

**TO: STANDARDS COMMITTEE
24 JUNE 2013**

**REVIEW OF THE MEMBER AND OFFICER PROTOCOL
Director of Corporate Services - Legal**

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to seek the Committee's approval to proposed amendments to the Member and Officer Protocol. The primary reason for a review at this juncture is the introduction of "Portfolio Review Groups", comprising (solely) majority Group Members. The opportunity has also been taken to update the Protocol, mainly to reflect the provisions of the most recently adopted Code of Conduct for Members.

2 RECOMMENDATIONS

- 2.1 That Governance and Audit Committee be requested to recommend to Council the amendment of the Member and Officer Protocol as proposed in Section 5 and Annexe A to this report.**

3 REASONS FOR RECOMMENDATIONS

- 3.1 To provide guidance to Members and officers in the operation of Portfolio Review Groups.
- 3.2 To ensure that the Members and Officer Protocol is consistent with the current Code of Conduct for Members and extant legislation.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Not to amend the Protocol. However, the consequence would be that there would be no framework for officer involvement in the newly constituted Portfolio Review Groups and would leave in place minor inconsistencies between the Protocol and the Code of Conduct for Members/extant legislation.

5 SUPPORTING INFORMATION

- 5.1 Shortly after reorganisation of local government in Berkshire (in 1998) the Council adopted a Member and Officer Protocol to set out a framework for working relationships between Members and officers. The Protocol was last reviewed in 2007 when relatively minor amendments were made. The Protocol, with amendments proposed shown in italic script, is shown as Annexe A to this report.
- 5.2 A system of Portfolio Review Groups ("PRG"s) is being implemented to put in place a mechanism for non-Executive Majority Group Members to express views on matters to be considered by the Council's Executive. PRG's will not constitute a committee of the Council and will have no decision making responsibilities. They can, if they wish, formulate recommendations to the Executive but those recommendations will not have any legal status. The

decision making responsibility for items going to the Executive remains with Executive Members.

5.3 In order to inform the deliberations of PRG's it is important that senior officers should be able to attend to express their professional opinions and to answer questions which may arise. However, given that PRG's are single (majority) group forums it is appropriate that a framework is put in place to ensure that officers are not expected to (and do not) act as party political advisers. The proposed new paragraph 11 of the Protocol aims to secure that objective. In addition, the new wording expressly recognises that non-majority group Members are entitled to receive officer advice and support.

5.3 A number of other, relatively minor amendments are proposed, namely:-

- the list of statutory Member responsibilities in paragraph 2.3 has been extended to include the Deputy Leader of the Council.
- the list of statutory officers in paragraph 2.5 is proposed to include the Overview and Scrutiny Officer, a requirement of legislation enacted in 2009.
- the word "generally" has been inserted into the penultimate sentence of paragraph 8.1. The law relating to Members rights of access to information has always been an issue of some complexity but following the enactment of regulations in 2012 the topic now has a certain byzantine quality.
- the proposed amendments to paragraphs 9.3 and 14.3 reflect the new wording of the Code of Conduct for Members.
- the new penultimate sentence of 15.1 is intended to convey to Members the possibility of draconian fines being imposed by the Information Commissioner in consequence of any breaches of information security.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

6.1 The Borough Solicitor is the author of this report.

Borough Treasurer

6.2 There are no financial implications directly arising.

Equalities Impact Assessment

6.3 Not required.

Strategic Risk Management Issues

6.4 Not relevant.

Other Officers

6.5 None.

7 CONSULTATION

Principal Groups Consulted

7.1 None.

Method of Consultation
7.2 Not Applicable.

Representations Received
7.3 Not Applicable.

Background Papers
None.

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