

## **Protocol for Councillor/Employee Relations**

### **1. Introduction**

- 1.1 This protocol is intended to guide members and officers of the Council in their working relations with each other. It is part of the Council's wish to uphold standards of conduct amongst councillors and officers.
- 1.2 A number of other documents also deal with standards of conduct for Councillors and officers and lay down procedures for the proper conduct of Council business. These include:
- Local Government Act 2000
  - Localism Act 2011
  - The Council's Constitution, specifically:
  - The Code of Conduct for Councillors of the City of Wolverhampton Council (part 5)
  - The Code of Conduct for Employees (part 5).
- 1.3 Its purpose is:
- a. To promote trust, openness, fairness and honesty by establishing some ground rules;
  - b. To define roles so as:
    - to clarify responsibilities
    - to avoid conflict, and
    - to prevent duplication or omission;
  - c. To secure compliance with the law, codes of conduct and the Council's own practices; and
  - d. To lay down procedures for dealing with concerns by Councillors or employees.
- 1.4 The protocol should be recognised both as a central element of the Council's corporate governance, and as a commitment to upholding standards of conduct in public life. It is one way of demonstrating to the public at large that local government is serious about protecting and enhancing its integrity and reputation.
- 1.5 Whilst not covering every eventuality, it seeks to strengthen a good working relationship, to clarify possible areas of doubt and to offer advice as to how to deal with particular situations which might arise.

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1.6 Whilst many of the situations which fall within this protocol will undoubtedly relate to councillors and senior officers, the same aspects of conduct apply to all employees.

### **2. Definitions**

2.1 Unless the context indicates otherwise, references to the term *Council* include the Cabinet, Scrutiny Board, Scrutiny Panels and Regulatory or other Committees.

2.2 Unless the context indicates otherwise, the terms Councillor and Councillors include non-elected (i.e. co-opted or independent) members as well as elected Councillors.

2.3 Employees mean all persons employed by the Council.

2.4 “*Designated Officer*” is defined in the Cabinet Procedure Rules as the Head of Paid Service, a Director or other senior employee authorised by him/her for this purpose.

2.5 “*Section 151 Officer*” means the Director of Finance.

2.6 “*Monitoring Officer*” means the Director of Governance.

### **3. Principles**

3.1 Councillors and employees must at all times observe this protocol.

3.2 The protocol is based on the model drawn up by the Association of Council Secretaries and Solicitors and has been approved by the Council’s Standards Committee who will monitor its operation.

3.3 The protocol seeks to maintain and enhance the integrity (real and perceived) of local government which demands the highest standards of personal conduct. Councillors and employees must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.

3.4 Whilst Councillors and employees are indispensable to one another, their responsibilities are distinct. Councillors are accountable to the electorate and serve only as long as their term of office lasts. Employees are accountable to the Council as a whole. Their job is to give advice to Councillors (individually and collectively) and to carry out the Council’s work under the direction of the Council.

3.5 The Council has adopted codes of conduct for both Councillors and employees. Both represent best practice. The Councillors’ code follows the national code which in turn is based on the general principles governing

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Councillors' conduct enshrined in law. These principles underpin this protocol.

- 3.6 Breaches of this protocol by a Councillor may result in a complaint to the Standards Committee if it appears the Councillors' code has also been breached. Breaches by an employee may lead to disciplinary action.

### **4. The Role of Councillors**

- 4.1 Councillors have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Councillors may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.
- 4.2 Collectively, Councillors are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget. Councillors represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies. Every Councillor represents the interests of, and is an advocate for, his/her Ward and individual constituents. He/she represents the Council in the Ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.
- 4.3 As politicians, Councillors may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Councillors they have a duty always to act in the public interest.
- 4.4 Councillors are not authorised to instruct employees other than:
- a. Through the formal decision making process;
  - b. To request the provision of consumable resources provided by the Council for Councillors' use;
  - c. Where employees have been specifically allocated to give support to a Councillor or group of Councillors and;
  - d. In the case of political assistants.
- 4.5 Councillors are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council. Councillors must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Councillors have an obligation under their code of conduct to have regard when reaching decisions, to any advice provided by the Monitoring Officer or the Section 151 Officer.
- 4.6 Councillors must respect the impartiality of employees and do nothing to compromise it, for example by insisting that an employee change his/her professional advice.

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### **5. The Role of Employees**

- 5.1 Employees are responsible for giving advice to Councillors to enable them to fulfil their roles. In doing so, employees will take into account all available relevant factors. Under the direction and control of the Council, employees manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues. Employees have a duty to implement decisions of the Council, which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's Constitution.
- 5.2 Employees have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views. Employees must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions. Employees must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Councillors, the media or other sections of the public.
- 5.3 **Employees must at all times keep members fully informed about significant issues which affect their wards or bodies on which they represent the authority. This is fundamental to the Council's wish to enhance the representational role of councillors. For example, if the authority conducts a consultation exercise in the borough, relevant members, including ward councillors should be notified at the beginning of the exercise.**
- 5.4 Employees have the right not to support Councillors in any role other than that of employee, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on employees' involvement in political activities.

### **6. The Relationship between Councillors and Employees**

- 6.1 The conduct of Councillors and employees should be such as to instil mutual confidence and trust. The key elements are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- 6.2 Informal and collaborative two-way contact between Councillors and employees is encouraged. But personal familiarity can damage the relationship, as might a family or business connection. Councillors and employees should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 6.3 It is not enough to avoid actual impropriety. Councillors and employees should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation

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where conflict could be perceived. Specifically, a Councillor should not sit on a body or participate in any decision which directly affects the employee on a personal basis.

- 6.4 With the exception of political assistants, employees work to the instructions of their senior officers, not individual Councillors. It follows that, whilst such employees will always seek to assist a Councillor, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, Councillors should normally direct their requests and concerns to a senior officer, at least in the first instance.
- 6.5 Employees will do their best to give timely responses to Councillors' enquiries. However, employees should not have unreasonable requests placed on them. Their work priorities are set and managed by senior managers. Councillors should avoid disrupting employees' work by imposing their own priorities. Councillors will endeavour to give timely responses to enquiries from employees.
- 6.6 An employee shall not discuss with a Councillor personal matters concerning him/herself or another individual employee. This does not prevent an employee raising on a personal basis, and in his/her own time, a matter which his/her Ward Councillor.
- 6.7 Councillors and employees should respect each other's free (i.e. non-Council) time.

### **7. The Council as Employer**

- 7.1 Employees are employed by the Council as a whole.
- 7.2 Councillors' roles are set out in the Employee Employment Procedure Rules set out in Part 3. If participating in the appointment of employees, Councillors should:
  - a. Remember that the sole criterion is merit (other than in the case of political assistants where political consideration may apply);
  - b. Never canvass support for a particular candidate;
  - c. Never take part where one of the candidates is a close friend or relative;
  - d. Not to be influenced by personal preferences, and
  - e. Not favour a candidate by giving him/her information not available to the other candidates.
- 7.3 A Councillor should not serve on an appeal hearing if the appellant is a friend, a relative, or an employee with whom the Councillor has had a working relationship.

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### **8. Mayor and Employees**

- 8.1 The Mayor is the first citizen of the City. His/her role is to be an ambassador for the authority and to chair full Council meetings. Officers must give every support to the Mayor in the execution of these duties. However, the Mayor does not have any executive powers.

### **9. Cabinet Members and Employees**

- 9.1 Cabinet Members will take decisions in accordance with the Constitution and will not otherwise direct employees. Designated Officers will be responsible for instructing employees to implement the decisions of the Cabinet.
- 9.2 Designated Officers (including the Head of Paid Service, the Monitoring Officer and the Section 151 Officer) have the right to submit papers to the Cabinet as a whole or to individual Cabinet Members for consideration.
- 9.3 Designated Officers and Cabinet Members shall agree mutually convenient methods of regular contact. Before taking any formal decision, the Cabinet will seek appropriate professional advice.
- 9.4 Before any formal decisions with a financial implication are taken by the Cabinet, the Section 151 Officer and the Designated Officer(s) for the service(s) concerned must be consulted. This is to ensure that those employees who are budget holders:
- a. Are aware of the proposed decision;
  - b. Have the opportunity to offer advice, and
  - c. Are subsequently able properly to authorise the financial transactions needed to implement decisions.
- 9.5 An individual Cabinet Member who is minded to write or commission a report or to make a decision about a matter within his/her responsibility must ensure that those other Councillors and employees who need to know of the matter are so informed. There is a particular requirement to involve other Cabinet Members on cross-cutting issues.
- 9.6 Cabinet Members when making decisions (whether collectively or individually) must state the reasons for those decisions. The written record of the decisions must include the reasons.
- 9.7 Employees taking decisions under their delegated powers must consider the advisability of informing the relevant Cabinet Member(s) of their intentions in advance when the matter to which the decisions relates is likely to be sensitive or contentious, or have wider policy implications.

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### **10.0 Overview and Scrutiny Councillors and Employees**

- 10.1 Chairs and other leading overview and scrutiny Councillors shall maintain regular contact with the employees providing the principal support to the overview and scrutiny function. In consultation with Chairs, it shall be the responsibility of the employee to ensure that those who need to know of matters being considered at meetings or for possible future consideration at meetings are so informed.
- 10.2 The Scrutiny Board and Scrutiny Panels may require employees to attend before them in accordance with the Overview and Scrutiny Procedure Rules and any protocol.

### **11. Members of Regulatory or other Committees and Employees**

- 11.1 Designated Officers will offer to arrange regular informal meetings with Chairs, Vice-Chairs and spokespersons of Regulatory or other Committees.
- 11.2 Designated Officers (including the Head of Paid Service, Monitoring Officer and the Section 151 Officer) have the right to present reports and give advice to Regulatory or other Committees.
- 11.3 Members of a Regulatory or other Committee shall take decisions within the remit of that Body and will not otherwise instruct employees to act.

### **12. Party Groups and Employees (Excluding Political Assistants)**

- 12.1 Designated Officers may properly be asked to contribute to deliberations of matters concerning Council business by party groups. An employee who is not a Designated Officer shall not be invited to attend a party group meeting, but a Designated Officer may nominate another employee to attend on his/her behalf.
- 12.2 Employees have the right to refuse such requests, and will normally not attend a meeting of a party group where some of those attending are not Councillors. If some of those present are not Councillors, care must be taken not to divulge confidential information relating to Council business. Persons who are not Councillors are not bound by the Councillors' Code of Conduct. They do not have the same rights to Council information as Councillors. No Councillor will refer in public or at meetings of the Council to advice or information given by employees to a party group meeting.
- 12.3 Employees support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Employees must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed. The duration of an employee's attendance at a party group meeting will be at the discretion of the group, but an employee may leave at any time if he/she feels it is no longer appropriate to be there.

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- 12.4 Party group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decision. The presence of an employee confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so. Where employees provide factual information and advice to a party group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.
- 12.5 It must not be assumed that an employee is supportive of a particular policy or view considered at a party group meeting simply because he/she has attended or provided information to the meeting. An employee should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.
- 12.6 Employees will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by the party group, will not relay the content of such discussions to another party group or to any other Councillors. This shall not prevent an employee providing feedback to other senior officers on a need to know basis.
- 12.7 In their dealing with party groups, employees must treat each group in a fair and even-handed manner. An employee accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each.
- 12.8 Councillors must not do anything which compromises or is likely to compromise employees' impartiality.
- 12.9 Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Head of Paid Service and the relevant party group leader.

### **13. Political Assistants**

- 13.1 These employees have been appointed by the Council exclusively to provide support to each of the party groups. Their function is to assist the interests and work of the group to which they have been assigned. This is in contrast to all other employees whose duty is to serve the Council as a whole.
- 13.2 Political assistants will be treated in accordance with and expected to observe all codes, policies and practices relating to the Council's employees. This includes the courtesy and consideration which the Council expects its employees to show to one another.
- 13.3 Except for their immediate secretarial and clerical support, the assistants will have no line management responsibility or power of direction over other employees.

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- 13.4 Political assistants are not authorised to comment publicly on behalf of the Council as a whole, or to commit the Council to any particular course of action, but can comment on behalf of the party group to which they have been assigned.
- 13.5 The level of access to Council documents and information shall be that enjoyed by Councillors.

### **14. Ward Councillors and Employees**

14.1 To enable them to carry out their Ward role effectively, Councillors need to be informed about matters affecting their Ward. Designated Officers must ensure that all relevant employees are aware of the requirement to keep local Councillors informed, allowing Councillors to contribute to the decision making process and develop their representative role. This requirement is particularly important:

- During the formative stages of policy development, where practicable;
- In relation to significant or sensitive operational matters;
- Whenever any form of public consultation exercise is undertaken and
- During an overview and scrutiny investigation.

14.2 Whenever a public meeting is organised by the Council to consider a local issue, all the Councillors representing the Wards affected should be invited to attend the meeting as a matter of course. If a Ward Councillor intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he/she should inform the relevant employee. Provided the meeting has not been arranged on a party political basis:

- An employee may attend but is not obliged to do so, and
- The meeting may be held in Council-owned premises.

No such meetings should be arranged or held in the immediate run-up to Council elections.

14.3 Whilst support for Councillors' Ward work is legitimate, care should be taken if employees are used to accompany Councillors to Ward surgeries. In such circumstances:

- The surgeries must be open to the general public, and
- Employees should not be requested to accompany Councillors to surgeries held in the offices or premises of political parties.

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- 14.4 Employees must never be asked to attend Ward or constituency political party meetings.
- 14.5 It is acknowledged that some Council employees (e.g. those providing dedicated support to Cabinet Members) may receive and handle messages for Councillors on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party-political purposes.
- 14.6 In seeking to deal with constituents' queries or concerns, Councillors should not seek to jump the queue but should respect the Council's procedures. Employees have many pressures on their time. They may not be able to carry out the work required by Councillors in the requested timescale and may need to seek instructions from their managers.

### **15. Councillors' Access to Documents and Information**

- 15.1 This part of the protocol should be read in conjunction with the Access to Information Rules set out in Part 3.
- 15.2 Councillors may request Designated Officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as Councillors. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:
- It is in the public domains, and
  - It is not barred by the Data Protection Act from being given.
- 15.3 Every Member of the Cabinet, the Scrutiny Board, Scrutiny Panels and Regulatory or other Committees has a right to inspect documents about the business of that body. A Councillor who is not a member of a particular body may have access to any document of that specific part of the Council provided:
- He/she can demonstrate a reasonable need to see the documents in order to carry out his/her roles as a Councillor (the "need to know" principle), and
  - The documents do not contain "confidential" or "exempt" information as defined by the law.
- 15.4 Disputes as to the validity of a Councillor's request to see a document on a need to know basis will be determined by the Monitoring Officer. Employees should seek his/her advice if in any doubt about the reasonableness of a Councillor's request.

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- 15.5 A Councillor should obtain advice from the Monitoring Officer in circumstances where he/she wishes to have access to documents or information:
- a. Where to do so is likely to be in breach of the Data Protection Act, or
  - b. Where the subject matter is one in which he/she has a personal or prejudicial interest as defined in the Councillors' Code of Conduct.
- 15.6 Information given to a Councillor must only be used for the purpose for which it was requested.
- 15.7 It is an accepted convention that a Councillor of one party group will not have a need to know and therefore a right to inspect a document which forms part of the internal workings of another party group.
- 15.8 Councillors and employees must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so. When requested to do so, employees will keep confidential from other Councillors advice requested by a Councillor.
- 15.9 Councillors and employees must not prevent another person from gaining access to information to which that person is entitled by law.

### **16. Media Relations**

- 16.1 All formal relations with the media must be conducted in accordance with the Council's agreed procedures and the law on local authority publicity.
- 16.2 Press releases or statements made by employees must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.
- 16.3 Employees will keep relevant Councillors informed of media interest in the Council's activities, especially regarding strategic or contentious matters.
- 16.4 Before responding to enquiries from the media, employees shall ensure they are authorised to do so. Likewise, employees will inform the Council's press office of issues likely to be of media interest, since that unit is often the media's first point of contact.
- 16.5 If a Councillor is contacted by, or contacts, the media on an issue, he/she should:
- a. Indicate in what capacity he/she is speaking (e.g. as Ward Councillor, in a personal capacity, as a Cabinet Member, on behalf of the Council, or on behalf of a party group);
  - b. Be sure of what he/she wants to say or not to say;

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- c. If necessary, and always when he/she would like a press release to be issued, seek assistance from the Council's press office and/or relevant Designated Officer, except in relation to a statement which is partly political in nature;
- d. Consider the likely consequences for the Council of his/her statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions);
- e. Never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
- f. Consider whether to consult other relevant Councillors; and
- g. Take particular care in what he/she says in the run-up to local or national elections to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or political party activist.

### **17. Correspondence**

- 17.1 Correspondence between an individual Councillor and an employee should not be copied to another Councillor unless the author expressly intends and states that this is the case or consents. Where correspondence is copied, this should always be made explicit, i.e. there should be no "blind" copies.
- 17.2 Official letters written on behalf of the Council should normally be in the name of the relevant employee. It may be appropriate in some circumstances (e.g. representations to a Government Minister) for letters to appear in the name of a Cabinet Member or the Chairs of the Scrutiny Board, Scrutiny Panel or Regulatory or other Committee.
- 17.3 The Mayor may initiate correspondence in his/her own name.
- 17.4 Letters which create legally enforceable obligations, or which give instructions on behalf of the Council should never be sent in the name of a Councillor.
- 17.5 When writing in an individual capacity as a Ward Councillor a Councillor must make clear that fact.

### **18. Access to Premises**

- 18.1 Employees have the right to enter Council land and premises to carry out their work. Some employees have the legal power to enter property in the ownership of others.
- 18.2 Councillors have a right of access to Council land and premises to fulfil their duties.
- 18.3 When making visits as individual Councillors, they should:

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- a. Whenever practicable, notify and make advance arrangements with the appropriate employee in charge;
- b. Comply with health and safety, security and other workplace rules;
- c. Not interfere with the services or activities being provided at the time of the visit.
- d. If outside his/her own Ward, notify the Ward Councillor(s) beforehand; and
- e. Take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

### **19. Use of Council Resources**

- 19.1 The Council's Codes and protocols set out in Part 3 must be observed.
- 19.2 This part of the protocol should be read in conjunction with the Council's "whistleblowing" policy.
- 19.3 Councillors or employees with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Head of Paid Service or Monitoring Officer.
- 19.4 A Councillor who is dissatisfied about the actions taken by, or conduct of, an employee should:
  - a. if a councillor is dissatisfied they should address this with the employee privately and confidentially and if it is not resolved informally they should refer the issue to their manager.
- 19.5 If direct discussion with the employee is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the Councillor should raise the issue with the employee's Manager.
- 19.6 A serious breach of this protocol by an employee may lead to an investigation under the Council's disciplinary procedure.
- 19.7 An employee who believes a Councillor may have acted other than in accordance with this protocol should raise his/her concern with the Monitoring Officer. He/she will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the Leader of the relevant party group. More serious complaints may involve alleged breaches of the Councillors' Code of Conduct and may be referred to the Standards Committee.

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### **20. Attendance at Seminars and Conferences**

- 20.1 There is a presumption that only essential conferences will be attended. The term 'conference' is used to mean any paid for event, including seminars and workshops, attended by a Councillor or employee of City of Wolverhampton Council.
- 20.2 Essential conferences are to be defined as:
- a. Those that meet identified Councillor or employee development needs as defined by individual Councillor or Employee Development Reviews that have been conducted in accordance with established procedures.
  - b. Those for which the costs and benefits to the Council have been evaluated.
- 20.3 Attendance at paid for conferences will require prior approval by the responsible budget holder regardless of cost.
- 20.4 The maximum total number of Councillors and/or employees attending any individual conference shall be three; but the presumption shall be for one.
- 20.5 One employee may accompany a Councillor or Councillors at any individual conference.
- 20.6 The presumption shall be that one employee representing City of Wolverhampton Council may attend a conference.
- 20.7 Following attendance at any conference a written report shall be prepared by the Councillor or employee attending and must include a summary of the key implications for the Council. The report shall be submitted, in the case of Councillors to a relevant Committee or Panel of the Council or, in the case of employees, Management Team.