

Report to: Standards Committee



Date of Meeting October 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Member/Officer Protocol

Report summary:

Following recommendations of our External Auditors and feedback from the Peer Challenge team and the Centre for Public Scrutiny, the opportunity has been taken to redraft the Council's Member/Officer Relations Protocol to ensure that it complies with best practice and is up-to-date. The Protocol explains the roles of Members and Officers and sets out how they should work together and if any issues arise, to whom those issues should be reported. At the last meeting on 11 April 2024 the Committee asked the Monitoring Officer to explain the differences between the current Protocol and that proposed to be adopted by the Council. This report therefore outlines the key differences.

Is the proposed decision in accordance with:

Budget Yes ☒ No ☐

Policy Framework Yes ☒ No ☐

Recommendation:

1. To note the update provided by the Monitoring Officer.
2. To recommend for adoption the updated Member/Officer Relations Protocol.
3. To invite the Monitoring Officer to provide training to all Members on the Protocol once adopted by Full Council.

Reason for recommendation:

To ensure that we have a 'fit for purpose' updated Member/Officer Protocol is in place for the organisation.

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Portfolio(s) (check which apply):

- ☐ Climate Action and Emergency Response
- ☐ Coast, Country and Environment
- ☒ Council and Corporate Co-ordination
- ☒ Communications and Democracy
- ☐ Economy
- ☐ Finance and Assets
- ☐ Strategic Planning
- ☐ Sustainable Homes and Communities

☐ Culture, Leisure, Sport and Tourism

Equalities impact Medium Impact

The Protocol itself and processes that underpin the Protocol are an important way of ensuring equality of treatment and ensuring that both Members and Officers are protected. An Equalities Impact Assessment will be completed before the Protocol is presented to Full Council for adoption.

Climate change Low Impact

Risk: Medium Risk; failure to take action around poor Member/Officer behaviour is a Medium risk as we have an existing Policy and updating this policy keeps it current with best practice and therefore a continued mitigation against those risks occurring.

Links to background information

Link to [Council Plan](#)

Priorities (check which apply)

- ☐ Better homes and communities for all
- ☐ A greener East Devon
- ☒ A resilient economy

Report in full

1. Background

- 1.1 The Council has an existing Member/Officer Protocol, that sets out member and officers roles and responsibilities when working together. Following feedback from the Centre for Public Scrutiny, the Peer Challenge and a recommendation from Grant Thornton, our external auditors, the opportunity has been taken to entirely refresh our current Member/Officer Protocol (annex 2), drawing on good practice found in other Protocols to ensure that we have a Protocol that is relevant and appropriate to reflect East Devon District Council's specific ways of working. The proposed Protocol is shown at annex 1.
- 1.2 The draft Protocol has already been considered by the Constitution Working Group and their changes duly incorporated. As Member/Officer relations are a key element of the work of the Standards Committee, it is important that the Committee also has an opportunity to consider and inform the draft that is finally presented to Full Council.
- 1.3 The Protocol is a key document in the Constitution which explains how Councillors and Officers are indispensable to one another and how together they bring the critical skills, experience and knowledge required to manage an effective local authority. It explains how at the heart of this relationship is mutual respect and that councillor-officer relationships should be conducted in a positive and constructive way.
- 1.4 The Protocol clarifies what members can expect of officers and what officers can expect of members. It talks about the relationship in general and the need for relationships to be conducted in a positive and constructive way. It also requires members and officers to be open and transparent about any family relationships that they have by disclosing them to the Chief Executive.
- 1.5 Officer advice to Party Groups is covered in the Protocol and the manner in which such advice should be given, touching on issues such as advice in relation to budget proposals. It also clarifies the support provided to members and party groups.
- 1.6 A key element of the Protocol is access to information and the ability of a member to inspect Council documents. It specifically refers to the "need to know" principle which is about the right

for members to inspect Council documents, so far as their access to documents is reasonably necessary to enable them to properly perform their duties as a member.

1.7 The Protocol also covers some key relationships such as the relationship between an officer and Cabinet member and Chairs of Committees, between the Leader and senior officers, Cabinet members and officers, Leader of the opposition and officers, Scrutiny members and officers. Conduct at meetings of the Council and how officers and members should address each other is also covered.

1.8 The Protocol also details the process for the issuing of Press releases, the appropriateness of members and officers forming friendships on social media and correspondence between officers and members. It reinforces the need to involve ward members in external events and whenever the Council is consulting on an issue in their ward.

1.9 Finally, the Protocol sets out the procedure for reporting breaches of the Protocol which is to the Monitoring Officer in relation to member complaints and to the line manager in relation to officer complaints.

2. Key Differences between the current Protocol and that presented to Members.

2.1 The following table sets out the key differences between the proposed and current Protocols:

Proposed Protocol	Current Protocol
Provides extracts from the LGA Code of Conduct guidance in relation to Member/Officer relations	Makes no reference to the LGA Guidance
Includes definitions of key terminology including Members, Chief Executive, Director, Senior Officer, Officers, Administration, Opposition Group and Party Group	Defines Executive, Officers and staff, senior officer and designated finance officer. Does not define other key roles.
Sets out what officers can expect from members and what members can expect from officers	Contains no express section on expectations.
Does not explicitly have a section on the role of members and officers but covers the roles in the expectations section.	Explains the role of officers and members
Covers family relationships between Members and Officers	Does not cover family relationships
Covers specific relationships including Cabinet Members/Chairs and Officers, the Leader and Chief Executive, Leader of Opposition and Officers, Scrutiny Members and Officers, Members of other Committees and Officers. Original text did not specifically cover ward members and officers but has now been updated in bold text.	Does not cover key roles such as Leader and CX and Leader of Opposition and officers. However, does cover ward members and officers.
Covers Conduct at Council meetings	Does not cover conduct at Council meetings
Covers media relations and social media and in particular the appropriateness of members and officers forming friendships on social media	Covers media relations <u>but does not</u> cover social media and the appropriateness of members and officers forming friendships on social media
Covers officer advice to party groups	Does not cover officer advice to party groups

Covers provision of support services to members and party groups	Does not cover the provision of support services to members and party groups.
Does not specifically cover access by Members to Council premises	Covers access by members to Council premises.

3. Feedback from the Committee

3.1 Following the last meeting the following feedback was received from members of the Committee. A response to that feedback is set out in the third column of the table and the Protocol updated to reflect any changes in bold text.

Protocol section	Comments from Standards Committee	Monitoring Officer response
2.2 b Officers can expect members to take a final decision on issues based on advice	Officers can expect members to take an appropriate decision on issues based on advice	Change included in revised draft.
6.2 The support provided by Officers can take many forms, ranging from a briefing meeting with a member of the Cabinet or Chair prior to a Committee meeting, to a presentation to a full Party Group meeting. Whilst in practice such Officer support is likely to be in most demand from the Administration, such support is available to all party groups.	Should the administration be briefed firstly.	This clause is silent on that particular issue and it will depend upon the circumstances. Attendance at party groups for example, will be something that is offered to all political groups.
6.4 Certain points must however be clearly understood by all those participating in this type of process, Members and Officers alike. In particular: (i) 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	Officers should not be present	Clause amended to reflect this.
10.3 Leader of the Opposition and Officers The Leader of the Party Group in main opposition on the Council has several key roles including: iv giving political direction and leadership to their group of Members, setting standards of conduct and expectations and resolving any instances of misconduct by a member of that	Add this wording (in bold) to 10.1 Leaders and Chief Officers specific roles	Duly added

group referred to him/her by the Standards Committee / Hearing Sub-Committee; v. liaising with the leaders of other Political Groups on the Council		
13.2 Correspondence between Members and Officers	Clarity on the use of letterheads	The Council has already given guidance to members on this issue. The preference would be to keep this separate as part of Comms advice – to enable changes to be made as and when needed
14. Involvement of Ward Councillors	Review current protocol wording as this provided a more detailed explanation	Wording reviewed and additional clauses added
15. Breaches of the Protocol	Compare with current protocol wording	Additional paragraph 15.3 added (uplift from current protocol)
15.8 Breaches of this Protocol by a Member may constitute a breach of the Members' Code of Conduct	Online training available for dealing with complaints	Please clarify what change is being sought.
16 Monitoring, Review and further Advice 16.1 The application and implementation of this Protocol will be monitored and reviewed by the Council's Standards Committee in consultation with the Council's Monitoring Officer.	How and when should the protocol be reviewed (frequency).	Suggest every three years. Sentence added to reflect this.

4. Conclusion

3.2 The proposed new Member/Officer Protocol ensures that the Council has an up-to-date and robust Protocol in place which complies with best practice. Members are invited to consider the updated draft and recommend any changes.

Financial implications:

There are no financial implications directly arising from this report.

Legal implications:

This is an important Protocol that defines the relationship between members and officers. It is important that it is regularly reviewed and updated, to ensure it is robust and in accordance with best practice.