

**Manchester City Council
Report for Resolution**

Report to: Standards Committee – 16 March 2017

Subject: Review of the Gifts and Hospitality Guidance for Members, the Use of Resources Guidance for Members and the Member Officer Relations Protocol

Report of: City Solicitor

Purpose of the Report

To ask the Committee to review the operation of and consider proposed updates or changes to the Gifts and Hospitality Guidance for Members, the Use of Resources Guidance for Members and the Member / Officer Relations Protocol.

Recommendations

That the report be noted.

Wards Affected: All

Financial Consequences for Revenue Budget

None directly.

Financial Consequences for the Capital Budget

None directly.

Implications for:

Antipoverty	Equal Opportunities	Environment	Employment
No	No	No	No

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Background documents (available for public inspection):

None

1.0 Background

1.1 The Committee's workplan proposes that the Standards Committee review the operation of and consider proposed updates or changes to the following documents :

- the Gifts and Hospitality Guidance for Members,
- the Use of Resources Guidance for Members and
- the Member / Officer Relations Protocol

at its March 2017 meeting. Copies of the current guidance documents form Appendix 1 to this report.

1.2 The documents listed above are contained in Part 6 of the Council's Constitution and as such are reviewed by the City Solicitor as part of the annual refresh of the Constitution prior to the consideration of any amendments to the Constitution by full Council at its Annual Meeting .

1.3 Last year minor changes were made to the Gifts and Hospitality Guidance for Members so that references to the Bribery Act 2010 reflected more closely the wording in the Act. This Guidance was circulated to all councillors in December 2016 at the request of this Committee. Notification of Gifts and Hospitality is a matter for individual councillors.

1.4 The Use of Resources Guidance for Members was last considered by the Standards Committee in March 2015 when it was substantially revised. The City Solicitor does not propose any changes to the Gifts and Hospitality Guidance or to the Use of Resources Guidance this year.

1.4 HROD is the lead department for the Member /Officer Relations Protocol. They have indicated they do not propose any changes to the protocol. Paragraph 2.3 of the Protocol covers the scenario where a member wishes to raise issues about an officer and paragraph 2.6 covers the reverse scenario. The view is that the Protocol is working as designed and if any issues have been raised they have been resolved as per the process in paragraphs 2.3 and 2.6.

2.0 Recommendation

The recommendation is set out at the start of this report.

USE OF COUNCIL RESOURCES

Section C

Use of Council Resources Guidance for Members

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Use of Council Resources Policy for Members

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1. General Introduction

Manchester City Council's local Code of Conduct for Members ("the Members' Code") provides that a Member of the Council ("a Member") when using or authorising the use by others of Manchester City Council's resources must ensure such resources are not used improperly and in accordance with this policy.

Manchester City Council's requirements on the use of Council resources are set out below. This guidance note also sets out additional rules relating to the use of Council resources in connection with publicity and the use of the Internet and e-mail. Any breach of these requirements could result in a breach of Manchester's Members' Code.

It is each individual Member's responsibility to ensure that any proposed use of Council resources is acceptable. If a Member is unsure Members' Services can be consulted.

The policy is consistent with the rules Council officers are required to follow when using Council resources.

2. Resources general provisions

The City Council makes various resources available for the use of Members in connection with Council business and their role as an Elected Member. These resources include the Members' Secretariat, computer facilities, accommodation, stationery, postage, photocopying, telephones and mobile telephone devices, access to the internet and e-mail. Collectively these are described as 'Council resources'.

Council resources are only available for Members' work in connection with Council business. Council business means matters relating to a Member's duties as an elected Councillor, as an Executive Member, as a Member of a Council committee, sub committee, working party, or as a Council representative on another body or organisation e.g. Fire and Rescue Authority, Waste Disposal Authority, Greater Manchester Combined Authority or Transport for Greater Manchester.

So for example Council resources can legitimately be used:

- to send and receive communications (including email, letter and by telephone) in connection with council business;
- to print documents or reports in connection with the formulation of policy and the decision making process of the Council or other organisations on which a Member represents the Council.

The use of any Council resources for non Council business is prohibited (save for the limited personal use of e-mail and internet – see below).

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So for example Council resources could not legitimately be used:

- for political purposes including to support a particular political party or candidate at an election;
- for private business purposes, such as running a commercial enterprise;
- where a Member of the Council is also a member on an outside body or organisation where they are not representing the Council (such as a school board of governors or charity);
- Personal use which is excessive or inappropriate (see below).

Members are elected representatives of the Council and should always look to present the Council favourably. Council resources should never be used in a way which facilitates or encourages:

- The ridiculing of others based on race, religion, sex, sexual orientation, age or disability;
- Jokes or quips (whether in the form of words or images) based on race, religion, sex, sexual orientation, age or disability;
- Publication of material that is defamatory or libellous;
- Publication of material which is sexually orientated or has sexually explicit content (whether in the form of words or images);
- Publication of material that contains foul or obscene language;
- Publication of material that is intended to alarm others, embarrass the Council, negatively impact employee productivity or harm employee morale;
- Publication of material which contravenes the City Council's Equal Opportunities and Harassment Policies;
- Illegal or malicious use, including downloading or transmitting copyright material;
- The access storing or transferring of pornographic or obscene material.

Specific provisions - volume mailings

It is generally inappropriate for Members to use Council resources for volume mailings, including sending out circulars and conducting wide-scale consultation exercises, even though these may involve Council business. This is particularly the case where consultation has already been or is about to be undertaken as part of standard Council business (such as consultation on a planning application). If in an exceptional case a Member feels that a volume mailing can be justified they should submit a specific request to the Chief Executive.

Specific provisions - booking and use of accommodation

The rules governing the booking and use of accommodation, meeting rooms and other Council offices **must be strictly adhered to**. For further details please refer to the Council's room booking policy on the intranet.

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Data Protection

In representing constituents, Members are separate data controllers for the purposes of compliance with the Data Protection Act (1998). In the use of the Council's resources Members must be mindful of both their own and the City Council's data protection obligations in ensuring that personal data is processed fairly and lawfully. (This includes asking an officer or department for the personal information of a resident with no legal justification for doing so).

3. Publicity

3.1 Council must not publish political material - section 2 of the Local Government Act 1986

The Council is prohibited from publishing "political material" by virtue of section 2 of the Local Government Act 1986 ("the LGA 1986") Sub-section 2(1) of the LGA 1986 states that;

"A local authority shall not publish or arrange for the publication of, any material which, in whole or in part, appears to be designed to affect public support for a political party."

Sub-section 2(2) of the LGA 1986 provides that in determining whether material falls within the prohibition, the Council must consider the "content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed". In determining whether material is "political material" the Council must give particular attention to the following matters:-

- a) whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another
- b) where the material is part of a campaign, the effect which the campaign appears to be designed to achieve.

The prohibition on the Council publishing "political material" also extends to a prohibition on the Council giving "financial or other assistance to a person" for the publication of "political material" which the Council is prohibited from publishing itself.

Although section 2 of the LGA 1986 applies to all publicity produced by the Council, it is obviously particularly important to be aware of these provisions at election time.

3.2 The Code of Recommended Practice on Local Authority Publicity

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Paragraph 6(c) of Part 1 of the Members Code requires Members to have regard to any applicable Code of Publicity made under the Local Government Act 1986. From 31 March 2011, the applicable Code has been The Code of Recommended Practice on Local Authority Publicity (“the LA Publicity Code”).

The Council is required to have regard to the LA Publicity Code in coming to any decision on the use of Council resources in relation to “publicity” which is defined as ‘any communication in whatever form addressed to the public at large or to a section of the public’. This will include press releases and letters to the media (unless clearly marked “not for publication”) but does not cover letters to individuals, unless this is on a scale which could constitute ‘a section of the public’.

The LA Publicity Code requires that all publicity by the Council must:

- Be lawful
- Be cost effective
- Be objective
- Be even-handed
- Be appropriate
- Have regard to equality and diversity
- Be issued with care during periods of heightened sensitivity.

In relation to publicity by the Council about individual Members, the LA Publicity Code advises that the general position is as follows:

...it is acceptable for local authorities to publicise the work done by individual members of the authority, and to present the views of those individuals on local issues. This might be appropriate, for example, when one councillor has been the “face” of a particular campaign. If views expressed by or attributed to individual councillors do not reflect the views of the local authority itself, such publicity should make this fact clear.

The LA Publicity Code draws attention to the need for the Council to take care during periods of heightened sensitivity before elections and referendums and advises that:

During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.

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4. Personal Use

There is a cost attached to providing Members with any piece of equipment or other resource and that cost can only be justified on the grounds that the equipment or resource is used for Council business.

This is why the use of Council stationery, rooms, telephones and mobile telephones, photocopying and postage may only be used when undertaking Council business.

With regard to the Internet and email however, a **small** amount of personal use may be acceptable as there is no additional cost to the Council. Any personal use by Members of either of these resources must comply with the general provisions above and any specific guidance in relation to the use of the internet / e-mail (see below).

So for example the Internet could legitimately be used to purchase holidays, goods and services or general “surfing” for non work-related purposes provided the use is not excessive.

And the Council’s email system could for example be legitimately used to send a small number of personal emails to friends or family. These should be identified by the word “personal” in the email subject heading and when sending a personal email, the electronic signature on the bottom of the email should also be removed.

Personal use does not extend to the family of a Member and it is the responsibility of each Member to ensure family members do not use Council resources.

5. Information Communication Technology

A Member will be offered several pieces of ICT equipment to assist in the discharge of their duties.

The equipment offered is:

- a pc or laptop and related hardware and software
- a device capable of mobile email (a BlackBerry device)
- access to the Council’s ICT network
- Internet access
- an account in the corporate email system and an ‘@manchester.gov.uk’ email address
- computer consumables (printer supplies)

This equipment however remains the property of Manchester City Council and must be returned should the Member cease to be a Manchester City Councillor. Access to the MCC network will also be revoked at this time.

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The Council also provides several pc's in the Member's Workrooms to assist Members in the conduct of Council business.

Members must ensure they manage any information that they store electronically, to ensure it is easily accessible to them, confidential and correct. The Council's IT resources can be used to help Members to do this. However, please note that when a Member ceases to be a Manchester City Councillor it will not be possible to provide them with any of the personal data stored about constituents as there is not an easy method of distinguishing between this and other business information of a confidential nature which the Member may have received during their period of office. In so far as the Council acts as a data processor for Members in storing communications with constituents and on a personal basis, the Council confirms that once a Member ceases to be a Manchester City Councillor, all data will be securely and permanently erased from the IT equipment and mobile devices provided to Members by the Council once these are returned (which should be as soon as practicable upon ceasing to be a Member).

6.1 The Internet

Members of the Council are able to gain access to the internet to browse the web and use social media through computers held in Members' Services within the Town Hall complex; or remotely. Members will be provided with a unique user ID and password to access the Internet.

A Member should consider the appropriateness of accessing a website and / or using social media depending on the content, reason or situation they are in e.g. while in the presence of members of the public.

The Council has published separate Guidance for Members on the Use of Social Media (Twitter, YouTube, Blogging, Facebook etc).

6.1.1 Acceptable Uses of the Internet

The following list, although not intended to be definitive, sets out broad areas of use that the Council considers to be acceptable uses of the internet:

- to view and obtain information in direct support of the City Council's business activities;
- to promote services and products provided by the City Council;
- to communicate and obtain information in support of approved personal training and development activities;
- any other use that directly supports the work of a Councillor.

6.1.2 Unacceptable Uses of the Internet

In addition to the uses listed as unacceptable uses of all Council Resources at section 2 there are further restrictions on the use of the Internet for Councillors.

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In general terms, any use of the internet must not contravene the Data Protection Act (1998); The Computer Misuse Act (1990); The Copyrights, Designs and Patents Act (1988); The Obscene Publications Act (1959) and (1964); or any Council policy (in particular, Council policies on Information and Internet Security; Equal Opportunities and Harassment).

Unacceptable uses include the following:

- the deliberate propagation of computer viruses, or use of the internet to attempt unauthorised access to any other IT resource;
- access to, and use of, recreational games.

6.1.3 Restrictions on Use of the Internet

Where possible, access to material known to be of an offensive or undesirable nature (for example, which may contravene the City Council's policies on Equal Opportunities and Harassment) will be prevented using appropriate security tools and filtering software.

If any Member unintentionally accesses an internet site which contains material of an offensive or undesirable nature, they should immediately exit the site. In these instances Members should report the incident to Members' Services or the ICT Helpdesk who may prevent future access to such sites by implementing preventative measures.

Any use of the internet which is considered to be a criminal matter, will be referred to the Police and may lead to criminal prosecution.

6.2 Email

Each Member will have access to an MCC email account for the duration of their time as an Elected Member. Whenever an external e-mail is sent, the sender's name, email address and Council name must be included as the signature of the email (except when sending a personal email).

This will also prevent any private communications, including emails, sent or received by a Member in their private capacity becoming part of the Council's administrative records. Emails form part of the administrative records of the City Council and the City Council has the right of access to all emails sent or received, on the same basis as written documentation. Emails may also be requested under the Freedom of Information Act (2000) or Data Protection Act (1998) and if in scope (unless exempt) would have to be disclosed.

6.2.1 Acceptable Uses of Email

The following list, although not intended to be definitive, sets out broad areas of use that the Council considers to be acceptable uses of its email system:

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- to provide a means of communication within the Council, with other Councils, agencies, organisations and constituents;
- to promote services and products provided by the City Council;
- to communicate and obtain information in support of approved personal training and development activities;
- any other use that directly supports the work of a Councillor in that role.

6.2.2 Unacceptable Uses of Email

In addition to the uses listed as unacceptable uses of all Council Resources at section 2, there are further restrictions on the use of the MCC email system for Members.

Forgery or attempted forgery of electronic mail is prohibited. Attempts to read, delete, copy or modify the mail of others are prohibited. If a Member receives an e-mail from outside the Council that they consider to be offensive or harassing, Members' Services or the ICT Helpdesk should be consulted in accordance with the City Council's Incident Reporting Procedures. Members should not respond to such e-mails (internal e-mail of a harassing nature will be dealt with under the City Council's Harassment policy).

Council work should not be emailed to a Member's personal email address as this is not a secure method of transferring data. Any personal or sensitive email being sent outside of the MCC internal network should be sent securely via the Council's email encryption solution available via the MCC email system or zipped and password protected using the WinZip software available via Citrix. Advice on how to access these encryption solutions is available from the ICT helpdesk or Members' Services.

6.3 Etiquette and User Responsibilities

As a general principle, remember that you are acting as an elected representative of the City Council, using Council equipment and are accessing a non private network when browsing the internet or communicating using social media or emails which can be seen by anyone or reproduced for this purpose.

At all times have regard for City Council policies and legal requirements when using the Internet or sending or responding to emails. Where appropriate, have equal regard for specified rules and policies of the owners of services you access via the Internet.

7. Information Security

The security of the Council's networks, and of the systems and information held on it, is paramount. Any information security breach could have an adverse impact on the Council, Members, officers and Manchester residents. Due to the likelihood of sensitive and personal information being held on

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equipment used by a Member, all equipment must be stored securely, be password protected and in the case of laptops, have secure encryption protection installed and operational. All Members must assign a password to their laptops, pc's and Blackberry's of a complexity to comply with Manchester City Council's policy on password standards (available on the ICT pages on the intranet). Passwords must never be shared with anyone, however, if a Member forgets their password the ICT helpdesk is able to reset them.

Members are able to connect to the Manchester City Council network from home using Citrix Access Gateway (CAG). To be provided with CAG, Councillors who use their own pc or laptop must ensure that anti virus is installed and up-to-date, Windows firewall is switched on and regular updates are being installed on the pc or laptop via the Windows Update Server (where the pc or laptop is provided by the Council, these features will be enabled as standard). Members' Services or the ICT Helpdesk will be able to assist in applying for CAG access.

If a piece of equipment is lost or stolen, it is the responsibility of the Member to report this to Members' Services or the ICT helpdesk immediately. Cable locks should be used to secure laptops to desks as a preventative measure.

To protect the MCC network, the use of USB drives and other removable media is restricted in accordance with the Council's Removable Media Policy (available on the ICT pages on the intranet). Staff in Members' Services can assist if a Member requires a presentation or other information to be used for Council business to be loaded on to a laptop.

8. Monitoring

In order to ensure compliance with the requirements of City Council policies and the contents of this policy, the City Council has the right to inspect any Council IT equipment used by a Member. This may include utilising monitoring software to check on the use of e-mail services, software to check the content of all e-mail messages sent and received, phone call and text message files and internet log files.

These software monitoring tools will only be used for the legitimate purposes of ensuring compliance with stated policies and guidelines so as to protect the City Council against the risk of criminal and civil actions, as a result of the unauthorised actions of its employees, or Members. Where a request is made to access data held in ICT equipment allocated to a Member, such requests must be approved by the Monitoring Officer or Chief Executive. Requests must demonstrate why the information is necessary, how it is relevant and the time period required.

9. If a Member Breaches This Policy

Action may be taken against any user of the City Council's resources who contravenes the requirements of this policy.

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Breach of this policy may be a breach of the Council's Code of Conduct for Members and be subject to the sanctions within.

GIFTS AND HOSPITALITY

Section D

Gifts and Hospitality Guidance for Members

GIFTS AND HOSPITALITY

SECTION D: GIFTS AND HOSPITALITY GUIDANCE FOR MEMBERS

General Introduction

Manchester City Council's Code of Conduct for Members (the Code) requires members to notify the Monitoring Officer in writing of a personal interest in any business of the Council where it relates to or is likely to affect the interests of any person from whom the member has received a gift or hospitality with an estimated value of at least £100 (an interest under paragraph 11.2(c) of the Code).

In addition to the obligation under paragraph 11.2(c) of the Code, the Council requires members to notify the Monitoring Officer of any gifts or hospitality accepted by either themselves or their partner by or on behalf of the elected member in connection with their appointment as an elected member or representative of the Council with an estimated value of at least £100.

It is also a breach of the Code for a member to conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute or for a member to use or attempt to use their position as a member improperly to confer on or secure for themselves or any other person an advantage or disadvantage.

The following protocol aims to assist members in complying with these obligations and seeks to provide wider guidance so members can avoid any situation where their integrity may be brought into question as a result of gifts and hospitality.

Legal position

The Bribery Act 2010 provides that it is a criminal offence for a member (either personally or through a third party whether for the member's benefit or the benefit of another) to request, receive, agree to receive, promise, offer 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. It is for the member to demonstrate that any such advantage has not been corruptly obtained. **This guidance should be considered in conjunction with Manchester City Council's Anti-Bribery Policy.**

1. Gifts and hospitality

Members are advised to treat with caution any offer, gift, or hospitality that is made personally to them in their capacity as an elected member/representative of the Council. The person or organisation making the offer may be doing business or seeking to do business with the Council or may be applying to the Council for some sort of decision in respect of which it is imperative that the member's independence should not be compromised e.g. planning or licensing approvals.

The requirements for notification of a personal interest under paragraph 11.2(c) of the Code and any other gifts or hospitality accepted by the member or their partner in connection with their position as an elected member/representative of the Council with an estimated value of at least £100 are set out at 2.1 below. It is recommended that where a member refuses any gift or hospitality offered to them or to their partner in connection with their position as an elected member/representative of the Council, the member should notify the Monitoring Officer of the

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refusal as soon as reasonably practicable. The Monitoring Officer will maintain a register for this purpose.

Below are some examples regarding acceptance of gifts and hospitality:

1.1 Gifts

Where the gift is of purely token value given to a wide range of people e.g. a pen or key ring, the member should be able to accept such a gift and as it will usually be substantially less than £100 in value there should be no need to register it.

Where the gift is of low value and refusal would cause needless offence and the giver is not currently seeking a decision or business from the Council the member should be able to accept it, and again as it will usually be substantially less than £100 in value there should be no need to register it.

Whilst it may be acceptable to accept a token or gift of low value on one occasion members should refuse repeated gifts, even if these are individually not of a significant value.

Cash or monetary gifts should always be refused without exception and the refusal notified to the Monitoring Officer.

Gifts given as prizes at exhibitions, conferences, seminars etc. as part of a free raffle or draw may be accepted but they belong to the Council and should be notified to the Monitoring Officer as soon as reasonably practicable (notwithstanding that their value may be less than £100). The Monitoring Officer in consultation with the chair of the Standards Committee will determine whether it is appropriate to retain the gift in question.

1.2 Hospitality

It is increasingly the case that private companies offer hospitality e.g. free drinks, tickets to shows or hotel accommodation to persons with whom they do business or with whom they hope to do business in the future. Such hospitality could convey the impression that the member's judgement would be influenced. It would however be too rigid to say that no hospitality can be accepted. Members are reminded that any hospitality with an estimated value of at least £100 should be notified to the Monitoring Officer.

Examples of hospitality which may be acceptable are set out below but depend on the particular circumstances, for example, who is providing the hospitality, why the member is there and the nature of the dealings between the Council, the member and the provider of the hospitality:

- A working meal provided to allow parties to discuss or to continue to discuss business;
- An invitation to attend a dinner or function of a Society, Institute or other non commercial body with whom the Council has contact; or
- Invitations to attend functions where the member represents the Council (opening ceremonies, public speaking events, conferences).

The following are examples of unacceptable hospitality:

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- Holidays, including accommodation and travel arrangements;
- Offers of complimentary theatre and sporting tickets for the member/family or free travel; or
- Paid for corporate invites for evenings out with representatives from a company or firm who have dealings with the Council or who are likely to have dealings in the future.

Members are again advised to err on the side of caution and if in any doubt as to the integrity of the offer / invite, the member should consult the Monitoring Officer or refuse.

2. Registration of a personal interest under paragraph 11.2(c) of the Code and other gifts and/or hospitality

2.1 Personal and Personal and Prejudicial Interests under paragraph 11.2(c) of the Code

A personal interest under paragraph 11.2(c) of the Code must be registered:

- Within two months of the adoption by Council of the Code (currently 11 July 2012); or
- **Within 28 days** of the members election or appointment to office

whichever is the later.

In addition the Code requires members to disclose the personal interest under paragraph 11.2(c) of the Code where a member is aware/ought reasonably to be aware of the existence of the personal interest when a member attends a meeting of the Council at which the business is considered. The member must disclose to the meeting the existence and nature of that interest at the commencement of the consideration, or when the interest becomes apparent. Where a member has a personal interest under paragraph 11.2(c) of the Code they need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

When disclosing a personal interest under paragraph 11.2(c) of the Code members must also consider whether the personal interest is a prejudicial interest under paragraph 13.1 of the Code. If this is the case, paragraphs 13.2 – 13.5 of the Code apply. Where the personal interest is also a prejudicial interest under paragraph 13.1 of the Code, if the personal interest is not registered and is not the subject of a pending notification, the member must notify the Monitoring Officer of the interest within 28 days of the meeting at which the interest was disclosed.

Members must notify the Monitoring Officer of any gifts or hospitality accepted by them or their partner in connection with their position as an elected member/representative of the Council with an estimated value of at least £100 within 28 days of the receipt of the gift or hospitality.

3. Notifications

Notifications of gifts and hospitality should be sent to the Monitoring Officer at the following address.

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Governance and Scrutiny Support Unit
Chief Executive's Department
Manchester City Council
Room 403 Town Hall
Albert Square
Manchester M60 2LA

A form for this purpose is available from the Governance and Scrutiny Support Unit who administer the register on behalf of the Monitoring Officer.

4. The register of members' interests

Notifications will be included in the register of members' interests, a copy of which is available for public inspection and is published on the Council's website (subject to the rules on sensitive interests set out in paragraph 16 of the Code).

This register is subject to scrutiny by the Standards Committee and inspection by the Monitoring Officer, Head of Internal Audit and Risk Management and External Auditors.

5. Gifts which cannot be retained

Where the Monitoring Officer in consultation with the Chair of the Standards Committee determines that it would not be appropriate for a member to retain a gift, that gift will be returned, utilised by the Council or otherwise donated to an appropriate charitable organisation as determined appropriate by the Monitoring Officer and Chair of the Standards Committee.

6. Conclusion

Members are advised to seek the advice of the Monitoring Officer in cases where their position is unclear.

Breaches of this protocol may result in a breach of the Code.

MEMBER / OFFICER RELATIONS PROTOCOL

Section F

Member / Officer Relations Protocol

MEMBER / OFFICER RELATIONS PROTOCOL

SECTION F: MEMBER / OFFICER RELATIONS PROTOCOL

1. INTRODUCTION AND PRINCIPLES

1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.

1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.

1.3 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed 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.

1.4 It also seeks to reflect the principles underlying the Code of Conduct for Members ("the Members' Code") and the Code of Conduct for Employees ("the Employees' Code"). The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.

1.5 This Protocol should be read in conjunction with the Members' Code and the Employees' Code, the Council's Constitution and any guidance issued by the Standards Committee and/or Monitoring Officer.

2. GENERAL POINTS

2.1 Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, the Executive, committees and subcommittees.

2.2 At the heart of this Protocol, is the importance of mutual respect. Member/Officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

2.3 A Member should not raise matters relating to the conduct or capability of an Officer at meetings held in public or before the press. This is a long-standing tradition in public service as an Officer has no means of responding to such

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criticisms in public. If a Member feels they have not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, they should raise the matter with the respective Chief Officer. The Chief Officer will then look into the facts and report back to the Member. If the Member continues to feel concern, then they should raise the issue with the Chief Executive. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.

2.4 An Officer should not raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of a Section/Division/Department at or in a manner that is incompatible with the overall objectives of this Protocol. Such matters should be raised with the officers immediate line manager or Chief Officer as appropriate.

2.5 Nothing in this protocol shall prevent an officer expressing a relevant concern under the Council's Confidential Whistle blowing Policy.

2.6 Where an Officer feels that they have not been properly treated with respect and courtesy by a Member, they should raise the matter with their Chief Officer or the Chief Executive as appropriate. In these circumstances the Chief Officer or Chief Executive will take appropriate action including approaching the individual member concerned or discussing the matter with the Monitoring Officer where they consider there may be a breach of the Members' Code.

3. OFFICER SUPPORT TO MEMBERS: GENERAL POINTS

3.1 Officers being employees of the Council must act in the best interests of the Council as a whole and must not give politically partisan advice.

3.2 Close personal familiarity between individual Members and Officers can damage professional relationships and can prove embarrassing to other Members and Officers. Situations should be avoided therefore that could give rise to the appearance of improper conduct or behaviour.

3.3 Certain statutory officers - the Chief Executive, the Chief Finance Officer and the Monitoring Officer have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members. In particular members are reminded of the duty under the Members' Code to have regard to any relevant advice given by the Chief Finance Officer or Monitoring Officer.

3.4 The following key principles reflect the way in which officers generally relate to Members:

- all officers are employed by, and accountable to the authority as a whole;
- support from officers is needed for all the authority's functions including full Council, Overview and Scrutiny, the Executive, Regulatory and other ordinary committees, Standards Committee, Joint Committees and individual Members representing their communities etc;

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- day-to-day managerial and operational decisions should remain the responsibility of the Chief Executive and other officers.

3.5 On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Member or Members. It should be recognised that in these circumstances it is the Officer, rather than the Member or Members, who legally takes the action and it is the Officer who is accountable for it.

3.6 Finally, it should be remembered that Officers within a Department are accountable to their Chief Officer and that whilst Officers should always seek to assist a Member, they must not, in so doing go beyond the bounds of whatever authority they have been given by their Chief Officer.

4. OFFICER SUPPORT TO THE EXECUTIVE

4.1 It is clearly important that there should be a close working relationship between Executive Members and the Officers who support and/or interact with them. However, such relationships should never 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 party groups. Officers must ensure that even if they are predominantly supporting the Executive their political neutrality is not compromised.

4.2 Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration on the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a duty to submit a report. Similarly, the Chief Executive, Chief Officer or other Senior Officer will always be fully responsible for the contents of any report submitted in their name.

4.3 Where functions which are the responsibility of the Executive are delegated, the Executive will nevertheless remain accountable via the Overview and Scrutiny Committees, for both its decision to delegate a function and the discharge of those functions.

4.4 Under Executive Arrangements, individual Members of the Executive are allowed to take formal decisions. In Manchester the circumstances in which individual members of the Executive can take decisions are set out in the constitution. The Executive, Executive members and Officers must satisfy themselves that they are clear what exactly they can and cannot do.

5. OFFICER SUPPORT: OVERVIEW AND SCRUTINY COMMITTEES

- 5.1 Overview and Scrutiny Committees have the following roles:
- to review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
 - make reports and/or recommendations to the full Council and/or the Executive and/or any joint or area committee in connection with the discharge of any functions;
 - consider any matter affecting the area or its inhabitants; and

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- exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive and area committees exercising executive functions.

5.2 It is clearly important that there should be a close working relationship between Chairs of the Overview and Scrutiny Committees and the Officers who support and/or interact with them. However, such relationships should never 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 party groups. Officers must ensure their political neutrality is not compromised.

5.3 It is not the role of Overview and Scrutiny committees to act as a disciplinary tribunal in relation to the actions of Members or Officers. Overview and Scrutiny Committees should not act as a 'court of appeal' against decisions or to pursue complaints by individuals (Councillors, Officers or members of the public) which are the subject of other procedures, e.g. the Corporate Complaints Procedure, the Local Government Ombudsman, complaints to the Standards Committee or legal action in the Courts.

6. OFFICER ADVICE TO PARTY GROUPS

6.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council. The assistance provided by Senior Officers can take many forms ranging from a briefing meeting with an Executive Member, Lead Member, Chair or other Members prior to a meeting, to a presentation, to a full political group meeting. It is an important principle that such assistance is available to all political groups and individual members

6.2 Attendance at Party Political Group Meetings

There is now statutory recognition for 'party groups' and these are recognised in the constitution. It is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Senior Officers may properly be called upon to assist and contribute to such deliberations by party 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 Attendance at meetings of party groups is voluntary for officers and must be authorised by the Chief Executive (or in his absence the relevant Strategy Director) or the City Solicitor.

6.4 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

6.4.1 Officer assistance must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be

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involved in advising on matters of party business. Internal party debates and decision making should take place in the absence of officers.

6.4.2 Party group meetings, whilst they form part of the preliminaries to Council decision making, are not formal decision making bodies of the City Council and are not empowered 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 they are not interpreted or acted upon as such; and

6.4.3 Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council decision making body when the matter in question is considered.

6.5 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Members' Code (in particular, the provisions concerning the declaration of interests and confidentiality). Officers would not be able to provide the same level of information and advice as they would to a Member only meeting.

6.6 Officers must respect the confidentiality of any party group discussions at which they are present. When information is disclosed to an officer during discussions with a party group and that information should not be passed on to other groups. However, Members should be aware that this would not prevent officers from disclosing such information to other officers of the Authority so far as that is necessary to performing their duties.

6.7 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

7. USE OF COUNCIL RESOURCES

7.1 The use of the Councils resources including the use of computers provided to Members of the Council is governed by a guidance note '**Use of Council Resources Guidance for Members**' which has been adopted by the Council and is contained in the Constitution.

8. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

8.1 The rights of members to inspect council documents are set out in the constitution in the Access to Information Procedure rules.

8.2 A Member must not disclose information given to him in confidence by anyone or information acquired which they believe is of a confidential nature, without the consent of a person authorised to give it, or unless they are required by law to do so and must not prevent another person from gaining access to information to which

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that person is entitled by law. A breach of these requirements is a breach of the Member's Code and actionable by way of referral by the Monitoring Officer of the matter to the Standards Committee. If the breach is serious a civil action may be brought against the Member and / or the Council for damages.

8.3 The Freedom of Information Act 2000 ("the 2000 Act") has brought will bring additional rights and responsibilities regarding the disclosure of information. The right of access under the 2000 Act became fully operational in 2005, alongside the Environmental Information Regulations 2004. The Council is required to proactively publish information via its Publication Scheme and to provide information in response to specific requests, subject to certain conditions and exemptions. The provision relating to access to Council meetings and documentation were amended in 2006 to bring them into line with information rights legislation and those changes are reflected in the Council's constitution.

9. CORRESPONDENCE

9.1 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, (for instance where the Monitoring Officer considers this course of action is necessary to comply with the rules of natural justice), this should be made clear to the original Member. In other words, a system of 'silent copies' should not be employed.

9.2 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It will, however, be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of an Executive Member or the Leader. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member, Executive or otherwise.

10. PUBLICITY AND PRESS RELEASES

10.1 In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. The Government has issued a **Code of Recommended Practice on Local Authority Publicity** and all local authorities must have regard to the provisions of any such Code in coming to any decision on publicity. Further guidance on publicity and extracts from the Code are contained in the guidance note to members '**Use of Council Resources Guidance for Members**'. In particular members and officers should note that during the election period special rules apply with regard to local authority publicity

10.2 Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of the Code of Recommended Practice on Local Authority Publicity and any further guidance issued by the Chief Executive. If in doubt Officers and /or Members should seek advice from the Chief Executive or the Monitoring Officer.

10.3 All press releases are issued through the Press Office on behalf of the Council. Press releases are not issued by the Council on behalf of political groups.

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They can contain the comments of Executive members and committee Chairs where they are speaking in connection with the roles given to them by Council. Officer's comments can be included on professional and technical issues.

11. INVOLVEMENT OF WARD COUNCILLORS

11.1 Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the Ward or Wards affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. More generally, Officers should consider whether other policy or briefing papers, or other topics being discussed with an Executive Member, should be discussed with relevant Ward Members.

12. OFFICER/MEMBER PROTOCOL

12.1 This protocol forms part of the local framework for standards of behaviour approved by the Standards committee and adopted by the Council as part of the Constitution.

12.2 Monitoring compliance with this protocol is the responsibility of the Standards Committee and the monitoring officer

12.3 Questions of interpretation of this Protocol will be determined by the Monitoring Officer.