

## 5.5 Part 5.5 — Protocol On Member/ Officer Relations

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### 5.5 – 1 Introduction

**5.5 – 1.1** Mutual trust and respect between Members and Officers of the Authority is at the heart of effective corporate governance. It is essential if the partnership necessary for the effective and efficient running of the Authority is to be successful.

**5.5 – 1.2** The purpose of this Protocol is to guide Members and officers of the Authority in their relationships with one another in order to seek to ensure the smooth operation of the business of the Authority. The third report on the Committee on “Standards in Public

Life”, chaired by Lord Nolan, recommended that “**Every local authority should have its own written statement or protocol governing relations between members and officers**” (Rec 20).

**5.5 – 1.3** Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which can arise. In some instances this Protocol may not refer to particular situations or be sufficient to resolve a particular situation in which case advice from the Monitoring Officer ought to be sought.

**5.5 – 1.4** It is designed to:-

1. promote trust, openness, fairness and honesty by establishing clear ground rules;
2. define roles so as to clarify the demarcation of roles and responsibilities
3. avoid conflict in relationships and conflicts of interest
4. prevent duplication or omission
5. secure compliance with the law, codes of conduct and the Authority’s own practices and procedures and
6. lay down procedures for dealing with concerns by Members or Officers.

**5.5 – 1.5** This Protocol supplements the Council’s Members’ Code of Conduct, Standing Orders of the Council, Officer Code of Conduct and other procedures, codes and protocols supplied to Members and Council Officers. The shared object of these is to enhance and maintain the integrity (real and perceived) of local government and they therefore demand very high standards of personal conduct.

## **5.5 – 2 Distinct Roles and Responsibilities of Members and Officers**

**5.5 – 2.1** Members and Officers serve the public. They do so in different ways. The roles and responsibilities of Members and Officers are distinct. They are not in competition with each other, but Officers, whilst politically impartial, should demonstrate political awareness (including of the operating environment).

**5.5 – 2.2** Mutual respect between Members and Officers, both personally and for the roles which

each perform is essential to effective local government. It is important that in all dealings between Members and Officers that both should observe reasonable and consistent standards of courtesy and that neither party should seek to take advantage of their position.

**5.5 – 2.3** The distinction is that:

- a) Members are accountable to the electorate and normally serve as long as their term of office lasts. Their role is to provide the political direction and political leadership of the Authority as well as setting the lawfully agreed policies.
- b) Officers are accountable to the Authority as a whole. Their role is to give professional advice impartially in the public interest and provide support and information to Members both individually and collectively where Members are conducting the business of the Authority, to implement the lawfully agreed policies of the Authority and generally to carry out the work of the Authority under the direction and control of the Council or Cabinet or their committees/sub-committees.

**5.5 – 3 The Role and Responsibilities of Elected Members**

**5.5 – 3.1** Individuals who are elected Members have a number of roles and responsibilities and need to be alert to the potential for ‘conflicts of interest’ which may arise between the various roles. Where such conflicts are likely, or exist, Councillors may wish to seek the advice of the Monitoring Officer. Examples include where a councillor is a Council appointed representative on an outside body, a trustee, or a company director which is proposing to do business with the Authority.

**5.5 – 3.2** As the Committee on Standards in Public Life recognised in its report ‘Standards matter – A review of best practice in promoting good behaviour in public life’ (January 2013): ‘Public office will always involve the distribution of resources among competing claims and politics will inevitably always be a competition for power. As a result, the opportunities for abuse of position are considerable. If the UK is to reap the benefits of maintaining high ethical standards in public life we need to remain vigilant about preserving them’ (para. 13 of Executive Summary).

**5.5 – 3.3** These roles may be summarised as:

<b>Politician</b>	Making decisions between conflicting demands and prioritising the views and interests of the political group/party and/or supporters.
<b>Policy maker</b>	Participating in Cabinet and/or Council and Committee Meetings to formulate policy.
<b>Representative</b>	Representing the views of constituents — from the Ward and the Authority’s wider area, dealing with their problems and ensuring that they receive fair and honest treatment.
<b>Service provider</b>	Providing services to citizens either directly, by formal contract and/or through other agencies.

**5.5 – 3.4** Your role as a politician is part of the democratic framework. You cannot however use public resources for party political purposes as public funds are not given to do this (other than those public funds properly provided by the Authority to facilitate local government and democracy). Your attention is drawn to Part 5.2 of the Constitution – ‘Protocol on the Use of Council Resources’. Councillors may be expected to express, in formal meetings of the Authority held at public expense, the values and aspirations of the political parties or groups to which they belong, recognising that in their role as Councillors they have a duty always to act in the public interest.

**5.5 – 3.5** Your role as a policy maker reflects the fact that you hold elected public office and operate on the principle of ‘democratic accountability’. You were elected on a policy platform and during your office will be called upon to make policy. You cannot use public resources (including officer time) to formulate party political policy for electoral advantage. ‘It is not part of the responsibility of any officer to do that which a majority or any other group of members or any individual member may prefer the local authority to do (save where that preference has been lawfully adopted as the policy of the local authority at a properly convened meeting [, or by a Councillor exercising executive functions], or pursuant to the exercise of delegated authority) or to frame any information or advice that the officer may provide to members to facilitate the achievement of any such preference. He/she is not the servant or agent of such a group of members or of an individual member’. Officers owe their duty to the ‘Authority as a whole, not to any political group which may for the time being constitute a majority (Audit Commission

Public Interest Report of 2004). That is not to say that Officers cannot be used to formulate and advise on policy but this must be in relation to the official business of the Authority. As was said in paragraph 6.135 of the "Report on the Conduct of Local Authority Business" (the 'Widdicombe Report'), in their capacity as advisers, officers "are responsible for ensuring that the council [the Cabinet] and its committees are informed of the facts, the law and all other relevant considerations before they make decisions. They are also responsible for proposing, and advising on, policy options." Councillors are the ultimate policy-makers determining the core values of the Authority and approving the Authority's policy framework, strategic plans and budget. What is party political policy and what is the officially agreed business of the Authority is not always easily differentiated by Councillors in their understandable enthusiasm to translate and implement their party policy agenda into the official business of the Authority. You need to ensure that you are not inadvertently misusing public resources and wrongly placing undue pressure upon officers of the Authority for clearly party political purposes.

**5.5 – 3.6** Your role as a representative has particular elements to it. Councillors represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in loose or formal 'partnership' with other agencies. Every councillor represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies and often serves on outside organisations. Some councillors may be appointed to represent the Authority on local, regional or national bodies. Some councillors will, for example, serve on particular committees or sub-committees of the Council such as the Improvement and Scrutiny Committee or the Governance and Audit Board.

**5.5 – 3.7** Your role as a service provider arises from you being involved in collective decision-making as a member of the Council. Except where ward budgets exist, you have no individual decision-making powers unless you are the Leader of the Cabinet or he/she has delegated 'executive functions' to you as a member of the Cabinet.

**5.5 – 3.8.** Given your various roles, this Protocol draws your attention to 'conflicts of interest'. The National Audit Office has defined 'a conflict of interest' as 'a set of circumstances that creates a risk that an individual's ability to apply judgment or act in one role is, or could

be, impaired or influenced by a secondary interest. It can occur in any situation where an individual or organization can exploit a professional or official role for personal or other benefit'. (para. 1 of 'Conflicts of Interest' Report 27 January 2015). Councillors are required to only act in the public interest.

**5.5 – 3.9** The risk of a conflict of interest arises not only where there is an actual conflict but where there is a perception of conflict (even if there is no actual conflict). The National Audit Office state: 'Conflicts can exist if the circumstances create a risk that decisions may be influenced, regardless of whether the individual actually benefits. The perception of competing interests, impaired judgment or undue influence can also be a conflict of interest' (para. 2)

**5.5 – 3.10** You as a councillor can have a conflict of interest even if you do not personally benefit but others do or might do. The National Audit Office notes: 'Conflicts might occur if individuals have, for example:

- a direct or indirect financial interest;
- non-financial or personal interests; or
- conflicts of loyalty where decision-makers have competing loyalties between an organisation they owe a primary duty to and some other person or entity' (para.3).

**5.5 – 3.11** The National Audit Office makes clear that: 'Conflicts of interest exist on a spectrum of severity. In public services, they can take many forms, for example:

- accepting hospitality or gifts from private sector companies during a procurement exercise;
- providing policy advice to [local] government while also working, or consulting, for industry;
- awarding contracts to suppliers in which the decision-maker has a personal or financial interest; and
- in the delivery of public services, where individuals or organisations assess service needs as well as providing the services' (para.1.4)

**5.5 – 3.12** Just because you do not have an interest to declare under the Members' Code of Conduct does not mean that you do not have a conflict of interest. For example, a planning application submitted by your son or daughter in relation to their own land

would not be a disclosable pecuniary interest or your personal interest or your spouse's interest under the Members' Code of Conduct but would nonetheless be a conflict of interest.

**5.5 – 3.13** Councillors needs to be fully aware of the consequences of not recognising the risk of conflicts of interest including the damage it causes to relationships between councillors and officers (and indeed with other councillors and the public).

**5.5 – 3.14** The National Audit Office stresses the importance of managing conflicts of interest. It states: 'Not only can they bring decision-making into disrepute but often the perception of conflict alone is enough to cause concern. This can lead to reputational damage and undermine public confidence in the integrity of institutions' (para.1.5). 'A failure to recognise a conflict of interest can give the impression that the organisation or individual is not acting in the public interest. More seriously, if left unresolved, some conflicts can result in criminal action, for example fraud, bribery or corruption through abuse of position' (para. 1.6). 'There is also a potential risk of legal challenge to decisions made by public bodies. If a decision-maker has a conflict of interest then the decision is potentially vulnerable and could be overturned on judicial review' (para. 1.7).

**5.5 – 3.15** Members are therefore required upon request to make a signed declaration as to related party transactions so that the Authority can comply with revised audit reporting standards requiring the disclosure of information on any related party transactions within the statement of accounts.

**5.5 – 3.16** Members must not through acts or omissions break the law, do anything financially improper or is likely to amount to maladministration. For example, Members (as well as officers) are obliged under the criminal law not to misconduct themselves in public office.

**5.5 – 3.17** Members must respect the impartiality of officers and do nothing to compromise such impartiality (e.g. by insisting that an officer change his/her professional advice).

**5.5 – 3.18** Members must have regard when reaching decisions to any advice provided by the Executive Directors or the Monitoring Officer.

**5.5 – 3.19** Members are not authorised to instruct officers other than:

- (a) through the formal decision-making process;
- (b) to request the provision of resources provided by the Authority for Members' use in accordance with the Code for the Use of Council Resources;
- (c) where employees have been specifically allocated to give support to a Member or group of Members.

**5.5 – 3.20** Members are required to maintain order at meetings of the Council and Cabinet and their Committees/Sub-committees and to respect the authority of the Chair and the advice given by officers.

**5.5 – 3.21** To assist them in their role, Members will be provided, and are required to satisfactorily complete, a suitable induction programme and on-going training and briefings. This will thus enable Members to work positively and assert their legitimate democratic role in the context of restricted budgets, the best value culture, the need to use powers for their proper statutory purpose, and the need to give communities and members of the public more say within the representative form of democracy.

#### **5.5 – 4 The Role and Responsibilities of Officers**

**5.5 – 4.1** Officers serve, and are responsible to, the Authority as a whole and this means serving all elected Members in the public interest.

**5.5 – 4.2** All Officers of the Authority are expected to work diligently and contribute positively to the daily tasks of the Authority including in the provision of services to Amber Valley's residents.

**5.5 – 4.3** The role of Officers is to give advice in a professional manner, to Members to enable Members to fulfill their roles as Members and to the Authority and to carry out the Authority's work under the direction and control of the Council, Cabinet and their Committees/Sub-Committees in accordance with adopted policies and procedures. Such advice should be clear and accurate and, where practicable, set out alternative ways of achieving the Authority's objectives.

**5.5 – 4.4** Officers have an obligation to be impartial (except where acting in the role of a political

assistant). Officers must not allow their professional judgment and advice to be influenced by their own personal views.

**5.5 – 4.5** Officers need to avoid conflicts of interest (see above). Officers are therefore required upon request to make a signed declaration as to related party transactions so that the Authority can comply with revised audit reporting standards requiring the disclosure of information on any related party transactions within the statement of accounts

**5.5 – 4.6** Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for the Authority, Members, the media or the public.

**5.5 – 4.7** Officers have a duty to implement decisions of the Council or Cabinet or its committees and sub-committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's Constitution.

## **5.5 – 5 The General Relationship between Members and Officers**

**5.5 – 5.1** The conduct of Members and Officers should be such as to instill mutual trust and confidence. Members' are bound to comply with the Members' Code of Conduct and Officers with the Code of Conduct for Officers, both of which the highest standards of conduct.

**5.5 – 5.2** The core elements are recognition of and respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publically and privately. Members should therefore only approach officers in accordance with the proper channels laid down by the Executive Directors.

**5.5 – 5.3** It is important that there should be close working relationships between Members and Officers in certain instances, for example between the chairman of a committee or sub-committee and the relevant director, Business Managers or statutory officer. It is clearly undesirable, however, that such relationships should be allowed to become so close or appear to be so close as to bring into question the officer's ability to deal impartially with other Members and other parties.

**5.5 – 5.4** Close personal familiarity between officers and individual Members can damage the relationship and prove embarrassing to other Members and officers. It is not enough to avoid actual impropriety. Members and officers should at all times avoid occasion for suspicion and any appearance of improper conduct.

**5.5 – 5.5** Whilst paragraphs 5.5 – 5.3 and 5.5 – 5.4 state or infer that close personal familiarity between individual Members and officers should be avoided, this is not an absolute bar on officers having a close personal relationship with Members. “Relationship” for these purposes include any family, business or close personal relationships. The Authority recognises that there may be social or personal relationships between Members and officers which commenced before or after a Councillor is elected to the Council or before or after an officer became appointed by the Council. Irrespective of when the relationship commenced the effect on the operation of the Authority of such relationships will of course depend upon the roles and responsibilities of the Member and Officer involved.

**5.5 – 5.6** Where however a close personal relationship exists the Member concerned should disclose this to his/her group leader (if any) and the Head of Paid Service and the officer to the Head of Paid Service. Where it is considered that such relationships are capable of causing a conflict of interest Head of Paid Service will arrange for such relationships to be entered as declarations in the Register of Member and Officer Interests respectively. In order to maintain the integrity of the individuals concerned and the Authority such relationships should never be hidden. To do so can lead to suspicion and mistrust.

**5.5 – 5.7** Where a close personal relationship is disclosed and registered then:-

- (a) group leaders and Chief Officers will endeavour so far as possible to ensure that neither the Member nor the officer are placed in a position where such relationships between Member and Officer could be seen to conflict with other provisions of this Protocol;
- (b) the Member and the Officer will also endeavour so far as possible to ensure that they do not place themselves in a position where their relationship could be seen to conflict with other provisions of this Protocol; and
- (c) specifically Members must not sit on or participate in decisions by any Council committee or other body which directly affects an officer with whom they have such

a relationship.

**5.5 – 5.8** Sometimes the proper relationship required between Members and Officers due to their distinct roles can be misunderstood. The reasons for misunderstandings can be numerous and various. A strong minded ambitious Member might, for example, erroneously regard an officer whose professional advice does not accord with that Member's view or political position as being 'disloyal', 'insubordinate', 'incompetent' or 'politically biased'. Rather than feeling secure in elected office, such a Member might wrongly regard such an officer as a threat and wish to surround himself/herself with 'yes men and women' who only serve to agree with him/her. Officers of the Authority are not 'political assistants' (except where specifically appointed as such under the Local Government and Housing Act 1989) and Officers of the Authority are not servants of politicians but serve the Authority in the public interest, not political interests or other private interests.

**5.5 – 5.9** To safeguard the fact that the public interest rests with Officers not holding back from stating what they believe that public interest to be, Parliament has enacted a number of measures to underpin and protect the public interest. This includes extra statutory protection for the three statutory post-holders of the Authority against improper disciplinary action or dismissal. These are the Head of Paid Service, the Chief Finance Officer (Section 151 Officer) and the Monitoring Officer.

**5.5 – 5.10** Members and Officers must therefore be genuinely respectful of their respective roles and responsibilities. In broad terms, Members decide (within the constraints set by Parliament) and officers advise without fear or favour.

### **5.5 – 6 Undue Pressure**

**5.5 – 6.1** In their dealings with Chief Officers and Officers (especially junior Officers) Members need to be aware that it is easy for Officers to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold additional official and/or political office.

**5.5 – 6.2** A Member should not apply undue pressure on an Officer either to do anything that he/she is not empowered to do or to undertake work outside normal duties or normal

hours or to allow or aid the Member to do something which the Member is not authorised to do. Particular care needs to be taken in connection with the use of Authority property and services.

**5.5 – 6.3** Similarly, an Officer must neither seek to use undue influence on an individual Member to make a decision in their favour nor raise personal matters to do with their job nor make claims or allegations about other staff. The Authority has formal procedures for consultation, whistleblowing, grievance and discipline. As an exception to this provision an officer may raise issues (other than those relating to the officer's employment or engagement with the Council) relating to Authority business where the Member is the local ward Councillor of the officer concerned.

**5.5 – 6.4** Whilst the Mayor or chairman of a committee or sub-committee or Leader of the Cabinet will routinely be consulted as part of the process for drawing up the agenda for a forthcoming meeting it must be recognised that in many situations an officer will be under a duty to submit a report on a particular matter. Similarly, an officer will always be fully responsible for the contents of any reports submitted in his or her name. Any issues which cannot be resolved as the result of discussion/negotiation between the relevant chairman and an officer in this area should be referred to the Head of Paid Service for resolution. Where individual Members wish to place an item on an agenda they should notify the appropriate meeting chairman or Head of Paid Service and comply with the Council's Constitution.

## **5.5 – 7 Venue for Meetings**

**5.5 – 7.1** Normally, meetings between Officers and Elected Members whilst acting in their official capacity should not take place in the home or business premises of the Elected Member or in a venue that the Officer otherwise considers to be inappropriate.

**5.5 – 7.2** Where such a meeting does exceptionally take place in the home or business premises of the Elected Member, the Officer shall notify the Head of Paid Service or the relevant Chief Officer of the date and time of the meeting and shall provide a written summary of the issues discussed.

## **5.5 – 8 Officers Attending To Political Groups**

**5.5 – 8.1** Officers are required to be politically neutral and impartial. It is not inconsistent however with this requirement for the Executive Directors and the Monitoring Officer to meet regularly with Party Group Leaders and Deputy Group Leaders and/or Chairs to discuss matters of general interest to the Authority and to develop a working relationship with all parties proportional to their representation on the Council. However, as already stated, Members must respect the impartiality of officers and do nothing to compromise it.

**5.5 – 8.2** There is now statutory recognition for ‘party groups’ under the Local Government and Housing Act 1989 and regulations made thereunder and it is common practice for such groups to give preliminary consideration to matters of Authority business in advance of such matters being considered by the relevant Authority decision making body. Senior officers (i.e. the Executive Directors and the Monitoring Officer) may properly be called upon to support and contribute to such deliberations by party groups.

**5.5 – 8.3** It is the specific responsibility of an Executive Director to:-

- (a) meet regularly with the Mayor, the relevant Cabinet Members and the Chairman of Committees to discuss matters relevant to Authority business, and to delegate responsibilities to nominated officers in this respect and advise the Mayor, Cabinet Members and Chairmen accordingly;
- (b) to ensure that officers give the same factual information to all political groups. (Where political groups request a private and confidential briefing to assist in formulating proposals then that briefing will remain confidential. The principle is not that the information itself is necessarily confidential but Members are entitled to pursue their own lines of enquiry without other Members being told);
- (c) to provide on-going training and briefings for Members and where requested by the Mayor, Cabinet Members and Chairmen.

**5.5 – 8.4** The support provided by such officers can take many forms, ranging from a briefing meeting with a chairman or spokesman prior to a committee meeting, to a presentation to a full party group meeting. Whilst in practice such officer support is likely to be in most demand from whichever party group (if any) is for the time being in control of the Authority, such support is available to all party groups.

**5.5 – 8.5** Certain points must however be clearly understood by all those participating in this type of process, Members and officers alike. In particular:-

- (a) such officer support in these circumstances must not extend beyond providing information and objective advice in relation to matters of Authority business. Officers must not be involved in advising on matters of party business. Officers are not expected to be present at meetings, or parts of meetings, when matters of party business are to be discussed.
- (b) party group meetings, whilst they form part of the preliminaries to Authority decision making, are not empowered to make decisions on behalf of the Authority. Conclusions reached at such meetings do not therefore rank as Council or Cabinet decisions and it is essential that they are not interpreted or acted upon as such; and
- (c) similarly, where such officers provide information and advice to a party group meeting in relation to a matter of Authority business, this cannot act as a substitute for providing all necessary information and advice to the relevant Authority decision making body when the matter in questions is considered.

**5.5 – 8.6** Special care needs to be exercised whenever such officers are involved in providing information and advice to a party group meeting which includes persons who are not Members. Such persons will not be bound by the Code of Conduct for Members adopted by the Council (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a Members only meeting. The Senior Council Member at the Group meeting should inform the officer(s) if any non-members of the Council are present.

**5.5 – 8.7** Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group without consent. No Member shall refer in public or at meetings of the Authority to the fact that officers attending at a party group meeting gave particular information or advice at such a meeting.

**5.5 – 8.8** Officers providing advice to party groups shall notify the Head of Paid Service who shall maintain a register of such occurrences including the date the advice was provided, to which Group, the officer involved and its general subject matter.

**5.5 – 8.9** Any particular cases of difficulty or uncertainty in this area of officer advice to party groups should be raised with the Head of Paid Service who will discuss them with the relevant group leader(s).

### **5.5 – 9 Media Relations**

**5.5 – 9.1** All formal relations by or on behalf of the Authority with the media must be conducted in accordance with the Authority's Media Protocol and the law on local authority publicity (e.g. Part I of the Local Government Act 1986).

**5.5 – 9.2** Press releases or statements made by or on behalf of the Authority must promote or give information on Authority policy or services. They will be factual and consistent with Authority policy. They cannot be used to promote a party group.

### **5.5 – 10 Correspondence**

**5.5 – 10.1** Correspondence between an individual Member and an Officer should not normally be copied by the Officer to any other Member. Where it is necessary to copy the correspondence to another Member this should be first made clear to the original Member. Where correspondence is copied, this should always be made explicit and there should be no 'blind' copies.

**5.5 – 10.2** Members and Officers should be aware of the data protection issues involved with correspondence, and should never forward on correspondence (including e-mail correspondence) without considering the requirements and implications of data protection (including data security). For example, someone's personal e-mail address might be unlawfully disclosed to others when trying to be helpful to a member of the public because of a failure to comply with the Data Protection Act.

**5.5 – 10.3** Official letters or electronic communications on behalf of the Authority should normally be sent out in the name of the appropriate officer rather than in the name of a Member.

**5.5 – 10.4** It may be appropriate in certain circumstances (for example representations to a Government Minister) for a letter or electronic communication to appear in the name of a Member but this should be the exception rather than the norm. Letters or electronic

communication which for example create obligations or give instructions on behalf of the Authority should never be sent out in the name of a Member. [X ref: Rule 5.2 – 9].

**5.5 – 10.5** Correspondence between Members and Officers should reflect the mutual trust and respect which is essential to having an effective and efficient relationship in the public interest.

### **5.5 – 11 Confidentiality**

**5.5 – 11.1** 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.

### **5.5 – 12 Members' Access to Information & Documents**

**5.5 – 12 – 1** This is dealt with in Part 4.2 of the Constitution.

### **5.5 – 13 Use of Council Resources**

**5.5 – 13.1** You are required to comply with the Protocol on the Use of Council Resources in Part 5.2 of the Constitution.

**5.5 – 13.2** In essence, the Authority provides resources which are paid for from the public purse. They should therefore not be used for private purposes or in connection with party political or campaigning activities.

### **5.5 – 14 Interpretation, Complaints & Non-Compliance**

**5.5 – 14.1** Members or officers with questions about the interpretation or implementation of any parts of this Protocol should seek the guidance of the Monitoring Officer.

**5.5 – 14.2** A Member who is unhappy about the actions taken by, or conduct of an officer must:

- (a) avoid personal attacks on, or abuse of, the officer at all times,
- (b) ensure that any criticism is well founded and constructive, and
- (c) keep the criticism private and take up the concern with the appropriate Executive Director.

Members must not use formal public meetings being held to conduct the business of the Authority to mention concerns about the conduct of a particular Officer. This is because personnel matters should be dealt with privately and in accordance with due process and procedure.

**5.5 – 14.3** Officers who do not comply with this Protocol will be dealt with under the Authority's disciplinary procedures.

**5.5 – 14.4** An officer who believes a Member may have acted other than in accordance with this Protocol should raise his/her concern with the Head of Paid Service who will refer the matter to the Monitoring Officer to consider how the complaint or allegation should be dealt with.

**5.5 – 14.5** Non-compliance with this Protocol by Members will be dealt with by the Standards and Appeals Committee.

**5.5 – 14.6** Unless the matter relates to an alleged breach of the Members' Code of Conduct (in which case it shall be dealt with in accordance with the statutory arrangements made under section 28 of the Localism Act 2011), the Monitoring Officer shall deal with Members conduct which in his opinion is contrary to the spirit of this Protocol as follows:

- (a) in the first instance, to report the matter to the appropriate party whip, if any, for disciplinary purposes
- (b) where appropriate, to refer the matter to the appropriate officer and/or to the Authority's external auditor for investigation and report
- (c) where prima facie evidence exists of criminal offences, to refer the matter to the police.