executive and/or the Divisional Director of Human Resources and Organisational Development (usually these are restricted to the relevant Democratic Services Officer and specified Human Resources Officers); and

2.1.8 Independent members of the Standards Committee (SC) for SC purposes only.

2.2 The following additional guidelines also apply:

2.2.1 There may be meetings where it is appropriate to invite representatives of the Trades Unions. In such cases, appropriate arrangements will be made by the Divisional Director of Human Resources and Organisational Development and the relevant Democratic Services Officer.

(Contact Officer: Divisional Director of Human Resources and Organisational Development Tel. 020 8227 2382)