

CONSTITUTION 2021 – Version 2 (May 2022)
PART 8 – CODES AND PROTOCOLS
SECTION 2 – PROTOCOL ON MEMBER AND OFFICER RELATIONS

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1.0 INTRODUCTION

- 1.1 The purpose of this document is to provide a guide to good working relationships between Members and officers of the Council. It clearly defines the respective roles of Members and officers and provides some principles governing conduct.
- 1.2 Members will comply with the Members' Code Conduct set out in Part 8 of this Constitution that they signed up to on taking up office. A breach of this Protocol may constitute a breach of this Code.
- 1.3 Officers must comply with the Employee Code of Conduct adopted by the Full Council on 13 November 2019 which forms part of their terms and conditions of employment. A breach of this Protocol may constitute a disciplinary offence and could result in dismissal.

2.0 RESPECTIVE ROLES OF MEMBERS AND OFFICERS

- 2.1 Members are elected and represent their constituents. Under the committee system form of governance adopted by the Council, Members perform roles on Committees, Sub-Committees, Working Parties and Panels, in addition to sitting as members of the Full Council. Some Members represent the Council on outside bodies.
- 2.2 Officers are employed by and serve the whole Council. They advise the Council, its Committees, Sub-Committees, Working Parties and Panels. They implement decisions of the Council and make decisions under powers delegated to them.
- 2.3 Officers are responsible to their line manager and ultimately the Chief Executive or a Director. Directors are accountable to the Chief Executive. Some senior officers have specific statutory responsibilities, including the Chief Executive as Head of Paid Service, the Group Head of Corporate Support as the Chief Financial Officer, and the Group Head of Law & Governance as the Monitoring Officer.

3.0 OFFICER ADVICE AND POLITICAL NEUTRALITY

- 3.1 Officer advice and support will be provided at formal Council meetings at which business is transacted including meetings of:
- a) Full Council;
 - b) Committees and Sub-Committees;

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- c) Working Parties and Panels; and
 - d) Joint Area Committees.

- 3.2 Officers will provide advice and support at informal briefings with:
 - a) Chair and Vice-Chair of Committees;
 - b) the relevant Chair and Vice-Chair prior to a Committee or Sub-Committee meeting; and
 - c) Political Group Leaders.

- 3.3 Officers will also provide advice and assistance to individual Members in respect of Council business, including issues raised by constituents.

- 3.4 Where officers are invited to meetings to give advice or comment on their service area by the Chair of a Committee, Sub-Committee or Working Party, then their Group Head must also be informed of the invitation and reason for their attendance. If the officer would prefer their Group Head to attend with them, then this should be allowed. Where there are issues of concern about an officer's attendance, responsibility for agreeing attendance will fall to the Council's Monitoring Officer. Where notes are taken from the meeting, either to record in the minutes or in a separate note for later use, then these must be agreed by the officer following the meeting.

- 3.5 Officer advice and support must relate only to Council business. Officers must not be requested to advise upon matters of political party or personal business.

- 3.6 All officers must treat political groups and individual Members in a fair and even-handed manner. Officers must maintain political neutrality and Members must respect this.

- 3.7 Officers must respect the confidentiality of any political group discussions which they attend. They should not disclose the content of such discussions to any person who has not attended. Senior officers (Chief Executive, Directors or Group Heads) may be requested to attend political group meetings and the Chief Executive will then decide whether such attendance may take place.

- 3.8 If it is agreed that an officer can attend a political group meeting, then the Chief Executive will inform the other Group Leaders and offer a similar facility on an equal basis.

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- 3.9 Where there are Members who are not in a political group, they may request a similar facility from the Chief Executive which will be made available at their discretion.
- 3.10 Political group meetings fall outside of the Council’s decision-making process. Conclusions reached at such meetings are not formal Council decisions and will not be relied upon as such. Officers attending political group meetings are not to be expected to act upon comments or conclusions made at these meetings.

4.0 PERSONAL RELATIONSHIPS

- 4.1 Close personal familiarity between individual Members and officers can damage working relationships and prove embarrassing to other Members and officers.
- 4.2 It is recognised that there may be occasions where personal familiarity is unavoidable. To avoid any appearance that the relationship may have an impact on future Council decisions, a Member must promptly declare by letter to both the Chief Executive and their respective Group Leader any family relationship or other close association with an officer employed by the Council. Similarly, the officer concerned must promptly declare this relationship by letter to their Director, or in the case of a Director, to the Chief Executive. If the declaration is by the Chief Executive, all Group Leaders must be notified in writing of any family relationship or other close association with a Member of the Council.
- 4.3 The Chief Executive will arrange for the relationship to be listed in the officer’s Declaration of Interests and in the Member’s Register of Interests, unless the relationship is with the Chief Executive in which case the relevant Director will make these arrangements.

5.0 APPOINTMENT OF OFFICERS

- 5.1 Members must not take part in the appointment of anyone to whom they are:
- a) married;
 - b) a civil or co-habiting partner
 - c) otherwise related; and
 - d) in a close friendship.
- 5.2 Members must ensure that officers are appointed only on merit, with a view to their best serving the whole Council.

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6.0 UNDUE PRESSURE

- 6.1 A Member should not apply pressure on an officer either to do anything which they are not empowered to do or to undertake work outside normal duties or normal hours. Particular care needs to be taken in connection with the use of Council property and services.
- 6.2 Similarly, an officer must not seek to influence an individual Member to make a decision in their favour, nor raise personal matters to do with their job, nor make claims or allegations about other employees. The Council has formal procedures for consultation, grievance and discipline dealing with these matters.

7.0 OFFICER REPORTS AND ADVICE

- 7.1 The named author of a report to the Full Council or any part of its formal structure will always be fully responsible for its contents. The Chair of the relevant Committee will be consulted as part of the process of drawing up the agenda for a forthcoming meeting and may comment upon a proposed report. The officer concerned will give due consideration to such comments, consulting their relevant Director or Group Head and other appropriate officers, as necessary. A report will only be amended where the amendment reflects the professional judgement of the author of the report. Any remaining disagreements between the Chair and the author of the report should be referred to the Chief Executive for resolution, in conjunction with the Leader of the Council.
- 7.2 Occasionally, officers will need to express a professional view on a matter which may not support the view of the leading political group, the Full Council and/or the relevant senior officers of the Council. There is to be no criticism of the officers in such circumstances.
- 7.3 Members may choose not to follow the advice of professional officers, however, care should be taken not to criticise the officer for giving their professional advice and they should give reasons why they are not following the advice.
- 7.4 Members should not elicit any criticism from an officer in respect of any other officer.
- 7.5 Members may choose to criticise reports of the action taken by officers, however, they should:
- a) avoid personal attacks on officers;

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- b) ensure that such criticism is conveyed in such a way and in such a forum that is not disrespectful or bullying of the officer;
- c) be particularly careful not to undermine officers in such a way that it is disrespectful or bullying of officers at meetings, in a public forum, in the press or in any form of communication, including social media.

7.6 This would be damaging both to the effective working relationships and to the public image of the Council. It would also undermine the mutual trust and courtesy that is an essential element of a well-run Council.

8.0 OFFICER DECISIONS MADE UNDER DELEGATED POWERS

8.1 Officers may make decisions under powers delegated to them in accordance with the Officer Scheme of Delegation at Part 4 of this Constitution; or under a specific express authorisation of the Full Council, a Committee or Sub-Committee. It must be recognised that it is the officer, and not any Member, who takes the action and it is the officer who is accountable for it.

9.0 OFFICER RELATIONSHIP WITH THE LEADER OF THE COUNCIL AND COMMITTEE CHAIR

9.1 The working relationship between senior officers, the Leader of the Council and Committee Chair will be particularly close. The Leader of the Council will provide a focal point for the strategic direction of the Council working directly with the Chief Executive and their management team; and act as the representative of the Council in dealing with central government and other local authorities. The relevant Committee Chair will be the Council's spokesperson for the service areas and functions that fall within their Committee's responsibilities.

9.2 Officers may provide briefing notes, advice and information to the Leader of the Council and Committee Chair in respect of reports or questions at Full Council, Committee and Sub-Committee meetings; and other external meetings, such as with Ministers, MPs, other local authorities and outside bodies. However, the relationship must not:

- a) compromise officers' duties to all Members of the Council;
- b) be so close as to give the appearance of partiality on the part of the officer;
- c) undermine the confidentiality of any discussions between senior officers and Members;
- d) compromise the officer's professional responsibility to advise Members that a particular course of action should not be pursued; and
- e) repeal officer responsibility for action taken under delegated authority.

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10.0 PROCEDURE FOR CRITICISM OR COMPLAINTS

- 10.1 It is important that there should be mutual courtesy and respect between Members and Officers, and that there are reasonable standards of courtesy. No Member or Officer should seek to take unfair advantage of their position.
- 10.2 Members and Officers should not criticise or undermine respect for the other at meetings of the Full Council, Committee or Sub-Committees, or in any public forum.
- 10.3 Members should not raise matters relating to the conduct or capability of an individual officer or officers collectively at meetings held in public. Officers should observe the same rule in respect of Members.
- 10.4 If a Member believes that they have not been treated with proper courtesy or has a concern about the conduct or capability of an officer, then they should raise the matter confidentially with the Chief Executive or relevant Director who may utilise the Council's formal disciplinary procedures if this is considered appropriate. If the Member is still not satisfied with the action that has been taken, then they may raise the matter confidentially with the Chief Executive, or a Director if the Chief Executive considered the original concern, who will look into the matter afresh. If they believe that there is a case to answer, then they may utilise the Council's formal disciplinary procedures. If the Chief Executive/Director suggests no action they will inform the Member and relevant Group Leader of this.
- 10.5 Concerns raised about the Chief Executive will be referred in the first instance to a meeting of the Political Group Leaders. They may then refer the matter to the Full Council but must do so within the terms of the disciplinary procedure applying to the Chief Executive as set out in Part 3 (Responsibility for Functions) of this Constitution.
- 10.6 If an officer feels that they have not been treated with respect or is concerned about any action or statement relating to themselves or a colleague by a Member, or the conduct of a Member, they should raise the matter with their line manager. If they are not satisfied with any action that has been taken as a result, they should raise the matter with the Chief Executive or their Director. If the Chief Executive or Director is of the opinion that the Member has acted in breach of the Members' Code of Conduct, they should make a complaint to the Monitoring Officer.

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10.7 Where a Member or officer is concerned about potential unlawful conduct of another Member or officer, the Council’s Whistle-blowing Policy and the Public Interest Disclosure Act 1998 are also relevant. Nevertheless, the procedure outlined in this Protocol should be the first point of reference where possible.

11.0 MEMBERS’ ACCESS TO INFORMATION AND COUNCIL DOCUMENTS

11.1 Article 2 of this Constitution confirms a Member’s rights of access to only such Council documents and information that are necessary for the discharge of their functions and the law. The Access to Information Rules at Part 6 of this Constitution set out the rights of access that Members have to information and documents to be presented to meetings of Committees and Sub-Committees.

11.2 In respect of exempt or confidential information, a Member may have access to information and documents insofar as it is reasonably necessary to enable them to properly perform their duties as a Member of the Council. The relevant question asked is whether they need to know the information to perform such duties.

11.3 A Member of a Committee, Sub-Committee, Working Party or Panel will have a need to know the information and documents relating to that body. In other circumstances, a Member will normally be expected to justify the request in specific terms and the motive for requesting the information will be relevant. The relevant question asked is whether they need to know the information to perform their duties as a Member. The question as to access to the documentation will be determined initially by the relevant Group Head. However, in the event of a continuing disagreement as to access, then the matter may be referred to the relevant Director and the Monitoring Officer.

11.4 Where a Member has a pecuniary, personal or prejudicial interest in a matter, or they decide to remove themselves from taking part in a debate due to the appearance of bias, the Member will only be entitled to the same rights of access to documentation as would apply for the public generally. They would have access to the reports, minutes and background papers relating to the public part of any Full Council, Committee or Sub-Committee agenda but not to any exempt or confidential items.

11.5 Any Council information provided to a Member must only be used by them in connection with the proper performance of their duties as a Member of the Council. Exempt or confidential information should not be disclosed, discussed with, or released to any other persons unless it reasonably relates to a qualified disclosure, i.e. it relates to:

- a) an alleged criminal offence;

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- b) a failure to comply with a legal obligation;
- c) maladministration where a breach of administrative law has occurred;
- d) a miscarriage of justice;
- e) a danger to health or life;
- f) damage to the environment; or
- g) concealment of information tending to show any of these matters.

- 11.6 A Member may necessarily acquire information that has not yet been made public and is still confidential. It is a betrayal of trust to breach such confidences. A Member should never disclose or use confidential information for the personal and/or political advantage of themselves or of anyone known to them, or to the disadvantage or the discredit of the Council or anyone else.
- 11.7 Any exempt or confidential information provided to Members should be clearly marked as such prior to its provision.
- 11.8 Further advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer or the Chief Executive.

12.0 MEMBERS' ACCESS TO MEETINGS

- 12.1 The Committee Procedure Rules at Part 5 of this Constitution set out a Member's right of attendance at meetings of Committees, Sub-Committees and Joint Area Committees. The Access to Information Rules at Part 6 of this Constitution set out a Member's rights of access at a public meeting and the provisions for attendance at meetings during confidential or exempt business.

13.0 PUBLIC RELATIONS AND PRESS RELEASES

- 13.1 By law, the Council is prohibited from publishing material which appears to be designed to affect public support for a political party. News releases are written by officers, but they may contain quotations from the Leader/Deputy Leader of the Council or the relevant Committee Chair or Vice-Chair. Such news releases are issued on behalf of the Council and it would not, therefore, be appropriate when repeating quotations from Members to indicate their party-political affiliation. Council news releases will be objective, factual and informative.
- 13.2 The Council has also adopted a Protocol and Guide to pre-election publicity which provides advice upon publicity and activities during a pre-election period, including a moratorium on publicity during the month preceding an election of the Council. This can be requested from the Group Head of Policy via public.relations@arun.gov.uk

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- 13.3 The Council will abide by the national Code of Recommended Practice on local authority publicity.

14.0 MEMBER SUPPORT SERVICES

- 14.1 The Council provides ICT equipment to Members and they can also ask for correspondence to be posted out through the Post Room at the Arun Civic Centre, Littlehampton. This equipment and facility must only be used on Council business. They must not be used for party or political work of any kind. Members should not ask officers to type, photocopy or otherwise process party or political material.

15.0 CORRESPONDENCE

- 15.1 Correspondence between an individual Member and an officer on a matter relating to a single constituent should not normally be copied (by the officer) to any other Member. Where, exceptionally, it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of “silent or blind copies” should not be employed.
- 15.2 In some cases, issues are raised by, or with, individual Members relating to a matter of general interest in a District Ward. Recognising that it is in the best interests of the Council to ensure that all Members are properly informed of general issues in their Ward, copies of correspondence will normally be sent to all Members for the particular area unless the Member specifically requests that correspondence is not copied to other Members or, there is a political, or other reason, why this is not appropriate. Where correspondence is copied to other Members, this will be made clear to the original Member.
- 15.3 Letters prepared by officers on behalf of the Council will be sent out in the name of the officer, rather than in the name of a Member.
- 15.4 Any sharing of personal information between Members and officers should follow the obligations of relevant data protection law.

16.0 LEADERS’ MEETING

- 16.1 The Leader of the Council, in consultation with the Chief Executive, will call, as and when necessary, meetings of the Party Group Leaders to discuss matters concerned with the conduct of the Council’s business; Member and

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officer issues; and matters affecting Members generally. It will have no decision-making power but will facilitate the efficient running of the Council.

17.0 UNRESOLVED ISSUES AND AMENDMENTS TO THIS PROTOCOL

17.1 If there are any issues of concern which are not dealt with by this Protocol, then the relevant Member or officer may discuss the matter with the Chief Executive or the Monitoring Officer with a view to advice being provided.

17.2 Should any Member or officer wish to suggest an amendment to this Protocol then they are asked to contact either the Chief Executive or the Monitoring Officer.

17.3 Any amendment of this Protocol will require the approval of the Full Council.