

## **Standards Committee Report**

Standards and Ethics Committee – 29 September 2016

### **Title**

Amended Member/Officer Protocol

### **Is this a Key Decision and has it been included on the Forward Plan?**

No

### **Strategic Director Approving Submission of the Report**

N/A

### **Report Author(s)**

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### **Ward(s) Affected**

All

### **Executive Summary**

A report outlining some suggested changes to the Member/Officer Protocol; following discussion at the previous Committee meeting on 9 June 2016.

### **Recommendations**

That the Standards and Ethics Committee

- i) notes the suggested changes
- ii) confirms or rejects the suggested changes
- iii) makes further suggestions to improve the relevant protocol.

### **List of Appendices Included**

None

### **Background Papers**

None

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

None

**Council Approval Required**

Yes

**Exempt from the Press and Public**

No

## **Title**

Review of the Member/Officer Protocol

### **1. Recommendations**

1.1 That the Standards and Ethics Committee

- iv) notes the suggested changes
- v) confirms or rejects the suggested changes
- vi) makes further suggestions to improve the relevant protocol.

### **2. Background**

2.1 In accordance with the previous Standards and Ethics Committee meeting on 9 June 2016, some changes were suggested to the Council's Member/Officer Protocol. Thus, changes have been suggested for consideration and discussion and have been annexed as Appendix A.

### **3. Key Issues**

3.1 There are no identified relevant issues within the changes suggested.

### **4. Options considered and recommended proposal**

4.1 Recommendations have been referred to above.

### **5. Consultation**

5.1 N/A

### **6. Timetable and Accountability for Implementing this Decision**

6.1 The required amendments to the Protocol would be presented to Full Council.

### **7. Financial and Procurement Implications**

7.1 Any work undertaken by Legal Services in implementing these recommendations is within the budget for Legal Services.

### **8. Legal Implications**

8.1 The Council needs to ensure that Member/Officer Protocols are appropriate, and updated.

### **9.0 Human Resources Implications**

9.1 Advice and comments are being sought from HR and the Committee will be updated at the meeting.

### **10.0 Implications for Children and Young People and Vulnerable Adults**

10.1 None

**11.0 Equalities and Human Rights Implications**

11.1 These procedures apply equally to all Officers and equally to all Members.

**12. Implications for Partners and Other Directorates**

12.1 None

**13.0 Risks and Mitigation**

13.1 No significant specific risks were identified by this review.

**14. Accountable Officer(s)**

Dermot Pearson, Assistant Director, Legal Services

Approvals Obtained from:-

Assistant Director Legal Services and Monitoring Officer  
Dermot Pearson

**Appendix A**

**Code of Official Conduct**

**Rotherham MBC**

## **Introduction**

This Code of Conduct for 'Officers' is based on key principles arising from the work of the Nolan Committee on standards in public life and outlines the minimum standards expected of Officers.

The purpose of this Code is to guide Members and Officers of the Council in their relations with one another as well as members of the public in such a way as to ensure the smooth running of the Council. If complied with it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members. It helps promote consistency by making all Officers aware of their responsibilities whilst engaged in work for the Council, by specifying standards of behaviour and by clearly defining rules concerning official conduct.

Officers must comply with this Code as it forms part of their terms and conditions of employment. Some Departments e.g. Adult Social Services also issue supplementary codes of practice on officer conduct. These and the Council's security policies and codes of practice must also be complied with.

The Council believes that Officers are responsible for their actions. It is the responsibility of Officers to read the Code. If any of the provisions contained within this Code of Conduct and related codes of practice are not fully understood Officers must, in their own interests, seek clarification from their Manager or Human Resources Managers. Managers should take in to account the translation and interpretation needs of the individual. This Code can be made available in other languages and formats on request.

In instances which do not clearly fall within the guidance of this Code and following discussion between a Director, the Director of Legal & Democratic Services and the Director of Human Resources, individual cases will be referred to the Standards Committee for consideration.

- (1) For the purpose of the content, '**Members**' are Elected Member/Councillor undertaking duties as duly elected or appointed Members as Parish, Borough and Town Members. See separate section about undertaking the role of Ward Member (Appendix 4; Section 7).
- (2) For the purpose of the content, '**Officers**' are persons employed by the Council as well as any casual workers, agency staff, locum appointments, contractors, secondees and volunteers.

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Failure to observe this Code of Conduct, failure to properly perform Officer duties, serious misconduct or criminal offences committed during or outside working hours which could bring the Council into disrepute may result in disciplinary action being considered, including the possibility of dismissal and or prosecution.

## **1. Standards**

### **1.1 General**

The Citizens of Rotherham expect the highest standards of behaviour and customer care from Council Officers. Public confidence in Officers' integrity would be shaken by the least suspicion that they could be influenced by improper motives. Officers must not put themselves in a position where their honesty or integrity could be called into question. Officers should be aware at all times about the potential for public perception to be different to their own and avoid placing themselves at risk of allegation of wrongdoing at all times.

1.1.2 The Council reserves the right to monitor its Officers, including surveillance, in accordance with Council Policy and the law to ensure that the provisions of this Code of Conduct are adhered to.

1.1.3 Officers will be expected, without fear of recrimination, to bring attention to the appropriate level of management, concerns about how Council resources and services are managed or provided. The Council operates a Confidential Reporting Code and Officers must report to the appropriate Manager any impropriety or breach of procedure.

1.1.4 Other general standards of conduct are set out in the Council's disciplinary procedure and summarised below. The standards of conduct and behaviour are intended to promote fair and consistent treatment of individuals, apply to all Officers of the Council and will be regarded as part of each Officers contract of employment.

### **1.2 Attendance**

All Officers are expected to attend regularly and punctually, not to absent themselves from duty without permission and to perform their duties in a manner, which combines prompt and efficient service with a concern for the feeling of others, including colleagues, Managers and members of the public.

### **1.3 Health and Safety**

In respect of Health and Safety all policies and procedures must be observed at all times. All Officers are reminded that the Council operates a no smoking policy, in all of its premises. Staff who absent themselves from work during their working hours to smoke outside public buildings will be subject to the disciplinary procedure.

### **1.4 Discrimination, Bullying and Harassment**

Officers must conduct themselves in accordance with the Council's Equal Opportunities in Employment Policy. Officers should not themselves discriminate, induce or attempt to induce, other Officers to discriminate and should not harass, abuse or intimidate other employees on grounds of gender, marital status, age, race, disability, sexuality or religion.



1.4.1 All Officers have a responsibility to discourage any forms of bullying and harassment whatsoever. Sexist or racist language or behaviour, for example, is wholly unacceptable.

1.4.2 All members of the local community, customers and other Officers have a right to be treated with fairness and equity. Officers should ensure that policies and practices relating to equality issues, as agreed by the Council, are complied with in addition to the requirements of the law.

## 1.5 Performance

The Council expects its Officers to carry out all reasonable duties and instructions, given by Supervisors and Managers, efficiently and to the required standard. If Officers are in any doubt about required standards of performance they should raise the matters with their supervisor/Line Manager at the earliest opportunity. Managers are expected to discuss performance standards as part of the probationary review process and subsequently in one-to-one supervision sessions or at performance and development reviews. Except in the case of probationary Officers, capability issues will be dealt with under the Council's capability procedure.

## 1.6 Sickness

In respect of sickness all Officers must comply with the notification requirements and complete self-certification forms on their return to work. Unauthorised absence or repeated short absences will be investigated and may lead to disciplinary action.

## 1.7 Gross Misconduct

Certain actions constitute gross misconduct and will result in summary dismissal unless mitigating circumstances are accepted. Set out below are examples of such conduct which in the Council's view may constitute gross misconduct. This list is purely illustrative and not exhaustive.

- Violent or threatening behaviour (Including bullying or intimidating behaviour);
- Breaches of the Council's Health and Safety at work rules and procedures which cause (or could cause) unacceptable loss, damage or injury (to themselves or others);
- Breach of Confidence and Trust - including breaches of professional protocol and ethics;
- Negligence, including dereliction of duty;
- Willful damage to property or equipment;
- Willful breach of confidentiality;
- Refusal to carry out duties or reasonable instructions;
- Corruption and the receipt of gifts as inducements or reward (see sections 14 and 15);
- Criminal offences (whether committed during or outside the Officers hours of work for the Council) which have employment implications;

- Unfitness for duty through alcohol or misuse of drugs. (Any such occurrence to be considered in the light of the Council's substance misuse policy).
- Discrimination or harassment on the grounds of sex, race, disability, age, religion or sexuality.
- Inappropriate use of internet and or the internal e-mail system/social media.

## **2. Disclosure of Information**

- 2.1 The law requires that certain types of information must be available to Members, Auditors, Government departments, service users and the public. The Council itself may decide to open other types of information. Officers must be aware of which information within the Council is open and which is not, and act accordingly.
- 2.2 Confidential, personal or financial information about any Officer, such as salary details, must not be disclosed to any unauthorised person, or normally, to any external organisation/agency, without the express approval of the person concerned.
- 2.3 Where the request relates to references, arising as a consequence of job applications, applications for mortgages, etc, these may be issued only after verifying the identity of the enquirer either by replying in writing or in the case of telephone enquiries, by telephoning the person/organisation back.  
However, in the case of references relating to job applications for colleagues or ex-Council Officers, Council Officers can only act in a personal capacity. Only the applicant's Line Manager can provide employment references. Any misrepresentation of the Council will be treated as misconduct.
- 2.4 Officers should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way.
- 2.5 Officers may be personally prosecuted for offences under the Data Protection legislation. If any Officer is in doubt about their responsibilities, they must consult their Manager or the Monitoring Officer. The Council also has a Data Protection and Information Security Officer who can help.

## **3. Communications with the Media**

- 3.1 It is Council Policy that all media liaison relating to Council activities is handled by the Communications Team in conjunction with Directors and Strategic Directors. If an Officer has ideas for positive stories about the Council's policies or activities or is approached by a journalist who is unaware of, or avoiding, the Council's procedures, the approval of the Head of Communications must be obtained before any information is given verbally, via e-mail or in writing.
- 3.2 Where an Officer is writing material for publication which does not refer specifically to the Council, but does relate to his/her profession/occupation e.g. articles in professional journals the Officer should notify his/her Director prior to publication.

- 3.3 Officers are expected to raise any concerns, including concerns of a critical nature within the Council, directly with Line Managers or within Officers Forums. Public comments of a critical nature which undermine the Council or bring the Council into disrepute, other than those disclosed under the protection of the Confidential Reporting Code or statute, could be construed as a fundamental breach of confidence and trust, which may have implications for continued employment. This may include comments made by Officers when participating in an outside group if such comments bring them into conflict with the Council.

#### **4. Political Neutrality**

- 4.1 Officers serve the Council as a whole. It follows they must serve all Members and not just those of the controlling group, and must ensure that the individual rights of all Members are respected.
- 4.2 Subject to the Council's conventions, Officers may also be required to advise political groups. They must do so in ways, which do not compromise their political neutrality.
- 4.3 Officers, whether or not politically restricted (see Appendix 3), must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.
- 4.4 Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in paragraphs 4.1 to 4.3.
- 4.5 Whilst engaged in or on Council business Officers must not wear or display on their person, vehicle or items such as tools and equipment, objects indicating affiliation with or opposition to any political party or related pressure group.

#### **5. Relationships**

##### **5.1 Between Officers**

- 5.1.1 All Officers have a responsibility to treat their colleagues with dignity and respect.
- 5.1.2 The Council requires all its Officers to act responsibly to ensure their own and colleague's health and safety by: complying with safety clothing and equipment; contributing to the review and improvement of working methods; acting in accordance with their training and instructions and current best practice and taking necessary emergency action having regard to their own or others' safety. Any work situation considered by an employee to be a serious and of immediate danger, or any matters considered to be a failure or inadequacy in the health and safety precautions relevant to their work, must be notified to their immediate Line Manager.

##### **5.2 Members**

Officers are responsible to the Council through its senior Managers. For

some, their role is to give advice to Members and senior Managers and all are there to carry out the Council's work. Mutual respect between Officers and Members is essential to good local government. Close personal familiarity between Officers and individual Members can damage the relationship and prove embarrassing to other Officers and Members. In certain circumstances they may blur accountability, endanger the democratic process and lead to ineffective and inefficient management. Over familiarity should therefore be discouraged. Appendix 4 to this document is the Council's approved Code in respect of relationships between Officers and Members.

### 5.3 The Local Community and Service Users

5.3.1 Officers, in providing services to the Community, are acting on behalf of the Council and should always act in a way that preserves public confidence in the Council.

5.3.2 Officers have a duty at all times, to uphold the law and relevant guidance bearing in mind the public's trust placed in Council employees.

5.3.3 Officers working with young people or vulnerable adults are in a particular position of great trust. Any breach of that trust, assault or sexual misconduct or breach of policies and procedures meant to safeguard vulnerable service users and other recipients of Council services will be regarded as potential gross misconduct. Officers must, in their own interests read their Department codes of practice and conduct in conjunction with this Corporate Code of Conduct and must observe the Children's Act (as amended), the Rotherham Area Child Protection and Adult Abuse Protection Procedures.

### 5.4 Relationships with prospective or current Contractors

5.4.1 Officers involved in the tendering process and dealing with contractors should be clear on the distinction between client and contractor roles within the Council. Senior Officers who have both a client and contractor responsibility must be aware of the need for accountability and openness.

5.4.2 Officers who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship in writing to their Director.

5.4.3 Officers who are privy to confidential information on contracts out to tender, or costs for either internal or external contractors, must not disclose that information to any unauthorised party or organisation.

5.4.4 Officers must ensure that no special favour is shown to current or former Officers or their partners, close relatives or business associates in awarding contracts to businesses run by them or employing them.

5.4.5 Officers contemplating a 'management buyout', must as soon as they have a definite intent inform the Chief Executive and the relevant

Strategic Director and Director. They must withdraw from all aspects of preparation, tendering, evaluation and award processes.

5.4.6 Where the competitive tendering of Council Services is being carried out by Officers involved directly in the process must declare their membership of or affiliation to, any organisation which may have an interest in tendering for the service to their Director/Strategic Director.

## **6. Recruitment and other employment matters**

6.1 In accordance with the Council's Equal Opportunities in Employment Policy, Officers must take care that they are not open to any charge of discrimination in recruitment or employment practices, by fully adhering to the Council's Recruitment and Selection Code of Practice.

6.2 To avoid any possible accusation of bias, Officers must not be involved in selection and appointment processes where they are related to an applicant or have a personal or business relationship with them. They should declare an interest where there is a potential conflict of interest in such cases.

6.3 Similarly, Officers should not be involved in decisions relating to discipline, promotion or pay adjustments for any other Officer who is a relative, partner, etc.

6.4 Whilst Officers are employed by the Council as a whole; Members roles are:  
a) the appointment of specified senior posts,  
b) determining human resources policies and conditions of employment,  
c) hearing and determining appeals.

6.5 In undertaking duties under section 6.4 above, Members should:  
a) remember that the sole criteria is merit,  
b) never canvass support for a particular candidate,  
c) not take part where one of the candidates is a close friend or relative,  
d) not be influenced by personal preferences,  
e) not favour a candidate by giving him/her information not available to other candidates.

6.6 Similarly, Members should not participate in any appeal hearing (disciplinary or otherwise) if the appellant is a friend, a relative, or an Officer with whom the Member has had a working relationship or is in close proximity to where the Member lives or represents.

## **7. Information Technology and Data Security**

7.1 Officers must ensure that they follow the Council's security procedures in relation to the use of computers and the proper management of computer-held information. Particular care must be taken to observe established procedures when using passwords and when logging on and off. Officers must never share passwords, which may lead to unauthorised access to Council systems. Where this practice is found, Officers should be aware it may lead to disciplinary action.

- 7.2 In respect of internet and intranet access, Officers must comply with Council Policies such as the Codes of Practice on Information Security, Internet and e mail usage, the Use of Communications Policy and relevant legislation such as the Regulatory and Investigatory Powers Act, Data Protection Act, Obscene Publications Act, Computer Misuse Act and the Theft Act.

## **8. Use of Council Systems, Property and Facilities**

- 8.1 The Council's property such as telephones, mobile phones, the internet, intranet, e-mail, stationery, photocopiers, word processors and other machines or tools, materials, offices, car parks and facilities, may only be used for Council business unless permission for private use is given under the terms of the Council's codes of practice or by management. This also applies to all automatic processing equipment such as laptops, PC's, software including computer games and data, none of which may be used for private purposes or removed from the premises without the express permission of the appropriate Manager.
- 8.2 Officers will be required to pay for telephone calls using land lines or mobile phones, or the use of facsimile equipment, for private purposes, through the approved systems in place for the collection of such monies. Officers will be expected to keep calls to a minimum level and Managers will have the discretion to determine what is, or is not excessive.
- 8.3 Telephone call and e-mail/internet logging systems are in operation in the Council and may be used to identify usage for private purposes. Any communications using Council systems can be monitored.
- 8.4 Officers must adhere to all of the Council's specific security system measures that are currently in place or introduced in the future.
- 8.5 Care in the use of language contained in e-mails is essential as misuse could leave Officers and the Council liable to legal action. In the case of Officers internal proceedings under bullying and harassment procedures or the disciplinary procedure may also result.

## **9. Dress and Personal Appearance**

- 9.1 Council Officers act as ambassadors for Departments. Consequently, Officers must maintain a standard of dress and appearance that is appropriate or required for the workplace and to the work being undertaken. Officers' appearance contributes to the quality of customer care provided. Officers must be clean and tidy and ensure good personal hygiene. Where particular clothing is provided for health, safety and hygiene and/or uniform purposes it must be worn. This includes name badges. In particular, Managers and Officers on Council reception areas are expected to dress smartly and portray a business-like and professional image.
- 9.2 The Council seeks to promote diversity within its workforce and recognises the importance of cultural dress to its Officers. Cultural dress is a visible sign of this commitment and Officers will be supported in observing cultural dress codes within the general principles referred to at 9.1 above.

## **10. Criminal convictions**

- 10.1 Where an Officers job involves working with children or vulnerable adults the Council will require the Officers to apply for appropriate enhanced disclosure of criminal convictions as required in law. . Officers are required under the Rehabilitation of Offenders Act 1974 (Exemptions Amendment Order), to disclose all convictions (spent or unspent), cautions or bind overs, before commencement of employment. In the case of other jobs an Officer must disclose any 'unspent'criminal convictions before commencement of employment.
- 10.2 Officers whose work involves driving a Council vehicle must declare any motoring offences to their Manager, including parking fines.
- 10.3 As a matter of fundamental confidence and trust Officers must inform their Manager of any pending criminal proceedings against them before or during their employment.
- 10.4 Any declaration made under 10.2 or 10.3 must be recorded in writing by Managers and placed on the Officer's personal file as a matter of record.
- 10.5 Failure to disclose convictions or to comply with any of the above constitutes possible gross misconduct and may result in disciplinary action, including the possibility of dismissal.

## **11. Drugs and Alcohol**

- 11.1 Council Officers act as ambassadors for the Council and must attend work in a fit condition to undertake their duties in a safe manner.
- 11.2 The Council believes that the consumption of alcohol impairs performance and may constitute a health and safety risk. It therefore discourages its Officers from drinking before work or at lunch times. Officers should be aware of the impact consuming alcohol can have on their image and performance and the way that subsequent actions/behaviour may be perceived by the public and other Officers. Drinking during working hours is a disciplinary offence and Officers adjudged to be under the influence of alcohol while at work may be suspended from duty.
- 11.3 The use of illegal substances at work or which impact adversely on performance at work will not be tolerated and may result in the Council reporting the matter to the police and potential disciplinary action.
- 11.4 Officers are advised to acquaint themselves with the Council's substance misuse policy. Managers have responsibility to ensure staff who may experience such problems are provided with copies of the policy. Support and advice will be given to Officers willing to accept help and follow a programme of rehabilitation. A failure to follow any such programme and continuing problems in the workplace will result in issues of conduct being dealt with under the Council's disciplinary procedure.

- 11.5 Officers should inform their appropriate managers of any prescribed medication and its appropriate storage requirements, especially if it is part of their everyday life.

## **12. Outside commitments**

- 12.1 The Council's duty of care under the Working Time Regulations requires that reasonable steps are taken to ensure that workers do not exceed an average 48 hours per week. The Council prefers its full time Officers not to have paid secondary employment of any kind. The Council recognises that many of its part time Officers may have secondary employment. However, all Officers are required to declare to their Director any secondary employment. It will be the responsibility of Managers to confirm with the Officer whether this conflicts with their Council employment.
- 12.2 All Officers should be clear about their contractual obligations and should not take outside employment, which conflicts with the Council's interests. This will include any activities which might be approved, monitored or regulated as part of their Council employment.
- 12.3 An Officer's declaration of secondary employment, does not remove the right of the Council to take disciplinary action against any Officer whose secondary employment is deemed to be, or has been, detrimental to the interests or reputation of the Council.
- 12.4 Officer appointments as School Governors, Members to other local authorities, membership of the Territorial Army, appointment as a Justice of the Peace or as a Member of the Employment Tribunal do not constitute secondary employment as described in this Code. Nonetheless the principles of Officers making Line Managers aware of these duties and seeking appropriate time off in a reasonable and timely manner apply.
- 12.5 Guidance on payment and receipt of fees for other work is shown in Appendix 2.
- 12.6 Officers of the Council will not be permitted to hold voting rights or trusteeships of external bodies who have contracts with or otherwise grant funded by, the Council, without the express consent of their Director. There is a potential conflict of interest between an Officer's responsibilities to protect the interests of the Council and the legal duties of a Trustee or voting member of an independent organisation. It is also extremely doubtful whether Officers will be covered by the Council's indemnity in such circumstances.
- 12.7 The copyright in all records and documents made by Officers in the course of their employment shall belong to the Council.

## **13. Personal interests**

- 13.1 Officers must declare to their Director any non-financial interests that may bring about conflict with the Council's interests. All such declarations should be recorded in Service's registers of interests.



- 13.2 Officers must declare to an appropriate Manager any financial interests, which could conflict with the Council's interests.
- 13.3 Officers should declare to an appropriate Manager membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct. A definition of what constitutes a secret society is shown at Appendix 1.
- 13.4 Any Officer contemplating purchasing or leasing of Council owned land should raise the matter with their Director or Strategic Director to ensure that there is not or could not reasonably be seen to be any opportunity for influencing the disposal process or use or information not generally available to purchasers. Certain Officers holding designated posts directly concerned with land disposal will be precluded from purchasing or leasing Council land.

#### **14. Corruption**

- 14.1 Council Officers must not use their position to confer on or secure for himself/herself, or any other person, an advantage or disadvantage.
- 14.2 Officers must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity.
- 14.3 The Council acknowledges the responsibility it has for the administration of public funds, and emphasises to the public and its Officers the importance it places on probity, financial control and honest administration. The Council is also committed to the fight against fraud, whether perpetrated by Officers, contractors or the public.
- 14.4 To demonstrate this commitment and the Council's proactive approach to the prevention and detection of fraud and corruption and the action it will take, the Council has adopted policy statements on reporting and investigating fraud and corruption as shown at Appendices 5a and 5b.
- 14.5 Officers must use public funds responsibly and lawfully. They must work to ensure the Council uses its resources prudently and within the law and that the local community gets value for money. The Council's Standing Orders and Financial Regulations must be observed.
- 14.6 Defrauding and stealing (or attempting to do so) from the Council or any person or organisation in any way will not be tolerated. This includes falsification of claims, e.g. time sheets, mileage and travel/subsistence allowances with the intention of obtaining payment. Officers should be aware that the Council shares data with other Government agencies such as Department for Work and Pensions and the Inland Revenue; and is regularly updated.
- 14.7 Officers should not use Council procurement processes for personal purchases, unless authorised to do so.

## **15. Gifts and Payments**

### **15.1 Gifts and payments to employees related to employment**

- 15.1.1 Officers must be careful in the exercise of their duties not to show by their behaviour that they may be influenced by any gifts whilst acting in an official capacity.
- 15.1.2 The Prevention of Corruption Acts 1906 and 1916 make it a criminal offence for Officers to demand or accept any gift or reward in return for allowing themselves to be influenced in their official capacity by any person seeking to obtain a contract from a local authority.
- 15.1.3 As a general rule, therefore, all gifts and other benefits must be refused. If gifts are delivered or sent by post to the place of work, they should be returned if the sender can be identified with an appropriately worded letter. Offers should be declined tactfully, with an explanation that this is Council policy. Where it is not possible to return a gift, or if it is considered that refusal would cause unnecessary offence, then the gift may be appropriated for the benefit of the Council and donated to the Mayor's Charity or other suitable similar purpose.
- 15.1.4 Officers must record any gift, received or offered, in a Gifts and Hospitality Book, to be held and monitored by each Director. The record should include the following information:
- 1) the date and time of offer/receipt;
  - 2) the person making the offer;
  - 3) persons present;
  - 4) the nature of the gift;
  - 4) the approximate value;
  - 5) whether accepted or declined;
  - 6) reasons for acceptance (if applicable).
- 15.1.5 The only gifts not required to be recorded in accordance with the above paragraph are those of a nominal value (i.e. below £5) issued for publicity purposes such as pens, diaries and calendars.

### **15.2 Gifts and payments to Officers unrelated to employment**

- 15.2.1 Officers on occasion receive payment or gifts for personal care/work, which is unassociated with their employment with the Council. All Officers who carry out such work for members of the public who are in receipt of services from the Council and particularly Adult Social Services (e.g., home care, warden service, social work support) must declare these arrangements to their Director in writing. Any such declaration must be acknowledged and the service user advised that next of kin should be made aware of the arrangement.

## **16. Hospitality**

- 16.1 Officers should exercise discretion in offering and accepting hospitality. Acceptance of meals and refreshments for example may be a necessary part of Council business, i.e. provided to enable the parties to continue discussion. The meals or refreshments must be of a modest kind and if possible the Officers should pay for their own meal and claim for reimbursement under the Conditions of Service.
- 16.2 In deciding whether to accept hospitality, regard should be given to the following: -
- (i) whether the person or firm offering the hospitality is likely to benefit from the hospitality;
  - (ii) whether that person or firm is seeking a contract, or one has already been awarded;
  - (iii) the timing of the hospitality in relation to decisions which the Council may take which will affect those offering it;
  - (iv) whether it is preferable in the circumstances to entertain the person or persons concerned at the Council's premises or at the Council's expense;
  - (v) the scale and location of the hospitality and whether it falls within working hours;
  - (vi) whether a proposed visit is genuinely instructive or constitutes more of a social function;
  - (vii) the frequency of the hospitality.

In all cases Officers should be able to justify the arrangements they have made in the interests of the Council.

- 16.3 If an Officer has any doubt about the acceptance of an invitation, this should be discussed with his/her Director. Officers must discuss any offers of hospitality over and above meals and refreshments with their Head of Service prior to accepting or declining them.
- 16.4 Acceptance by Officers of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the Council gives consent in advance and where the Council is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, Officers should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.
- 16.5 Officers must record any hospitality, received or offered, in the Gifts and Hospitality Book, to be held and monitored by each Director. The record should include the following information:
- 1) The date and time of offer/receipt;
  - 2) the person making the offer;
  - 3) persons present;
  - 4) the type of hospitality;
  - 5) the approximate value;
  - 6) whether accepted or declined;

7) reasons for acceptance (if applicable).

- 16.6 The only hospitality not required to be recorded in accordance with the above paragraph, is hospitality of a modest kind received during normal working hours in the course of conducting the Council's business. This would include light refreshments such as tea, coffee, biscuits and sandwich lunch or similar.

## **17. Legacies**

- 17.1 Occasions have arisen when Officers who work, for example, in residential homes for the elderly, and Home Carers have been included in the Wills of people whom they have looked after. On the one hand this can reflect the genuine wish of a client to register their thanks to someone who has looked after them, perhaps over a number of years. On the other hand, such gestures could be open to misinterpretation, particularly if a large sum of money is involved. It is, therefore, a rule that an Officer must notify their Director if they are left a legacy, which is connected with their employment or if the person in question was in receipt of a personal Council service. Failure to disclose receipt of a legacy may result in disciplinary action. The Director must report the circumstances of all cases to the appropriate Cabinet Member and the Monitoring Officer.

## **18. Sponsorship – Giving and Receiving**

- 18.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 18.2 Where the Council wishes to sponsor an event or service neither an Officer nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to the Officer's Director of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, Officers should ensure that impartial advice is given and that there is no conflict of interest involved.

## **19. Investigations and Monitoring**

- 19.1 Each Director and Strategic Director is responsible for the monitoring of his/her Officers activities in accordance with the provisions/declarations of this Code of Conduct and related Codes of Practice. Any such monitoring will comply with relevant legislation such as the Regulatory and Investigatory Powers Act, the Data Protection Act and the Human Rights Act.
- 19.2 Where the Monitoring Officer is undertaking an investigation in accordance with regulations under section 66(2) of the Local Government Act 2000 Officers of the Council must comply with any requirement made by the Monitoring Officer in connection within such an investigation.

19.3 Where necessary, action can be taken against a Member that breaches this Code, additional to action that can be taken following breach of the Members' Code of Conduct.

**20. Summary**

20.1 Officers requiring further information or requiring advice concerning the appropriate course of action to adopt in any situation, should contact their Line Manager, Director, the Director of Human Resources, the Internal Audit Manager or the Monitoring Officer.

20.2 This Code should be read in conjunction with any appendices and with any other Council codes of practice or policies that relate to Officer conduct and/or workplace or security system policies and procedures.

**21. Date of implementation**

21.1 This Corporate Code of Conduct applies to all Officers of the Council with effect from (date to be confirmed).

**The Corporate Code of Conduct will be kept under review in the light of recommendations and guidance issued nationally in relation to standards of conduct in public life and revised as necessary.**

**DEFINITION OF WHAT CONSTITUTES A MEMBERSHIP OF SECRET SOCIETY**

The following is the Council's definition of what constitutes a society with secret rules (secret society).

'Any lodge, chapter, society, trust or regular gathering or meeting, which:

- a) is not open to members of the public who are not members of that lodge, chapter, society or trust; and
- b) includes in the grant of membership an obligation on the part of the member a requirement to make a commitment (whether by oath or otherwise) of allegiance to the lodge, chapter, society, gathering or meeting; and
- c) includes, whether initially or subsequently, a commitment (whether by oath or otherwise) of secrecy about the rules, membership or conduct of the lodge, chapter, society, trust, gathering or meeting.

A lodge, chapter, society, trust, gathering or meeting as defined above should not be regarded as a secret society if it forms part of the activity of a generally recognised religion.

**OTHER EMPLOYMENT RELATED ACTIVITIES – FEES**

Officers may be asked on occasions to give lectures or undertake work using their professional skills and expertise. If the work forms part of the duties of a post and the Officer is carrying out an official duty, he/she must forward all fees to their employing Department. Any expenses incurred will be reimbursed through the normal procedures.

Officers in receipt of 'fees' in respect of undertaking work and/or lecturing to an outside organisation/persons) may retain the 'fees' providing:

- a) preparation and delivery of the work is undertaken outside working hours (unless covered below);
- b) equipment and/or materials are not being provided by the Council;
- c) the Officer is not acting as a representative of the Council.

Where the work or lecture is undertaken during working hours the equivalent working hours must be re-arranged, in agreement with the Line Manager to accommodate the Officer's request or annual leave, flexi leave or time off in lieu must be used. The Officer concerned may also be granted unpaid leave, subject to the agreement of the Line Manager in consultation with their Human Resources Manager.

POLITICALLY RESTRICTED POSTS

In order to uphold the principle of political neutrality of local government Officers, under the Local Government and Housing Act 1989 (as amended), some Council posts are designated as 'politically restricted'.

Political Restriction applies to:

- Chief and Deputy Chief Officers
- Officers who give advice on a regular basis to the Council or speak on a regular basis to journalists or broadcasters on the Council's behalf.
- Officers who work in politically sensitive areas, i.e. the Council's Elections Department.

The following restrictions apply to any Officer who is appointed to a politically restricted post:

- The post holder must not announce an intention to be a candidate for election to the House of Commons, the European Parliament or a local authority.
- Where an Officer announces that he/she wishes to resign his/her post because he/she intends to be a candidate for election to the House of Commons, his/her appointment shall terminate.
- The post holder must not act as an election agent or sub-agent.
- The post holder shall not be an officer or other such associate of a political party or branch, or a committee or sub-committee Member of a party, if this involves him/her in general management of or acting on behalf of the party or branch. This does not prevent membership of a political party or, for example, social activity unrelated to the general management of the party or branch.
- The post holder shall not canvass on behalf of a political party or on behalf of a candidate for election.

Post holders other than political assistants are also prevented from:-

- Speaking to the public with the apparent intention of affecting support for a political party.
- Publishing or causing to be published written or artistic work if intended to affect public support for a political party. This would not, however, apply to for example displaying a poster on private property.

Officers for exemption from political restriction in respect of their posts. In making an application to the Independent Adjudicator, an Officer is required to provide a certified job description together with a certificate of opinion to state whether or not in the opinion of the Council, the duties of the post include advising the Council on a regular basis or speaking on a regular basis to journalists or broadcasters. In other words, exemptions can only be granted to those whose posts are politically restricted because of salary alone but whose duties do not include those just mentioned.



MEMBER / OFFICER RELATIONS PROTOCOLIntroduction

- A With the adoption of the Code of Conduct for Members, which came into effect on (date to be confirmed), the opportunity has been taken to produce a Protocol with regard to Member/Officer relations. It seeks to set out guidance and promote greater clarity and certainty and the setting of good standards in accordance with the Nolan Report and subsequent Government guidance. This also includes general guidance about the access to information.
- B Given the variety and complexity of Member and Officer relations, this Code does not seek to cover everything or be prescriptive in its application. General guidance is offered on some of the issues that most commonly arise or cause concern. It is hoped, therefore, that the approach which this Code adopts will serve as a guide to dealing with other issues that may arise from time to time.
- C This Code seeks to encourage best practice and to promote greater clarity and certainty between the various relationships. If any Member is unsure about any matter, he or she should contact the Monitoring Officer (Director of Legal & Democratic Services) for appropriate advice and assistance. If any Officer is unsure about any matter, he or she should contact the relevant Chief Officer and/or the Director of Legal & Democratic Services.
- D The Standards Committee may issue further general guidance on Rotherham's Code of Conduct for Members. In addition, a separate code is being considered for planning matters.

1. Underlying Principles

- 1.1 Members and Officers are bound by their respective Codes of Conduct which seek to promote the highest ethical standards. This Code supports those codes and is intended to promote mutual respect between Members and Officers with regard to their respective roles as set out below and in the Council's Constitution.
- 1.2 In order to ensure the business of the Council is transacted in an effective and efficient manner and with a view to ensuring that the Council is not brought into disrepute, the key guiding principles for Members and Officers have to be openness, honesty, fairness, transparency and treating everyone with respect.

- **Selflessness**

Acting solely in terms of the public interest.

- **Objectivity**

Taking decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

- **Accountability**

Accountability to the public of their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

- **Duty to uphold the law**

Acting and encouraging others to act in accordance with the law at all times in order to ensure the proper administration of justice.

- **Stewardship**

Ensuring the careful, responsible and prudent use of the Council's resources at all times.

## 2. The Role of Members

2.1 They must promote the social, economic and environmental well being of the community.

2.2 They must collectively be the ultimate policy makers and decision-makers and carry out a number of strategic and corporate functions.

2.3 They must represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities.

2.4 They must deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances.

2.5 They must balance different interests identified within the Ward and represent the Ward as a whole.

2.6 They must be involved in decision making, where appropriate.

2.7 They must be available to represent the Council on other bodies.

2.8 They must promote the highest standards of conduct and ethics.

2.9 They must uphold the **Seven Principles of Public Life:**

- **Selflessness**

Holders of public office should act solely in terms of the public interest.

- **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

- **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

- **Accountability**

Holders of public office are accountable to the public of their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

- **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

- **Honesty**

Holders of public office should be truthful.

- **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

2.10 They must act collectively as the employer of the Officer.

2.11 They must act in a specific capacity listed below where appointed so to do by the Council in accordance with the Constitution:

- Chairman of the Council
- Leader of the Cabinet
- Member of the Cabinet
- Portfolio holder (with or without delegated authority)
- Chairman of a Scrutiny Panel
- Member of a Scrutiny Panel
- Chairman of a committee other than Scrutiny
- Member of a committee other than Scrutiny
- Representing the Council on outside bodies

2.12 Political Group meetings, whilst they form part of the preliminaries to Council decision-making, are not formal decision-making bodies of the Council and, as such, are not empowered, even under the new constitutional arrangements, to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions and it is essential that Members and Officers understand and interpret them accordingly;

2.13 They must be alert to the potential for conflicts of interest that can arise between the number of roles carried out by Members

2.14 They must not certify financial transactions or enter into a contract on behalf of the Council as they are not authorised to do so.

2.15 They must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration which could bring the Council into disrepute.

2.15 They must respect the impartiality of Officers.

### 3. The Role of Officers

Officers are under a contractual and legal duty to be impartial when undertaking their duties and there is a statutory limitation on Officers' involvement in political activities.

3.1 They must initiate and implement the policies set and the decisions made by Members.

3.2 They must provide impartial professional and technical advice to Members.

3.3 They must carry out those functions delegated to Officers.

3.4 They must provide reasonable help, support and advice to all Members.

3.5 They must represent the Council on outside bodies.

3.6 They must act in a specific capacity listed below where appointed so to do by the Council:

- **The Chief Executive as Head of Paid Service** (as defined by the Local Government and Housing Act 1989 section 4) has the following functions and duties:

to prepare proposals for the consideration of the Council as to the co-ordination of the discharge of the Council's functions; the number and grades of staff that are required to discharge those functions; the organisation of the Council's staff; and the appointment and proper management of the Council's staff.

- **The Head of Legal and Democratic Services as Monitoring Officer** (as defined by the Local Government and Housing Act 1989 section 5) has the following functions and duties:

to prepare reports for the consideration of the Council where it appears that any proposal, decision or omission by the Council, a committee, sub-committee, or Officer has given rise or is likely to give rise to a contravention of any statute or maladministration or injustice as mentioned in part III of the Local Government Act 1974.

- **The Head of Corporate Finance as Chief Financial Officer** (as defined by the Local Government Act 1972 section 151) has the following functions and duties:

to prepare reports for the consideration of the Council where it appears that any committee, sub-committee, or Officer has or is about to make a

decision which involves or would involve the Council incurring expenditure which is unlawful; or has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and is likely to cause a loss or deficiency to the Council; or is about to enter an item of account, the entry of which would be unlawful.

#### 4. The Relationship Between Officers and Members

- 4.1 The relationship between Officers and Members should be characterised by mutual respect which is essential to good local government.
- 4.2 A distinction must be drawn between good working relationships and close personal familiarity between individual Members and Officers which can damage professional relationships and prove embarrassing to other Members and Officers. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct. This includes excessive socialising between Members and Officers.
- 4.3 Whilst it is recognised that in some circumstances a close personal relationship will develop between Council Members and Officers, both the Member and the Officer must disclose that relationship to the Chief Executive. The Member must also disclose that relationship to his or her political group leader.
- 4.4 At all times the Member and Officer will ensure, as far as possible, there is no conflict of interest between them.
- 4.5 Any dealing between Members and Officers should be conducted with courtesy and respect and neither party should seek to take unfair advantage of their position. In particular, Members should recognise and pay due regard to their role as an employer in their dealings with Officers. Equally Officers should understand that decisions of the Council are made by the Council as a whole and should not be attributed to individual Members unless specific delegated powers exist.
- 4.6 The Council has statutory duties with regard to equalities issues to positively promote equality. Members and Officers shall not by their behaviour or speech be discriminatory with regard to a person's gender, marital status, age, race, disability, religion or sexual orientation, as prescribed in law. Such principles shall apply to the implementation of all personnel policies, recruitment and promotion as they apply to everyday operations.
- 4.7 Members should not raise matters relating to the conduct or capability of a Council Officer or of the Officers collectively at meetings held in public or in the press. Officers have no means of responding to criticism like this in public. (If Members feel they have not been treated with proper respect, courtesy or have any concern about the conduct or capability of a Council Officer they should raise the matter with the Director concerned if they fail to resolve it through direct discussion with the Officer.)

- 4.8 Members should not require any Officers to change their professional advice nor take any action which the Officer considers unlawful or illegal or which would amount to maladministration or breach of a statutory code of conduct.
- 4.9 Members should consult with the Monitoring Officer and the Chief Finance Officer about legality, maladministration, financial impropriety and probity or where they have any doubt as to whether the particular decisions were or are likely to be contrary to the policy framework or budget.
- 4.10 In seeking advice and support Members should have due regard to the seniority of the Officer with whom they are dealing and the fact that, while those Officers owe duties to the Council as their employer such duties are first expressed to their respective Manager and the Chief Executive and not to any individual Member. For this reason Members should not give direct instructions to staff unless authorised so to do by the Constitution. If so authorised, instructions shall be given to the relevant Chief Officer rather than a more junior Officer.
- 4.11 Members of the Cabinet, Scrutiny Panels and Regulatory Committees shall, at all times, respect the political impartiality of Officers and must not expect or encourage Officers (save for any political assistants to the political groups) to give a political view on any matter.
- 4.12 Before any formal decisions with a financial implication are taken by Members, the Finance Officer and the senior Officer(s) of the service(s) concerned must be consulted.
- 4.13 Members must, when making decisions (collectively or individually), state the reasons for those decisions. The written record of the decisions must include the reasons.
- 4.14 Officers taking decisions under their delegated powers must consider the advisability of informing the relevant Member(s) of their intentions in advance when the matter to which the decisions relates is likely to be sensitive or contentious, or has wider policy implications.
5. The Relationship Between the Overview and Scrutiny Committee and Officers (when Executive decisions are being scrutinised).
- 5.1 The Council's Overview and Scrutiny Committee shall seek the advice of the Monitoring Officer where they consider there is doubt about the legality of Executive decisions or the Monitoring Officer and other appropriate Officers where they consider a decision of the Executive might be contrary to the policy framework.
- 5.2 When considering calling Officers to give evidence the Committee shall not normally, without the consent of the relevant Chief Officer, request the attendance of a junior Officer to ensure that more junior Officers are not put under undue pressure.

- 5.3 When asking Officers to give evidence before the Committee questions should be confined, so far as possible, to questions of fact and explanation and professional opinion relating to policies and decisions.
- 5.4 Where they consider it appropriate the Committee may ask Officers to explain advice given to Members (of the Executive) prior to decisions being taken and explain decisions they themselves have taken under the Scheme of Delegation.
- 5.5 The Committee shall not question Officers in such a manner whereby the nature and frequency of the questions or tone or language used could be considered by a reasonable person to be harassment, discriminatory or otherwise unacceptable, nor deal with matters which are of a possible disciplinary/capability nature.
- 5.6 The Committee shall at all times respect the political impartiality of the Officers and must not expect Officers to give a political view.
- 5.7 It is recognised that Officers required to appear before an Overview and Scrutiny Committee may often be those who have advised the Executive or another part of the Council on the matter under investigation. In these circumstances such Officers may have a conflict of interest. Both Members and Officers need to consider the severity of the conflict. If appropriate, research and advice may be sought elsewhere – for instance, internally from the Council’s Overview and Scrutiny support officers or even externally.
6. Officer Relationships with Political Groups
- 6.1 It must be recognised by all Officers and Members that in discharging their duties, Officers serve the Council as a whole and not exclusively any political group, combination of groups, or any individual Members.
- 6.2 Officers may properly be called upon to support and contribute to the deliberations of political groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even handed manner.
- 6.3 The support provided by Officers can take many forms, ranging from a briefing with the Leader of the Executive, the leaders of other political groups, or Chairs of Committees, to a presentation to a full political group meeting.
- 6.4 When attendance of an Officer is duly requested for political group meetings:
- 6.4.1 the request to attend a group meeting must be made through the Chief Executive;
- 6.4.2. unless otherwise agreed by the Chief Executive, Officers will not attend political group meetings which include persons who are not Members of the Council or be present at purely political discussions;
- 6.4.3 such a request can only be made in relation to Council business;

- 6.4.4 Officers must respect the confidentiality of any political group discussions at which they are present.
- 6.5 Members must not do anything which compromises or is likely to compromise Officers impartiality, if and when an Officer is duly requested to attend a political group meeting
- 6.6 An Officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a political group meeting
- 6.7 No Member will refer in public or at a meeting of the Council to advice or information given by Officers to a political group meeting.
- 6.8 At political group meetings where some of those present are not Members of the Council, care must be taken not to divulge confidential information relating to the Council business, i.e. observers.
- 6.9 Officers must never be asked to attend Ward or constituency political meetings.
- 6.10 Whilst it is acknowledged that some Council staff (e.g. those providing dedicated support to Executive Members) may receive and handle messages for Members on topics unrelated to the Council, these will often concern diary management, and care should be taken to avoid Council resources being used for private or political purposes.

## 7. Members in their Role as Ward Member

- 7.1 When acting as a Ward Member, be mindful of their competing roles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on Officer time.
- 7.2 Whenever a public meeting is organised by the Council to consider a local issue all the Members representing the Ward or Wards affected should be invited to attend the meeting.
- 7.3 Members may request Officers to attend meetings or site visits or provide other assistance in their role as Ward Member. Such requests should be made to the relevant Director and not to individual Officers.

## 8 Member Access to Documents and Information

- 8.1 Every Member of the Cabinet or of a committee, sub-committee of the Council has a right to inspect documents about the business of the Cabinet, that committee, or sub-committee.
- 8.2 A Member who is not a Member of a specific committee, sub-committee (or the Cabinet) may have access to any documents of that part of the Council if they satisfy the Council's Monitoring Officer that they reasonably need to see the documents to perform their duties (commonly known as the "need to know" principle).



- 8.3 A Member is not entitled to inspect any document or have access to any information about a matter in which they have a prejudicial interest or where to do so would be in breach of any statutory provision.
- 8.4 The Local Government (Access to Information) Act 1985 (Section 100F of the Local Government Act 1972 was introduced by that Act), gives further rights to Members in addition to those at common law above. Section 100F makes it clear that any document which is in the possession or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council, or a committee or a sub-committee of the Council, will be open to inspection by any Member of the Council unless it contains confidential or certain classes of exempt information.
- 8.5 Members and Officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.
- 8.6 Members and Officers must not prevent another person from gaining access to information to which that person is entitled by law.
9. Press Releases and Correspondence (including e-mails)
- 9.1 Press releases must operate within the limits of the Local Government Act 1986 which prohibits the Council from publishing material which appears to be designed to affect public support for a political party. During the election period special rules apply with regard to local authority publicity.
- 9.2 Council press releases are produced and distributed by the communications team, from information supplied by Officers. Press releases will usually quote the Leader, or the Member with responsibility for the area covered by the press release. On occasions, Officers are also quoted. Contact with the media should be channelled through the communications team.
- 9.3 All correspondence written on behalf of the Council must be written on the relevant headed paper.
- 9.4 When Members are writing they must make it clear whether they are writing on behalf of the Council or as the Ward Member.
10. Sanctions for Breach
- 10.1 Complaints regarding any breach of this Code by a Member should be made in the first instance to the Chief Executive and to the Monitoring Officer. If the complaint cannot be resolved it may be referred to the Council's Standards Committee. If the matter complained of also amounts to a breach of the Code of Conduct, the matter may be referred to the Standards Board for England.
- 10.2 Complaints regarding any breach of this Code by an Officer may be referred to the relevant Strategic Director or Director, the Chief Executive and the Monitoring Officer, and may lead to disciplinary action. Complaints should be made in the first instance to the Officer's Director.

PROCEDURE FOR REPORTING OF SUSPECTED FRAUD AND CORRUPTION

This procedure and the Officer obligations contained within it have been adopted as Council policy and it is therefore incorporated into all Officers' terms of employment.

If you suspect a fraud within your workplace, including fraud perpetrated by council contractors, or receive information from an external source regarding fraud, the following procedure should be followed: -

**Make an immediate note of all relevant details.**

These should include date and time of the event, record of conversations (including telephone), names of persons present (or description if the name is not known), vehicle details where appropriate e.g. type, colour, registration etc.

Report your suspicions as rapidly as possible together with the relevant details to an appropriate level of authority and experience.

This can either be your Line Manager **OR** the Internal Audit Division of Corporate Finance on Rotherham on (to be confirmed) **OR** the Assistant Director of Legal Services, Ext (to be confirmed) **OR** the Chief Executive at Rotherham Borough Council, Riverside House, Main Street Rotherham, S60 1AE Ext. (to be confirmed)

Alternatively you may prefer to put your suspicions in writing to the Internal Audit Manager(to be confirmed) at Rotherham Borough Council, Riverside House, Main Street Rotherham, S60 1AE and mark the envelope "CONFIDENTIAL – TO BE OPENED BY THE ADDRESSEE ONLY". The Council would prefer you not to provide information anonymously as it may be necessary for you to provide further information. However all anonymous information that is received will be investigated.

All reported suspicions will be dealt with sensitively and confidentially.

**DO NOT: -**

**- Confront or accuse anyone directly.**

**- Try to investigate the matter yourself.**

- Discuss your suspicions with anyone other than the appropriate level of authority.

- Be afraid to report a matter on the basis that your suspicions may be groundless, all reports will be treated on the basis that they are made in good faith.

**FURTHER ADVICE**

If you are unsure whether, or how, to use this procedure or you prefer independent advice at any stage, you may contact the independent charity Public Concern at Work on (to be confirmed). Their lawyers can give you free confidential advice at any stage about how to raise a concern about fraud or other serious malpractice in the workplace.

**PROCEDURE FOR THE INVESTIGATION OF SUSPECTED FRAUD AND CORRUPTION**

1. **Responsibilities**

The responsibility for the prevention of fraud, other irregularities and error rests with management.

Auditors are responsible for reporting to management on areas of weakness and deficiencies in internal controls on the financial systems, together with investigating circumstances where occurrence of fraud is suspected.

2. **Procedures**

Once management has discovered or suspect a fraud, Internal Audit should be notified immediately.

When Internal Audit discover or suspect a fraud, management of the relevant department should be contacted and discussion take place and agreement reached on how the matter will be investigated.

Where the investigation involves Officers of the Council it will be necessary to consult with a Human Resource Manager to discuss procedures for possible suspension of the Officer pending further investigation.

Members shall be informed of any investigation into Council affairs that requires reporting the District Auditor as soon as is practical without prejudicing the investigation as per Minute 2920 (7) (ii) (D) of May 1977(to be confirmed).

3. **Objectives of an Investigation**

The objectives of any investigation shall be to: -

- Prove or disprove the original suspicions of fraud.
- Provide evidence in an appropriate format to substantiate proven cases of fraud.
- To implement appropriate controls to prevent a recurrence of the incident.

4. **Conduct of an Investigation**

The investigation should be conducted by the Internal Audit Section in conjunction with management of the department in the following manner: -

Secrecy and confidentiality shall be maintained at all times.

An early decision may be required at the start of the investigation to determine whether to suspend an Officer to ensure evidence is not tampered with, subject to the proviso that the suspension does not prejudice the outcome of the investigation.

All documentation and evidence that is relevant to the investigation should be requisitioned and secured at an early stage by either management or Internal Audit.

Evidence and relevant information should be properly documented, considered and evaluated.

## 5. **Interviewing**

Interviews with potential perpetrators of fraud will normally be held both at the beginning and at the end of the investigation. However this procedure may be subject to alteration dependent upon circumstances. Interviews will be held in accordance with the Council's disciplinary procedure and in cases where the person(s) under investigation are Officers of the Council, they will be allowed to have a "friend" or trade union representative present.

At all interviews a person shall be nominated to take notes of the meeting.

## 6. **Conclusion of Investigation**

Once a decision has been reached after interviewing the suspect, the following further matters will need to be considered: -

### **(a) Involvement of Police**

The Council should always, except in exceptional and extenuating circumstances, have a consistent and fair approach to the involvement of the police in proven cases of fraud and deception. This is especially crucial in the cases where recompense for any losses suffered is sought from the Council's insurers. The Fidelity Guarantee Policy includes a clause which reserves the right of the insurance company to involve the police in the name of the Council, but at the expense of the insurance company, in order to recover losses met within the terms of the policy.

Where the sums involved in an investigation are significant the question of police involvement should be discussed by the relevant Strategic Director, the Head of Finance in his role as Section 151 Officer and the Head of Legal Services, and the Director of Human Resources. The Chief Executive should then be informed of the decision reached.

### **(b) Informing the District Auditor and the Chair of Audit**

They should always be informed of the outcome of all fraud investigations as part of his role in gathering statistics and information relating to fraud.

### **(c) Review of Systems**

Where a fraud has occurred as a result of weaknesses in existing systems then steps must be taken to remedy the problem to prevent recurrence.

### **(d) Insurance / Recovery of losses incurred**

Appropriate action shall be taken to ensure that the losses incurred by the Council are minimised including: -

- (i) Recover losses directly from the perpetrator of the fraud.
- (ii) Recovery from an Officers contributions to the Superannuation Fund where appropriate.
- (iii) Claim on the Council's insurers.