

**BABERGH DISTRICT COUNCIL**

**FROM:** Head of Legal and Administrative Services

**REPORT NUMBER**    **E19**

**TO:**    STANDARDS COMMITTEE

**DATE OF MEETING**    13<sup>th</sup> May 2005

**ETHICAL AUDIT – REVIEW OF THE MEMBER AND OFFICER PROTOCOL**

1.    **SUMMARY**

This report continues the Committee's review of the Council's protocols.

2.    **RECOMMENDATIONS**

2.1    That paragraph 12 of the Protocol be amended to make reference to all general obligations set out in paragraph 2 of the Members Code of Conduct and to specify that a breach thereof may be subject to consideration by the Standards Board as a point of misconduct.

2.2    That the conclusion set out in the Protocol be widened to provide that a breach of the Protocol may bring the Protocol and the Council into disrepute.

2.3    All Members be requested to sign the new Protocol.

The Committee is able to resolve this matter

3.    **FINANCIAL IMPLICATIONS**

3.1    None.

4.    **KEY INFORMATION**

4.1    Members will recall that the Audit Commission's Report on the Council's Ethical Framework contained a specific recommendation that Committee conduct a review of the Member and Officer Protocol.

4.2    Committee has previously considered the Planning Protocol and the Members Computers Usage Arrangements as part of its own ethical audit of the Council's various protocols to ensure compatibility with the Code of Conduct. The Member and Officer Protocol now requires consideration as part of that overall review and also to meet the recommendation of the Audit Commission.

4.3    In accordance with National Guidance, the Protocol does not form part of the Members' Code of Conduct although they are intrinsically linked. Essentially, the Protocol explains and differentiates the role of Member and Officer and addresses the procedure to be invoked by an Officer in the event of difficulty in their relationship with a Member.

- 4.4 Members will note that paragraph 12 of the Protocol (headed “Complaints or concern about Members”) highlights to Officers that any complaint regarding treatment by a Member concerning a lack of respect and courtesy should be raised with the Head of Service, Corporate Director or Chief Executive. This provision reflects the general obligation on Members to treat others with respect as provided in paragraph 2.(b) of the Code of Conduct and Members may wish to consider amending the Protocol to emphasise this link. Members may feel that greater clarity could also be brought to paragraph 12 in relation to the circumstances that could give rise to a complaint. Whilst reference is made to the duty to treat others with respect, paragraph 12 fails to encompass the two remaining general obligations contained in paragraph 2.of the Code which could equally relate to the Member and Officer relationship. These are (1) promotion of equality and unlawful discrimination against any person and (2) compromising the impartiality of those who work for and on behalf of the Council. Reference to these additional provisions in the Protocol could serve to bring the two documents closer together.
- 4.5 A further consideration is whether Members feel that paragraph 12 should go further by stating that such conduct as listed above may also be considered by the Standards Board as a point of misconduct.
- 4.6 Members will note that paragraph 13 of the Protocol refers to the Anti-Fraud Competition Policy which is the final protocol that requires review at a future Committee meeting.
- 4.7 The conclusion to the Protocol contains a simple statement that mutual understanding, openness and basic respect are the greatest safeguards of integrity. Members may also wish to consider whether it would be appropriate for the conclusion to contain a sentence to the effect that a breach of the Protocol by a Member may be regarded as bringing the Protocol and the Council itself into disrepute. For consistency and in line with the Committee’s decisions upon review of the Planning Protocol and Members Computer Usage Agreement, it is not suggested that the Protocol refer to the possible sanctions for breach.

5. **APPENDICES AND BACKGROUND PAPERS REFERRED TO:-**

- (a) Member and Officer Protocol.
- (b) Members’ Code of Conduct.

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