PROTOCOL FOR MEMBER/OFFICER RELATIONS

1. Introduction

The Council has produced this protocol for member/officer relations in order to promote the highest standards in public life and harmonious working relationships.

Partnership, based on mutual trust and respect between politicians and paid officers, is essential in achieving good local government. However this partnership will not be effective unless there is a clear understanding by all of the role and obligations of members and the separate role and duties of officers. This protocol sets out these roles, obligations and duties and also the ground rules for all to observe. The standards in the protocol are binding and apply equally to elected members, voting and non-voting co-opted members and to officers where there is a joint responsibility.

This protocol is based upon legislation, Council policies and documents deriving from legislation as well as guidance from a variety of sources, primarily:

- The Local Government Act 2000
- The Localism Act 2011
- The Council's Constitution
- The Member's Code of Conduct

This protocol refers extensively to members' relationships with officers and other staff directly in the service of the Council. The principles of the protocol also apply to members' dealings with other people not directly employed by the Council but who are in an employment based relationship with the authority (such as staff employed by the Council's partners and interim officers employed on a longer-term basis by the Council).

The principles underlying this protocol are as follows:

- There shall be mutual courtesy and respect between members and officers with regard to their respective roles.
- Members and officers shall each carry out their respective duties in the best interests of the Council.
- This protocol applies to all dealings between members and officers and not only formal meetings.
- Members and Officers must at all times observe this protocol.
- This protocol seeks to maintain and enhance the integrity (real and perceived) of local government which demands the highest standards of personal conduct.
- Members and Officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.

- Whilst members and officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to members (individually and collectively) and to carry out the Council's work at the direction of the Council.
- Breaches of this protocol by a member may lead to a complaint to the Standards and Adjudication Committee if it appears that the members' code of conduct has also been breached. Breach of this protocol by an officer may lead to disciplinary action.

2. General Obligations of Members

Members must observe the Council's Code of Conduct whenever they are conducting the business of the Council, conducting the business of their office or representing the Council. Members and voting Co-opted members are equally bound by the Code of Conduct. Non-voting Co-opted Members are also bound to comply with the provisions of the Code of Conduct.

The Code of Conduct places certain general obligations that members must observe and which have a bearing upon member/officer relations:

- Members must not, in their official capacity or any other circumstance, conduct themselves in a manner that could be reasonably regarded as bringing their office or the Council into disrepute.
- Members must promote equality by not discriminating unlawfully against any other person, treat others with respect and not to do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of the Council.
- Members must not disclose information given to them in confidence by anyone or information which they have reason to believe is confidential unless they have authorisation or are required to do so by law.
- Members must not prevent another person from gaining access to information to which they are entitled by law.
- Members must not use their position improperly to gain advantage for themselves or to advantage or disadvantage another person.
- Members must use any Council facilities provided for them in their role as member strictly for that purpose and no other.
- Members should not ask officers to assist with any personal, business or party-political matter. Officers will refer inappropriate requests for assistance to their Director.
- Members are under an obligation to register certain types of personal interest in accordance with the Code of Conduct and Regulations made under the Localism Act 2011 (detail to be inserted).

Members have a duty to act reasonably and when taking part in the Council's decision-making processes, members must:

- take into consideration everything they regard as relevant, or which they are

advised is relevant,
- disregard anything which they consider is not relevant, or which they are advised is not relevant,
- follow the correct procedure.

Members control the Council's assets and finances, are in a position of trust and therefore have a fiduciary duty to act in the interests of all the people of North East Lincolnshire. In law, someone with a fiduciary duty is someone who occupies a position of such power and confidence over the property of another that the law requires him or her to act solely in the interest of the person he or she represents. This is in contrast with an ordinary business relationship, in which each party is free to seek purely personal benefits from his or her transactions with the other.

3. Relationship between Members and Officers

The relationship between officers and members should be characterised by mutual respect which is essential to good governance.

Any close personal or family relationships (e.g. parent/child; spouse/partner) between officers and members should be disclosed to the Monitoring Officer who, in consultation with the Chief Executive will then decide how far this needs to be disclosed to others. Members must also declare any such relationship with an officer which might be seen as influencing their work as a member to their party whip. (further detail as necessary to be included when Regs published under the Localism Act).

Generally, a close relationship between a member and a senior officer of third tier (ie. Head of Service) and above (and in some cases, other senior staff) is incompatible with the high standards of public life promoted by the Council and should be avoided or discouraged. The relationship may put the member, or the officer, in a position to exercise improper influence over the workings of the Council. Even if there is no actual impropriety, the situation may give rise to suspicion and the public may perceive that the opportunity for improper influence exists. In these situations a member could not be expected to remain in office, whilst the officer remained employed by the Council.

Close personal familiarity between individual members and officers 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.

Officers and members should address each other formally at meetings of Full Council, Cabinet, Committee, Sub-committee, Panels and other formal meetings that officers attend that are open to the public.

Members and Officers should dress formally when attending all meetings. Officers should refer to members by the office they hold: Leader, Chair, Deputy-chair, or Councillor. Members should avoid excessive informality and should refer to officers either by their title or by their full name.

The same degree of formality is not necessary at any social events that members attend with officers. Nevertheless, members and officers attending an event by virtue of their role with the Council should avoid close personal familiarity or any action which would embarrass others or damage their relationship with staff or members. Socialising between members and officers other than in an official capacity should be avoided.

4. The Role of Members

Members:

- Develop and set policies that will then be implemented by officers
- Monitor how those policies are being implemented.
- Where their office allows them to do so, provide guidance to officers on how those policies are to be implemented, either if members wish to do so or if officers ask for guidance.
- Represent the views of their communities and ward constituents, and deal with individual casework.
- Recognise the statutory roles of the Chief Executive as Head of Paid Service, the Chief Finance (or Section 151) Officer, and the Monitoring Officer, and the significance attached to their advice.
- Consult with the communities they represent on the development of policy, the budget and other local initiatives.
- Consult with the Monitoring Officer and the Executive Director of Place and Resources (Chief Finance Officer) about legal powers, maladministration, financial impropriety and probity or where they have any doubt as to whether particular decisions are, or are likely to be, contrary to the policy framework, or contrary to, or not wholly in accordance with the budget.
- Respect officers' political impartiality.
- Promote the highest standards of conduct and ethics.

Members must not:

- Insist that any officer take any action or not take action that the officer considers unlawful or illegal; is in direct contradiction of any code or guidance, contrary to the Council’s budget or policy framework, or which would be likely to amount to maladministration.

5. The Role of Officers

Officers:

- Implement the policies set by members.
- Will ask for guidance on implementation of the policies set by members if they are unclear about any aspect of those policies.
- Give such professional advice to members as may be required of them from time to time, recognising the different needs for advice members may have in their different capacities of ward member, executive (cabinet) member or scrutiny member.
- Carry out their delegated functions to the best of their ability and in the interests of the Council.
- Must remember that he or she is employed by North East Lincolnshire

Council as a whole and not by any particular part of the Council.
- Are under a duty to help all Councillors/Co-opted members and all parts of the Council equally.
- Must take all relevant matters into account when formulating advice to members.

Officers must not:
- Set policy other than for the efficient running of the organisation and as may have been delegated to them under the Council's Constitution.
- Take any action, or not take action, which would be unlawful or illegal, is in direct contradiction of any code or guidance, contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.

6. Relationship between Cabinet Members and Officers

The Cabinet members acting collectively and Portfolio Holders acting individually shall be bound by the same provisions set out in paragraph 4 regardless of the capacity in which they are acting.

7. Relationship between the Chairs and Members of Scrutiny Panels and Officers

The Chair and members of the Council's Scrutiny Panels and related bodies shall:
- Seek the advice of the officer designated the statutory Scrutiny Officer (Assistant Chief Executive) regarding the content and development of their work programme
- Seek the advice of the Monitoring Officer where they consider there is doubt about the power to make a decision or that a proposed course of action may be contrary to the Constitution; or the Monitoring Officer and other appropriate officers where they consider a decision of the Cabinet or a Portfolio Holder might be contrary to the policy framework.
- When considering calling officers to give evidence they shall not, without the consent of the relevant Director, request the attendance of an officer below Director level. This is to ensure that junior officers are not put under undue pressure.
- When asking officers to give evidence confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions. Officers may be asked to give a professional opinion, but officers must not be expected to give a political view.
- Where they consider it appropriate, ask officers to explain and justify advice given to members (of the Cabinet) prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution and their responses to consultations under the Scheme of Delegation.
- Not question officers in such a way as to be construed as harassment nor deal with matters which are of a disciplinary nature.
- At all times respect the political impartiality of the officers.
- When considering matters relevant to the Council's key partnerships in place from time to time, ensure that the appropriate Director is aware of a

proposed request for a representative of any partnership to attend a Scrutiny meeting, recognising the Constitutional (and, in certain cases, statutory) right of Scrutiny Panels to summons partners to Scrutiny meetings.

Officers shall:

- Maintain political impartiality at all times when commenting on the Cabinet's/ Council's policies and actions.
- Be prepared to explain and justify advice given to members of the Cabinet and the Council prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution and Scheme of Delegation.
- Ensure that an officer of sufficient seniority appears before the relevant Scrutiny panel.

8. Relationship between the Chairs of other Committees and Officers

This section applies to all the Council's Non-Executive Committees, including Planning Committee, Standards and Adjudication Committee, Licensing Committee, Appointments Committee Appeals Committee and the Audit and Governance Committee.

The Chair and members of those Council bodies shall:

- Be bound by the same provisions set out in paragraph 2 when sitting as a Committee/Council body; and
- Give officers the opportunity to present any report and give any advice they wish to present or give.

9. Officer Relationships with Political Groups

When dealing with the various political groups:

- Any request for information from a political group or member will be treated with strict confidence by the officers concerned and will not be accessible to any other political group. Factual information will, if requested, be available to all political groups
- Officers shall exercise care when giving briefings or commenting on the policies and actions of the Cabinet or any of the Council's committees or panels and maintain political impartiality at all times.

When acting in political groups, and dealing with officers, members shall:

- Recognise that attendance at Political Group meetings by officers is not compulsory but officers may properly be called upon to support and contribute to such deliberations by Political Groups either by attendance or by preparing documentation for discussion by a Group, subject to the availability of resources.
- Recognise that Political Groups are not empowered to make decisions on behalf of the Council and that any conclusions reached by such groups will not be actioned by officers.
- Ensure they do not do anything that may compromise officer impartiality.
- Ensure that confidential matters are not divulged to non-councillors.

10. Members in their Ward (or representational) Role

When acting in their ward role, members:

- Need to 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.
- Recognise the officers' right to suggest that senior officers, the Cabinet, Council, or a committee/ panel need to authorise additional work requested by individual members.

To enable them to carry out the ward role effectively, members need to be fully informed about matters affecting their ward. Senior Officers must ensure that all relevant staff are aware of the requirement to keep local members informed, thus allowing members to contribute to the decision-making process and develop their representational role. This requirement is particularly important:

- during the formative stages of policy development, where practicable,
- in relation to significant or sensitive operational matters,
- whenever any form of public consultation exercise is being undertaken, and
- during scrutiny inquiry

Issues may affect a single ward. Where they have a wider impact, a number of ward members will need to be kept informed.

Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the wards affected should be invited to attend the meetings as a matter of course.

If a ward member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, s/he must inform the relevant senior officer. Provided the meeting has not been arranged on a political party basis:

- an officer may attend but is not obliged to do so, and
- the meeting may be held in Council owned premises
- provided that no such meeting should be arranged or held immediately prior to or during an election period.

11. Complaints about officers or services

Members have the right to criticise reports, or the actions taken by officers, but they should always:

- avoid personal attacks on officers
- ensure that criticism is constructive and well-founded.

Members should avoid undermining respect for officers at meetings, or in any public forum. This would be damaging, both to 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 high performing authority.

Complaints about officers or Council services should be made to the Director in whose area it is considered that the fault lies. Within three working days, s/he will:

- acknowledge the complaint, and
- say if s/he intends to take action, or
- say how long s/he needs to investigate.

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

- influence the level of disciplinary action to be taken against an officer, nor
- insist (nor be seen to insist) that an employee is disciplined.

Members have a right to be told the outcome of any disciplinary case, but have no entitlement to detailed information about the hearing or its conduct.
If a member is not satisfied that action has been taken to deal with the complaint it may be referred to the Chief Executive by the member concerned.

12. Member Access to Documents and information

Save as provided below every member of the Cabinet, Scrutiny Panels, Committee and/or Sub-Committee of the Council has a right to inspect documents about the business of that Commission/Committee, Sub- Committee or the Cabinet, as set out in the Access to Information Procedure Rules included within the Council's Constitution and the governing legal framework.

All Members can expect to have answers to the queries they raise on behalf of other constituents or about the policies and practices of the Council, subject to any legal constraints on their rights to access Council information. Subject to such constraints, when a member submits a request for information, the officer concerned must acknowledge receipt within 2 working days and confirm who will be dealing with the matter. A full and final response should be provided within a further three working days unless in any case where it is not reasonably practicable to deal with a request within that time period, the officer concerned must confirm the date by which a substantive response will be given, provided it is no longer than 7working days from the date of receipt of the request. Where information is requested in respect of a third party, it will only be provided if:

- If it is in the public domain, and
- Its release would not contravene the Data Protection Act 1998

A member who is not a member of a specific Panel/Committee, Sub-Committee or the Cabinet may have access to any documents of that part of the Council if:

- He or she satisfies the Council's Monitoring Officer, that he or she reasonably needs to see the documents to perform his or her duties; and
- The document or papers or information do not contain 'confidential' or 'exempt information'.

This is often referred to as the “need to know” test.

All Political Groups are entitled to develop policies and plans and can expect officers to provide information on a confidential basis to their Group, provided that this is readily accessible, does not entail significant additional work and does not entail the release of information which is confidential or exempt or would otherwise contravene any court order or legal provision.

All requests for advice and information that cross directorate boundaries or involve multi-directorate activities should be directed through the Chief Executive.

Managers must decide how to meet requests and must be able to determine what resources, including which staff, are to be made available. This extends to deciding which officers should answer questions, particularly in open meetings.

However, when a member asks for information or advice the reply must not be copied to or subsequently made available to, other members without the permission of the requesting member. Where information or advice is given in writing to a number of members the document should make clear who has received it. In other words a system of ‘silent copies’ should not be used.

Political Groups are expected to give reasonable notice of requests for information and to have regard to the cost of producing any new detailed information.
If there is a disagreement the Chief Executive will ensure that the request is referred to the relevant body for decision.
A member should always seek advice from the Monitoring Officer in circumstances where he or she wishes to inspect any document or have access to any information about a matter in which he or she has a personal or prejudicial interest; or where to do so would be in breach of the data protection and human rights legislation.

13. Media Relations

All formal relations with the media must be conducted in accordance with the Council's agreed procedures and the law relating to local authority publicity and particularly the Code of Recommended Practice on Local Authority Publicity. These requirements apply at all times, not just during an election period, noting that the election period is a time of heightened sensitivity.

Before responding to media enquiries, officers must ensure that they are authorised to do so.

Media releases will be factual and consistent with Council policy and should be concerned with matters of policy or service activity. They cannot be used to promote a political group.

Save and except during an election period and subject to any other legal constraints that may apply, media releases will usually be issued in the name of the relevant Cabinet member, unless the Cabinet members agrees that the Chief Executive or a Director should be named.

Scrutiny Panels may from time to time seek to issue publicity regarding a particular review or Select Committee. It is considered appropriate for media releases of this nature to be issued in the name of the relevant Scrutiny Chair, unless the Chair considers that the release should be issued in the name of the statutory Scrutiny Officer.

14. Correspondence

All correspondence written on behalf of the Council must be written on the relevant headed paper. When Members are writing in their capacity as a member, they must make it clear whether they are writing on behalf of the Council or as the ward member.

Correspondence between individual members and officers should be treated as confidential unless the member or officer indicates otherwise. All correspondence should normally be open to the inspection of the public unless the correspondence is written in connection with legal proceedings, contractual matters or any other matter where papers can remain 'exempt' within the meaning of Schedule 12A to the Local Government Act 1972; or would if this would be in conflict with data protection or human rights legislation; or would fall within a relevant exception to access in the Freedom of Information Act 2000.

Correspondence which creates legally enforceable obligations, or which gives instructions on behalf of the Council should never be sent in the name of a member and the Monitoring Officer should be consulted in any case of doubt.

15. Breach of the Protocol by a Member

Members are required to report any matter that they believe may be a breach of this protocol to the Monitoring Officer. The Monitoring Officer may refer any complaint (referred by a member of officer) to the Standards and Adjudication Committee if there is evidence that there has been a breach of the Code of Conduct or this Protocol and the Monitoring officer considers it appropriate to do so.

Where there has been an alleged breach of the protocol by a non-voting co-opted member, the Monitoring Officer may refer the complaint to the Standards and Adjudication Committee to be considered further.

16. Breach of the Protocol by an Officer

Complaints of an alleged breach should be raised with the relevant Director. If the complaint concerns a Director, it should be referred to the Chief Executive. If the complaint concerns the Chief Executive, it should be referred to the Monitoring Officer. The provisions of section 11 of this protocol will generally apply.

17. Further Advice

Advice on the interpretation and application of this protocol should be sought from the Monitoring Officer.