



West Lothian
Council

OFFICER/MEMBER PROTOCOL

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A INTRODUCTION

- 1 From 1 January 2017 this Protocol replaces the Multi-Member Ward Protocol for Officers, approved at Council Executive on 23 December 2008. The rules have been transferred to this one, but it has been revised to make it easier to access and understand.
- 2 The guide is available to members as well, and so officers should feel free to use it and refer to it in dealing with members. There is separate guidance for members about some aspects of their work. It includes a summarised version of the rules in this Protocol about rights to information, the provision of information and attendance at meetings.
- 3 There are other more detailed documents available containing relevant rules and guidance for both officers and members (Appendix 1). It is not designed to replace all those other documents, or to over-ride them. It provides an accessible collection and summary of some of those rules and an easy way into those other more specific documents. It is the main source of guidance for dealing with the issues which arise from multi-member wards.

B OVERVIEW

- 1 The Protocol is in three main parts:-
 - General Principles
 - FAQs
 - Guidance
- 2 There is a list of contents at the front, and an appendix with definitions, references and links to other relevant documents.

C USING THE PROTOCOL

- 1 Officers should be familiar with the **General Principles** first of all. They should be used as a starting point when making decisions, and the more detailed rules will be easier to understand if they are kept in mind. It is better to take those principles on board first of all, before moving on to the detail and making decisions in particular cases. Having a grasp of the underlying principles should go a long way to finding an answer to a particular problem.
- 2 Consistency is important, so looking for examples and precedents is a sensible approach. However, decisions have to be made in the particular circumstances of each case. There may be subtle differences from one case to another that have a bearing and lead to different conclusions.
- 3 The **FAQs** are a list of general questions to reflect the questions officers will ask themselves and be asked by members and colleagues. Finding a relevant FAQ will provide a pointer to the relevant specific parts of the main Guidance.

- 4 The **Guidance** is divided into five sections, each with a main theme. They are then sub-divided into separate parts covering different aspects of those themes.
- 5 Further advice can be obtained from:-
 - Governance Manager - James Millar, 01506 281613, james.millar@westlothian.gov.uk
 - Monitoring Officer - Julie Whitelaw, 01506 281626, julie.whitelaw@westlothian.gov.uk
 - Depute Monitoring Officer - Carol Johnston, 01506 281605, carol.johnston@westlothian.gov.uk
 - Corporate Communications Manager - Garry Heron, 01506 282006, garry.heron@westlothian.gov.uk

D GENERAL PRINCIPLES

- 1 These are the general rules which apply to the way members and officers should work together:-
 - Officers and members must treat each other with respect and courtesy and they must recognise and appreciate their different roles and responsibilities and the boundaries between them.
 - Members are entitled to the assistance they reasonably require to do their jobs as councillors, and officers have a corresponding duty to ensure it is provided to them.
 - The assistance that officers must reasonably provide depends on the member's role and responsibilities and on the council's internal policies and guidelines.
 - Communications between officers and members are confidential, unless specifically allowed under legislation or council policies and guidelines.
 - Officers and members must comply with relevant legislation, guidance, Codes of Conduct, Standing Orders and council policies and procedures, and must use council resources prudently.
- 2 They should be kept in mind when dealing with members, looking at the more detailed rules and making decisions.

E FAQs

- | | | |
|---|---|-----|
| 1 | Generally speaking, how am I supposed to work with councillors? | |
| | There should be a relationship of courtesy, trust and respect | 1.1 |
| | Designated officers should be used, and you should work within | 2.2 |

agreed timescales

You should provide them with what they reasonably need to do their job as councillors 2.1

That includes providing information and advice 3

It also includes attending meetings 4

You, and members, must comply with the law, and the council's own rules and policies 1.5, 5.5

2 Are there differences between what I do and what a councillor does?

There are different and defined roles and responsibilities, with boundaries to be observed 1.2, 1.3

3 Who is my boss - councillors or my managers?

Not councillors directly - your manager is your boss, and all the way up to the Chief Executive 1.2, 1.6

4 Should I be treat members all the same?

You must act in a politically neutral way 1.4

You must be fair and even-handedly, but some members have additional rights and responsibilities and so get a little more than others 2.4.1 - 2.4.3

5 Where do I start in trying to work out what I should be doing?

Read the general principles Part D

Think about three prime considerations 2.3

6 Which councillors have extra rights?

Provost, Leader of the Council, Executive Councillors and Chairs (and Deputies and Vice-Chairs when "acting up") 2.4

Not Local Area Committee Chairs 2.4.4

7 Is there a difference between me answering a request and going to them off my own bat?

Different rules about confidentiality apply, and how to engage with councillors, depending on whether you are going to them, or *vice versa* 2.5, 4.2, 4.4

8 Does it make a difference what the subject is?

There are different rules about constituent, ward, and council-wide business 2.6, Appendix

9	What are the rules about confidentiality?	
	The starting point is “keep it confidential”	3.1.4
	Whether things can be disclosed to others will then depend on the circumstances	3.1.3 - 3.1.7
10	If I have to be politically neutral, what do I do when I am dealing with a political group?	
	Political groups are legitimate in a political organisation, but special rules apply	4.5
11	Can I say no to a councillor?	
	Yes, carefully, and with advice from your manager, in a variety of circumstances:-	
	<ul style="list-style-type: none"> • Not required for duties • Unreasonable • Too much information • If information about a proposed meeting is not provided • Inappropriate meetings • Unacceptable changes to reports • Compromising requests 	<p>2.1.1, 2.1.4</p> <p>2.1.1, 2.1.3, 2.1.5</p> <p>3</p> <p>4.4</p> <p>4</p> <p>1.2.3, 1.2.4</p> <p>1.2.5</p>
12	What about MP and MSP enquiries?	
	These are relevant to members as well, and enquiries from other elected representatives must be handled carefully.	5.1
	Information requests	5.2
	Meeting requests	5.3
13	How do I go about inviting an MP or MSP to be involved in something I am doing?	
	Going to MPs or MSPs for meetings or for them to attend events can be problematic too	5.4
14	Where can I get help?	
	There are other guidance documents available, such as the Employee Code of Conduct and Councillors’ Code of Conduct	Appendix
	As well as your line manager, other council officers can help	Part C

F GUIDANCE

1 Officer and member relationships

1.1 Respect and courtesy

- 1.1.1 Members and officers should work in an atmosphere of mutual trust and respect. Neither should try to take unfair advantage of their position. A healthy relationship between members and officers is essential to securing best value, better outcomes and better services. This is particularly important in terms of cost restraint.
- 1.1.2 Members must respect council officers and the role they play, treating them with courtesy at all times. Officers should accord to councillors the respect and courtesy due to them in their various roles.
- 1.1.3 These rules apply in all situations where members are acting as councillors. That includes meetings of the council, its committees and sub-committees or of any public bodies where they represent the council. It also includes less formal and private meetings with council officers concerning council business.

1.2 Roles

- 1.2.1 As in any partnership, effective working relationships can only be achieved through mutual respect and understanding for each other's roles, based upon agreed guidelines governing the day to day relationships between elected members and officers. Officers must appreciate and respect the role and responsibilities of members. Members are responsible to the electorate but officers are responsible to the council as their employer. Ultimately officers serve the council as a whole and not any particular political group, combination of groups or any individual member.
- 1.2.2 Members determine policy and participate in decisions on matters placed before them, and are not to engage in direct operational management of the council's services. It is for officers to implement council policy and manage council services and staff.
- 1.2.3 Members have a number of different roles, all of which call for separate consideration. For example, some are Executive Councillors, some are Chairs of committees, most belong to political groups, and all have a local ward to represent. Executive Councillors are recognised as the legitimate elected spokesperson on their areas of responsibility. Executive Councillors and Chairs will have many dealings with officers. They or the Chair of a committee will often be consulted on the preparation of agendas and reports, and the taking of action by officers under delegated powers. Officers will always have the right to submit reports to members on their areas of professional competence.
- 1.2.4 Officers should always seek to assist Executive Councillors and Chairs but it must be remembered that officers are responsible to their Head of the Service. Officers will listen to the views of members but they retain final responsibility for the content of reports. Chairs and other senior councillors must always bear in mind that officers are ultimately responsible to the

council as employer through their Head of Service and the Chief Executive.

- 1.2.5 Officers should not be asked to do anything which compromises or is likely to compromise them and prevent them from undertaking their duties properly.
- 1.2.6 All members have responsibilities in relation to complaints or requests for help by their constituents. They have the right to take up those issues with council officers. When members are representing a constituent, they should recognise that they are still representing the council and so extra care is needed.

1.3 Boundaries

- 1.3.1 The relationship between councillors and officers depends upon trust and this will be enhanced by the development of positive, friendly relationships. The rapport between individual officers and councillors should be maintained as a professional, courteous, working relationship which engenders mutual confidence and respect whilst still observing an appropriate degree of formality.
- 1.3.2 It is clearly important that there should be a close professional working relationship between Executive Councillors or Chairs and senior officers. However, relationships should not become so close, or appear to be so close, as to call into question officers' ability to deal impartially with other councillors, and the ability of Chairs to deal impartially with other officers.
- 1.3.3 Members and officers will often be thrown together in social situations within the community and they have a responsibility to project a positive image of the council. Nonetheless, close personal familiarity between individual officers and councillors can damage the relationship of mutual respect and the belief that officers give objective and professional advice and commitment to the council. Members and officers should, therefore, be cautious in developing close personal friendships while they have an official relationship.

1.4 Political neutrality

- 1.4.1 Officers must, at all times, maintain political neutrality.
- 1.4.2 It is the responsibility of officers to implement the policy of the council and to support members, regardless of their political outlook, and irrespective of the officer's own personal or political views.
- 1.4.3 Officers must serve all elected members equally, regardless of political affiliation and ensure that the individual rights of all elected members are respected. Officers must, in their dealings with political groups and individual members, treat them in a fair and even-handed manner. The advice given to different councillors and party groups must be consistent.

1.5 Legal and policy compliance

- 1.5.1 Officers and members must ensure that they comply with external and internal legal rules and guidance, and with council policy, in their work and working relationship.
- 1.5.2 For members, that will include the Councillors' Code of Conduct and related

Guidance, the specific statutory rules set out elsewhere in this guide, the council's Standing Orders, and council policies and procedures in relation to information security and sharing. There are also specific rules in a separate guide for members about the use of council facilities for political purposes.

- 1.5.3 For officers, that will include the Employee Code of Conduct, the same statutory rules as members, the council's Standing Orders, and the full range of the council's HR policies, including the Disciplinary Code, Policy and Procedure. The Scheme of Delegations will be particularly important, since it may define and restrict the decision-making powers held by officers and when issues must go to committee for determination.
- 1.5.4 The council must follow legal rules and guidance in relation to any publicity it produces or assists others to produce, and members and officers share duties to act in a way which ensures there is no breach of those rules. Internal guidance on council publicity is found elsewhere and is particularly relevant in the period before an election or referendum.

1.6 Involvement in officers' employment relationship

- 1.6.1 Where councillors are involved in the appointment of officers they must act fairly and openly and judge candidates solely on merit.
- 1.6.2 Members are entitled to challenge officers but must not do so in a personal or offensive manner. Issues relating to behaviour, conduct or performance should be raised privately with the appropriate senior manager. Members should not raise matters relating to the conduct or capability of officers in public. That applies to both verbal comments (at meetings where members of the public are present) and in writing (emails and letters to or copied to members of the public).
- 1.6.3 Members should not become involved in issues relating to individual officers' pay or terms and conditions of employment, except while serving on a committee delegated to deal with such matters, such as Employee Appeals Committee.
- 1.6.4 Officers are entitled to raise any complaints with their councillors about council services. However, if the complaint concerns any aspect of officers' work with the council, they must make use of the council's grievance procedures instead.

1.7 Member services

- 1.7.1 Certain officers are employed to support members directly in carrying out their duties by providing administrative and practical support. Those officers may operate to the requirements of individual councillors in their daily business, but they are subject to the same duties in relation to the council and councillors as other officers. They are accountable to their line managers and any issues about conflicting priorities, conduct or performance must be referred to those managers.

2 Members' rights and officers' duties

2.1 General

- 2.1.1 The starting point is that members are entitled to the assistance they reasonably require from officers to enable them to perform their duties as councillors. When elected as councillors, all members start with the same basic legal responsibilities and rights. Some are then appointed to positions with additional responsibilities. To allow them to meet those responsibilities, they have some additional rights and privileges. That covers positions such as Provost, Leader, Executive Councillor and Chair of most of the council's committees.
- 2.1.2 There are different considerations depending on whether officers are responding to requests from members for assistance, or taking something to members as part of their own service or individual work plan.
- 2.1.3 In seeking assistance from officers, members should consider and use what would be the most efficient and effective way to do so, having regard to the issues concerned, their urgency and their complexity. They should also have regard to the pressures of time and resource on officers, and be aware that officers cannot agree to all requests that members make, especially in relation to attendance at meetings.
- 2.1.4 Members have rights to information held by the council that they need to do their work as councillors. Those rights are not open-ended - they depend on the role and responsibilities of the member making the request; on the purpose of requesting the information; and on the specific rules which relate to the legal basis for the request. More detailed information is provided in Section 3 about the rights members have to information.
- 2.1.5 Members are entitled to expect officers to attend meetings as part of the assistance provided. Members should not make unreasonable requests for meetings, since the demand on officers' time can be high. There are also particular rules that apply where a meeting is requested at which members of the public will be present. More detailed information is provided in Section 4 about officers attending meetings with members.

2.2 Channels of communication

- 2.2.1 Timescales for responding to a request for assistance by or on behalf of a member are not specified here, but officers must be familiar with the standards required of them. Where appropriate, an extended timescale for response will be agreed, for example, if there is a large amount of research required to produce an answer.
- 2.2.2 The Chief Executive's Office maintains a list of Member Liaison Officers (MLOs) for each service area. They are in appropriately senior posts and are aware of how enquiries and requests from members should be handled. Members should use them as the first point of contact for advice and information about their particular part of the council's services. Approaches to other council officers should be acknowledged and passed on to those MLOs to handle.
- 2.2.3 When providing information about members, officers should list wards in numerical order, and then ward members in alphabetical order.

2.3 Prime considerations

2.3.1 The most important questions for officers to consider are:-

- What role do these members play, and what rights and responsibilities do they have?
- Am I going to members with assistance of my own volition, or responding to a request from them?
- What is the issue - is it about a constituent, or the ward more widely, or does it relate to the council as a whole?

2.3.2 There is more detail in the Appendix about the types of council business that may be involved in dealing with a member.

2.4 The duties and rights of the member(s) concerned

2.4.1 Members who have additional duties, responsibilities and rights are the Provost (and Depute Provost); the Council Leader (and Depute Leader); other Executive Councillors (and deposes, when “acting up”); and Chairs of committees (and Vice-Chairs, when “acting up”). Those additional responsibilities are set out in their role descriptions agreed by the council. For example, the Provost has particular duties in relation to civic and ceremonial business, Executive Councillors have additional responsibility to provide leadership and to provide a focus for communicating, both within and outwith the council, in relation to the services within the remit of their portfolio.

2.4.2 To reflect those extra responsibilities, those members have additional rights in terms of the assistance they receive from officers. Those additional rights apply in relation to their remit and extended role, and so not automatically to every aspect of the council’s business. For instance, regular meetings may take place between senior officers and Executive Councillors in relation to their portfolio of business so that briefings and consultations may take place; agenda-setting meetings will take place between Chairs and Lead Officers in the run-up to committee or PDSP meetings to prepare the agenda and consider draft reports.

2.4.3 This sometimes results in a member having an advantage over others, in particular where ward issues are concerned. For example, an Executive Councillor being briefed or consulted about a service development within his remit might become aware of it as a ward issue before his or her ward colleagues; members of the administration group might have some prior knowledge of issues affecting the council as a whole. These are incidental and inevitable in some circumstances.

2.4.4 These additional rights and responsibilities are relevant to all forms of assistance from officers, including meetings. However, they only apply within the scope of those additional responsibilities, and not to every kind of business:-

- They have no place where officers are dealing with an enquiry about a constituent’s business - all members should be treated in the same way

- They do not apply either in relation to the Chair of a LAC in relation to ward business. In advancing the business of the council at ward level, Chairs of LACs are to be seen as “first amongst equals” rather than of an elevated status above their ward colleagues. They do have a role in relation to setting the agenda for LAC meetings, and will be assisted in doing so by the LAC Lead Officer. Otherwise, they are not entitled to any preferential treatment when officers are progressing ward business.

2.5 Going to a member, or responding to a request

2.5.1 Officers will deal with members either in response to requests from them for assistance (member work), or else where they are taking something to members without such a request having been made (service work).

2.5.2 In relation to contact from members:-

- Enquiries from members for assistance on all kinds of business should be kept confidential and simply responded to in an appropriate way and without being disclosed to any other member
- The same information should be provided to all members making the same enquiry, unless a member has additional rights as a result of his or her council responsibilities
- If another member makes the same enquiry separately, it should be considered on its own merits and circumstances, which may result in the same information being given separately
- Where appropriate, informing other officers is acceptable, but other members should not be informed unless the member making the request gives consent
- If the request for assistance is for a meeting then members must provide officers with enough information to let them decide how to respond. They need to know what kind of business is involved, and they need to know if members of the public will be present (regardless if it is an open-doors public meeting, or by invitation only).

2.5.3 In relation to business being taken to members:-

- Some recurring issues may have their own procedures which call for consultation with members, and those should be followed in all cases. For example, a proposed roads order or parking restriction will mean that ward members are asked for their views which are then passed on to committee; ward members will be notified in advance of proposals to dispose of council property in their ward
- Ward members have a right to be informed of service developments significant to their ward area, and officers will have to judge when that becomes appropriate
- When officers do take information to members about ward business, all ward members should be given the same information at the same

time. LAC Chairs do not automatically have any greater rights than their ward colleagues

- Where officers intend to use certain delegated decision-making powers the Scheme of Delegations to Officers states that they should not do so if a ward member objects, and a committee decision will be needed. For instance, proposed planning decisions are notified to members who may then have them referred to committee
- Members with additional responsibilities are entitled to earlier information and consultation about issues within their area of responsibility

2.6 The kind of business involved

- 2.6.1 There are three types of business which officers and members have to deal with - constituent business, ward business and council-wide business (see the appendix for more detail).
- 2.6.2 For constituent business, all members have the same rights to assistance from officers when making an enquiry on behalf of that constituent. That kind of business does not depend on who the constituent is or how many are involved. It may be raised by a club or an organisation or a company about their own interests. It may involve more than one individual (a family for example, or a small number of residents complaining about an untidy neighbour's garden). It depends on the issue raised and whether or not is of some wider public interest or concern to the ward or the whole council
- 2.6.3 For ward business there needs to be some public interest and significance for the ward or part of it. It may only be raised by one individual member of the public, or by one club or organisation or company, but it may be about something which affects more than just that person or body (for example, parking and traffic congestion at school gates, or the maintenance of a park or open area).
- 2.6.4 Council-wide business is about an issue which affects the corporate interests of the whole council. It goes beyond an individual's interests and is of significance to more than one ward. It may relate to a building or a facility that happens to be located in a particular ward, but is still of significance for the whole council. For instance, restricting the opening hours at the Howden Park Centre will be a council-wide issue since it is designed to be used by all West Lothian residents, but local problems caused by parking or traffic congestion at the same property will be ward business; a new motorway junction affect traffic throughout the whole area and be important for all residents who drive motor vehicles).

3 Members and information

3.1 General

- 3.1.1 Members have rights to information held by the council that they reasonably require to do their work as councillors. The right to information is part of and is subject to the general rules about the provision of assistance for members, set out in Section 2. Those rights are not open-ended - they depend on the

role and responsibilities of the member making the request; on the purpose of requesting the information; and on the specific rules which relate to the legal basis for the request. Once members acquire council information they are under legal duties in relation to what they do with it and how they use it.

- 3.1.2 Those rights to information come from three sources - freedom of information rights; common law rights, and additional rights of access to meeting papers and background information.
- 3.1.3 When responding to requests for information it is important that members and officers are clear as to whether the request is made as a councillor or on the same footing as a member of the public. Members will be entitled to information not available to members of the public, but restrictions on confidentiality and use will then apply.
- 3.1.4 "Confidential" should be the starting point in dealing with enquiries from members. If officers wish to inform other members then they must have consent, or else be able to rely on some other rule in this guide to justify it.
- 3.1.5 Information which originally was passed to a member in response to an enquiry may be legitimately disclosed at a later point in time. Something that started as an enquiry from a member may move on to become a different kind of business, and so call for information to be passed on to other members. For example, a ward member may bring a planning breach to officers. They will take it up initially on a confidential basis but any proposed enforcement action will have to be notified to all ward members.
- 3.1.6 There may also be exceptional circumstances in which other members will as a matter of necessity become aware of communications between officers and a member (for instance, information about theft or misuse of council property, or some serious risk to the health and safety of officers or members of the public). If officers consider that such circumstances apply then they should consult their line manager and make sure that the member concerned is fully informed.
- 3.1.7 In making a request for information which includes personal data (usually in relation to a constituent enquiry) there is generally no need for the member to produce a written letter of authority. However, officers must apply data protection principles when they respond. That may mean that some sensitive or extremely personal data is redacted, or that a formal letter of authority is requested before responding in more detail.

3.2 Freedom of information

- 3.2.1 Members have the same rights as all members of the public to request information held by the council. Those rights are subject to the same restrictions and exemptions as well.
- 3.2.2 All members making such a request for information are treated in the same way - in effect, as members of the public.
- 3.2.3 Once the information is disclosed in response to such a request, elected members are free to use or to share it in the same ways that other members of the public may use it. There are no confidentiality restrictions.

3.3 Common law

- 3.3.1 Elected members have a common law right to access council information where that information is reasonably required for them to carry out their duties as an elected member. This will not entitle them to access all information held by the council, but it is a wide and significant right. The extent of the information they are entitled to will depend on their position in the council - an Executive Councillor has additional responsibilities and so additional rights to reflect those.
- 3.3.2 If information is provided in satisfaction of this right then the elected member must (except in exceptional circumstances) keep the information private and confidential. Such information is for individual use as a councillor and it must not be disclosed or in any way used for personal or party political advantage or in such a way as to discredit the council.
- 3.3.3 Sometimes the confidential nature of the material will be explicit, such as if the document is marked "confidential". In other cases, it should be clear from the nature of the information or from the circumstances in which it was provided that it is confidential (for example, legal advice obtained by the council or commercial information about a third party).
- 3.3.4 The safest course of action is for officers and members to be clear and explicit about the status of the information before it is provided.

3.4 Statutory, as councillors

- 3.4.1 The Local Government (Scotland) Act 1973 gives members access to reports which are to be considered at meetings of the council (and its committees and sub-committees), and papers which form "background references" to those reports. These are statutory rights which relate to papers going to committee and not to council information in general.
- 3.4.2 There are restrictions involved, and where the papers may disclose certain types of "exempt information" then the right does not apply.
- 3.4.3 If there is no issue about confidential or exempt information then the papers are in the public domain and elected members can use them for any purpose. Where papers are provided which are to be taken in private at a meeting then members may not disclose that information or use it for any other purpose.
- 3.4.4 All members making such a request for information under these additional rights are treated in the same way as each other.

3.5 Information held by members

- 3.5.1 As well as rules about respecting the confidentiality of information given to them as members, they are subject to statutory rules and guidance about information they acquire and use in doing their jobs as councillors. Those arise in relation to data protection rules and freedom of information.
- 3.5.2 In relation to data protection:-
- Each member is a data controller in relation to the personal data they acquire for carrying out their council duties. They require to be

registered with the Information Commissioner and to comply with data protection rules and guidance in the way they deal with that personal data

- They hold that information themselves, and it is not classed as council information. If they share that personal data with a council officer then it becomes personal data held by the council and so is subject to the usual rules which apply to the council about fair processing and subject access

3.5.3 In relation to freedom of information:-

- Members are considered to be separate from the council in relation to requests under freedom of information legislation. They do not have to respond to such requests as members and a request to the council will not catch that information
- Information in the hands of members themselves (even if accessible by Member Services officers) is not information “held” by the council. If members share that information with other council officers then it becomes information “held” by the council, and so may have to be disclosed in response to requests

4 Members and meetings

4.1 General

4.1.1 Members are entitled to expect officers to meet with them where it is reasonably necessary for them to do their work as councillors. That right is part of and is subject to the general rules about the provision of assistance for members, set out in Section 2. Those rights are not open-ended - they depend on the role and responsibilities of the member making the request; on the purpose of requesting the information; and on the specific rules which relate to the legal basis for the request. Meetings with members are subject to specific rules to try to avoid duplication of work and ensure the most efficient use as is practicable of scarce council resources.

4.1.2 These rules should not be seen as a general bar to officers attending a meeting or a briefing with members in connection with their duties. The overall approach should be to facilitate the meeting unless there are specific rules which dictate that it should not happen, and unless it is judged to be an unreasonable request. For example, an initial meeting on a constituent's complaint followed by updates verbally or by email might be a more reasonable way to proceed than a series of meetings to give updates. Similarly, rather than a meeting on site, a meeting in the Civic Centre with maps and photographs may be a more economical way to proceed.

4.1.3 The relevant factors in relation to meetings with members are - who requests or organises the meeting; the type of business to be dealt with; and whether members of the public will be present.

4.2 Meetings offered by officers

4.2.1 It is always open to officers to offer to meet councillors in relation to any type

of business. The arrangements are entirely within the control of officers, including who should be invited, subject to particular considerations affecting ward business.

4.2.2 However, where it concerns ward business officers have a duty to treat all ward members equally and even-handedly. If information is to be offered then it is offered to all. If there is a public event being organised which is significant for the ward (for example, the opening of a new local building or resource, or an open day at a local facility) then information should be provided to all ward members at the same time. No ward member (including the LAC Chair) should be invited without all the others being invited. No ward member (including the LAC Chair) should be given any preferential treatment during or after the event.

4.2.3 Sometimes officers may still end up holding separate meetings or communicating separately - the initial provision of the information to all ward members may result in a follow-up request from councillors individually for more information, or to meet for a briefing. Officers may try to persuade those members concerned to meet together, or use a LAC meeting, but there may be some unavoidable duplication of effort.

4.3 Invitations by third parties

4.3.1 Officers will frequently be invited to attend meetings by third parties, such as community councils. The decision about whether or not they should attend is a management decision, even if councillors will be present.

4.3.2 There is no confidentiality aspect to invitations or meetings like those. If judged appropriate, officers may inform relevant members about the invitation, and provide a briefing after the event.

4.3.3 If the meeting is about ward business then ward members should be treated equally and even-handedly.

4.4 Requests by members

4.4.1 If members wish an officer to attend a meeting then they must provide enough information to allow officers to decide if it is appropriate for them to attend. Officers are entitled to know:-

- who is responsible for determining the arrangements for the meeting
- the subject matter of the meeting
- whether the subject matter is within the area of responsibility of that elected member
- whether any members of the public or elected members will be in attendance
- if so, who will be there, how many, and in what capacity they will be there
- whether the meeting is open to all members of the public or only those

invited to attend by those responsible for determining the meeting arrangements

- 4.4.2 If members do not provide that basic information then officers should refuse to attend.
- 4.4.3 A request by a member for officers to attend a meeting should be kept confidential, whether or not officers attend, unless it is necessary to consult the Chair of the LAC about a request for a meeting on ward business where members of the public will be present (see below).
- 4.4.4 The most significant factor is the presence of member(s) of the public - it is far more likely that officers will be able to attend a meeting with members where there will be no members of the public involved. After that, the most important factor will be the type of business to be covered at the meeting.
- 4.4.5 Putting those two factors together:-
- If member(s) of the public will be in attendance and it concerns constituent business then officers should be able to attend
 - If members of the public will be in attendance and it concerns ward business or council-wide business relevant to the additional responsibilities of the member making the request then officers may attend (for instance, a meeting with Executive Councillors about something in their remit). Otherwise, officers will generally not attend the meeting. Members without those additional responsibilities and rights may be entitled to information but not to have officers attend a meeting
 - If members of the public will be in attendance and it concerns ward business then officers will not be able to attend unless the meeting is authorised in a particular way. This is because ward members should be treated equally and even-handedly in relation to ward business and officers attending a meeting like that would be giving the member concerned preferential treatment. Something like that can be authorised through a meeting of the LAC (by a decision on a motion or an agreement that it be added to the Work Plan), or by the LAC Lead Officer after consultation with the Chair. If approved, conditions may be attached which officers will have to follow (for instance, providing a briefing to all ward members after the event)
- 4.4.6 If members of the public are not going to be present then officers should attend if it is reasonable for them to do so (see 4.1.1 and 4.1.2, above), , even in relation to ward business.

4.5 Attendance at group meetings

- 4.5.1 The council legitimately operates through a system of groups of councillors, based on political affiliation. Assistance to such groups is appropriate in relation to council matters, not political matters more generally.
- 4.5.2 Group meetings are part of the preliminaries to council decision-making. They are not empowered to make decisions on behalf of the council. They are not

a substitute for providing all necessary information and advice to the relevant committee or sub-committee when the matter in question is considered.

- 4.5.3 Information and advice given by officers at such meetings should be used to enhance discussion and debate at council and committee meetings and not used for political advantage.
- 4.5.4 Members must appreciate that officers will attend and make the same factual information available to all political groups. Officers must be even-handed and politically neutral in the service they provide to group meetings.
- 4.5.5 The council's internal rules about requests to attend group meetings must be followed by both members and officers.
- 4.5.6 Officers are present to assist only members, and only in relation to council and not party political business. Both officers and members should be particularly careful when non-councillors are in attendance at group meetings. There will be limits to the information that they may be able to provide and the advice they can give in those circumstances.

5 Dealing with other elected representatives

5.1 General

- 5.1.1 Council officers will often have dealing with MPs and MSPs (occasionally MEPs) about council business and council services. Officers will sometimes wish to engage of their own volition with them (for instance, an invitation to a school function, or to a council public event) but more often will receive enquiries from MPs/MSPs or their support staff (for information and/or meetings).
- 5.1.2 The council is a political organisation, and so inevitably there will be tensions between councillors and MPs/MSPs, especially when they are from different political parties. Overall officers must show the same political neutrality in dealing with MPs/MSPs as they show in their dealings with councillors.

5.2 Requests for information from MPs/MSPs

- 5.2.1 Officers must deal with the request in a way that is appropriate. What is appropriate will depend on the subject matter of the enquiry and what has been asked for.
- 5.2.2 It is important that these enquiries are dealt with promptly and properly. Unless an immediate answer can be given, a brief acknowledgement should be sent. The MP/MSP should be made aware that the request will be dealt with through the council's internal rules and informed of what those involve. If a councillor is to be informed of the request then that should be made clear. If possible, some sort of timescale should be given for providing a fuller response.
- 5.2.3 If the enquiry is on behalf of a constituent in connection with council services provided to them then the request may simply be answered by officers. These enquiries should not be copied to Executive Councillors or Chairs, but they

and the Chief Executive (or an appropriate member of the Corporate Management Team) should be informed of the general nature of the enquiry and response, having in mind data protection considerations. Officers should not as a matter of routine disclose personal information which could identify individual constituents.

- 5.2.4 Where an enquiry raises policy issues, or politically controversial matters, or matters going beyond the private interests of constituents, officers should discuss the enquiry with the Chief Executive (or an appropriate member of the Corporate Management Team) and agree how to proceed. That will include informing the relevant Executive Councillor of the subject matter of the request and the general terms of the proposed response. The Executive Councillor may be consulted about the response, but the response should be given by officers and officers are responsible for what it says.
- 5.2.5 In advising the Executive Councillor, officers should not as a matter of routine disclose personal information such as the name, address or date of birth which could identify individual constituents. Where it might be appropriate to share personal information with the relevant Executive Councillor, officers should take advice before doing so.

5.3 Requests for meetings from MPs/MSPs

- 5.3.1 If the enquiry is a request for officers to attend a meeting of any sort about any type of business with the MP/MSP then officers should inform the Chief Executive and the relevant Executive Councillor of the request and the subject matter (again, bearing in mind data protection issues). The same considerations apply where an MP/MSP asks to visit council premises. No visits to council buildings and facilities, including schools, should be undertaken by MPs/MSPs without prior invitation by or notification to the appropriate officer.
- 5.3.2 It will ultimately be for the Chief Executive (or officers delegated by him or her), in consultation with the relevant Executive Councillor, to determine whether officers should attend the requested meeting, upon what conditions, and which officers should do so.
- 5.3.3 It may sometimes be appropriate for Executive Councillors to attend such a meeting, for example, where the discussion will be about a council policy or a subject which is not personal to a constituent. For example, there would be no obstacle to Executive Councillors attending a meeting about new council houses being built in a community or across the whole council area. However, it would not be appropriate for a meeting about a constituent's housing or homelessness application. Where a meeting is likely to result in the disclosure of personal data or confidential information, for example, a constituent's name or address, or financial information, it is generally not appropriate for Executive Councillors to attend.
- 5.3.4 Afterwards, officers should inform the Chief Executive and the appropriate Executive Councillor of the outcome (again bearing in mind data protection considerations).

5.4 Officers going to MPs/MSPs

- 5.4.1 Officers may wish to invite MPs/MSPs (whether backbenchers or holders of

ministerial or party office) to attend meetings (public or otherwise) or events relevant to the work of the council - for instance, a visit to a school to give out prizes or awards; attendance at an open day at a council facility; the opening of a council facility. That may be appropriate and acceptable but officers should ensure that they are fully aware of the relevant internal rules of engagement and the overall political context as well.

- 5.4.2 No visits to council buildings and facilities, including schools, should be undertaken by elected representatives without prior invitation by or notification to the appropriate officer. The Chief Executive (or an appropriate member of the Corporate Management Team) should be informed before the invitation is sent. The Leader of the Council and/or appropriate Executive Councillor should be informed and consulted. Sometimes, for a purely civic or ceremonial event, the Provost should be informed. The proposed arrangements should be agreed in advance amongst all concerned.
- 5.4.3 Officers should consider carefully the subject of the invitation and the reason for the invitation and the capacity in which the MP/MSP is to be invited. For example, an event relating to a devolved function (education, for instance) will be relevant for an MSP but probably not for an MP. An event relating to a council facility in Linlithgow will not be as relevant to the MSP for the Almond Valley Constituency as it is for the MSP for Linlithgow and East Falkirk. An event at any school in the area will be relevant to the Minister with responsibility for Education, regardless of whether that Minister is a local MSP. An event at any council facility may be relevant to all MSPs with duties in the area, meaning that list MSPs for the Lothian region may have to be invited
- 5.4.4 Sometimes the impetus for a meeting with, or an invitation to, MPs/MSPs may come from a councillor, usually the Leader of the Council or an Executive Councillor. Such a meeting must relate to the council's business or services in some way, and to the area of responsibility for the member making the request. If not, it is an inappropriate use of council facilities and should not take place through officers. It is for the Chief Executive (or other appropriate member of the Corporate Management Team) to make that decision.
- 5.4.5 If such a meeting or event is appropriate then officer should make the arrangements for the meeting, since it will be something reasonably required to assist the member concerned in carrying out his or her duties. Those who are invited are decided by the elected member concerned.

5.5 Publicity rules

- 5.5.1 Officers should keep in mind the possibility of any publicity being generated as a result of engaging with MPs/MSPs. The rules prohibiting political publicity also apply to publicity which results from the use of council facilities, not just to material actually and deliberately produced by the council.
- 5.5.2 It may be appropriate to place conditions of some sort on any resulting publicity. For instance, a visiting MSP may be requested not to have photographs taken inside a council building.

APPENDIX

DEFINITIONS AND REFERENCES

Assistance	Information and advice (verbal or written), equipment and officers' time, either directly to members or through Member Services officers
Chair (and Vice-Chair)	The Chair of a body listed in the council's Scheme of Administration and "Vice-Chair" means the Vice-Chair of such a body (Standing Order 1(b)). Chairs may receive additional remuneration as senior councillors.
Communication	All manner and method of communication of information and advice, formal or informal, and oral, written or electronic
Constituent's Business	The private business or private interests of one (or more) constituents. It may be a domestic interest, or a personal interest or a commercial interest, but the key word is "private" – it is not something where there is a public interest or a public dimension or a public concern. "Constituent" means not just an individual – a business (for example, a shop or a company), and a club or society (for instance, a bowling club or a golf club), will be included in that term where the subject matter is that body's private business.
Councillor (elected member, member)	A councillor elected to the council, or in relation to certain committees, such a councillor and a non-councillor appointed to them (Standing Order 1(o))
Councillors' Code of Conduct	Statutory Code of Conduct for all Scottish Councillors, and related Standards Commission Guidance - http://www.standardscommissionscotland.org.uk/uploads/files/14424808530109379.pdf
Council-wide Business	The public interest of West Lothian or its residents, or part of West Lothian or some of its residents. It crosses ward boundaries, and is important to more than one or all nine wards, but it does not have any greater significance or relevance for one ward than any or all of the other wards. It affects the corporate interests of West Lothian Council and affects the whole council (regardless of where any council property is physically located).
Data protection (DPA)	Data Protection Act 1998 and related subordinate legislation
Elected representatives	MP, MSPs, MEPs and councillors from other councils
Employee Code of Conduct	The HR policy document called the Employee Code of Conduct incorporated into the contracts of employment of all officers - http://www.westlothian.gov.uk/media/1553/Code-of-Conduct/doc/CodeofConductforEmployees.docx
Executive Councillor	A councillor who the council has appointed to have responsibility for a portfolio comprising a specific area of the council's functions (Standing Order 1(i)). Executive Councillors will generally receive additional remuneration as senior councillors.
Freedom of information (FOISA/EIRS)	of Freedom of Information (Scotland) Act 2002 and Environmental Information (Scotland) Regulations 2002
Information Commissioner (ICO)	Information Commissioner's Office (UK), dealing with DPA regulation in Scotland

Leader of the Council	A member, if any, appointed to that office (Standing Order 1(l)). The post carries overall responsibility for political leadership of the council and for all aspects of council policy and services. It will usually involve chairing the most significant policy-making committee or committees, and carries additional remuneration as Leader, at a higher rate than other senior councillor positions.
Local Area Committee (LAC)	A committee established in accordance with Standing Order 51, one for each of the council's wards, to act as a focus for discussion of issues affecting the individual wards and to exercise powers delegated to it by council or the council Executive (Standing Order 1(m))
Member (elected member, councillor)	An councillor elected to the council, or in relation to certain committees, such a councillor and a non-councillor appointed to them (Standing Order 1(o))
Member Work	Work arising from an enquiry from one (or more) elected members for assistance of some sort, distinct from "Service Work" which is work generated by officers through their normal service workload. It can be "Constituent's Business", "Ward Business" or "Council-Wide Business", depending on the subject matter of the work.
MP/MSP Protocol	The council's separate Protocol for dealing with enquiries from MP's and MSP's - http://intranet.westlothian.gov.uk/article/6962/Protocol-for-dealing-with-enquiries-from-MPs-and-MSPs
Officer	A council employee or other member of staff accountable to the Chief Executive for advising the council, managing the council's services and/or implementing its policies
Policy Development & Scrutiny Panel (PDSP)	A Working Group established under Standing Orders 50-52 as a forum for the development and scrutiny of policy and performance, chaired by an Executive Councillor and reporting to the Council Executive or Education Executive (Standing Order 1(r))
Provost	The Chair of the council elected under Section 4 of the Local Government etc. (Scotland) Act 1994 (Standing Order 1(t), also known as "convenor"). The Provost is the civic head of the council and receives additional remuneration and an expenses allowance.
Publicity Guidance	Council's guidance on political publicity (including surgery notices and pre-poll restrictions) - http://intranet.westlothian.gov.uk/article/6959/Council-Publicity---Guidance-for-council-officers
Relationship Protocol	Protocol for Relations between Councillors and Employees in Scottish Councils (identically incorporated in Annex C to the Councillors' Code of Conduct, and Appendix 2 to the Employee Code of Conduct)
Role descriptions of members	Descriptions of the roles and responsibilities of all categories of members, approved by Council Executive in June 2007
Scheme of Delegations	Scheme of Delegations to Officers, recording powers and responsibilities devolved by council or committee to officers - http://intranet.westlothian.gov.uk/CHttpHandler.ashx?id=3579&p=0
Service Work	"Service Work" comes from decisions or actions of the council (full council, committees, PDSPs or LACs) or through the routine work of the service and its officers under the Scheme of Delegations to Officers. It is distinct from

“Member Work”, arising by way of an enquiry from an elected member (or members). It may be “Constituent’s Business”, “Ward Business” or “Council-Wide Business”, depending on the subject matter of the work.

Standing Orders The council’s Standing Orders for the Regulation of Meetings - <http://intranet.westlothian.gov.uk/CHttpHandler.ashx?id=3579&p=0>

Ward Business An issue about the public interests of a ward (or a part of it) or some (or all) of its residents due to its particular impact on or significance for that ward area. It may relate to an asset of the ward, such a nursery or a park. It may be an issue of antisocial behaviour which goes beyond a neighbour dispute (which would be constituent’s business) and takes on a more public aspect, such as an area where under-age drinkers congregate. Within this category will be some issues which do cross ward boundaries - the issue may be of similar public concern to neighbouring wards - but which are still not wide enough in scope or of such universal significance as to be an item of council-wide business. An example would be an issue affecting a secondary school where its catchment area spans more than one ward.