



Fife Council Member Officer Relations Document Suite

Date	Author	Version	Status	Reason for Change
07/08/2019	ACF	1.0	Draft	Draft for consideration by Cross Party Leaders' Group
27/02/20	ACF	1.1	Draft	
31/01/2023	LB	1.2		Updated Governance Arrangements

Fife House,
North Street,
GLENROTHES,
Fife.
KY7 5LT

Effective from May 2022

This document suite comprises the following:

- Extract from the Councillors' Code of Conduct – Annex C: Protocol For Relations Between Councillors and Employees in Councils;
- Fife Supplement to Annex C;
- Protocol Guidance for Managing Visits by Local Elected Members, Government Ministers, VIPs and other Political Representatives to Fife Council Facilities;
- Guidelines on Use of Facilities for Elected Members;
- Elected Member Enquiries Procedure for Fife Council Staff;
- COSLA Guidance on Family Leave.

ANNEX C PROTOCOL FOR RELATIONS BETWEEN COUNCILLORS AND EMPLOYEES IN SCOTTISH COUNCILS

Principles

1. This protocol sets out the way in which Councils and employees of Councils should behave towards one another. It does not cover all the variety of circumstances which can arise, but the approach which it adopts will serve as a guide to dealing with other issues as they come up.
2. Councillors and employees should work in an atmosphere of mutual trust and respect, with neither party seeking to take unfair advantage of their position.

Scope

3. The most common contacts are between councillors and senior employees at Chief Executive, Director or Head of Service level, and this protocol is largely about those contacts. There are also many contacts between councillors and other employees in their daily business, and the principles of this protocol also apply to them. The particular position of employees who provide direct support services for councillors is dealt with separately at paragraph 21.

Members' and employees' roles

4. Within a Council, councillors have a number of different roles, all of which call for separate consideration. Some councillors are Conveners of committees, most belong to political groups, and all have a local constituency to represent.
5. Legally, employees are employed by the Council and are accountable to it. Ultimately they serve the Council as a whole and not any particular political group, combination of groups or any individual member. Nonetheless, political groups exist in most Councils and employees may properly be called upon to assist the deliberations of political groups and also to help individual members in their different roles. Chief Executives and Senior Officers have ultimate responsibility to ensure that the Council's responsibilities are implemented.

Office bearers

6. It is clearly important that there should be a close professional working relationship between the Convener of a committee and the director and other senior employees of any service which reports to that committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question employees' ability to deal impartially with other councillors, and the ability of Conveners to deal impartially with other employees.
7. The Convener of a committee will often be consulted on the preparation of agendas and reports. Employees will always be fully responsible for the contents of any report submitted in their name and have the right to submit reports to members on their areas of professional competence. While employees will wish to listen to the views of conveners, they must retain final responsibility for the content of reports.

8. Committee Conveners are recognised as the legitimate elected spokesperson on their committees' areas of responsibility. Where authority is delegated to employees, they will often wish to consult Conveners of committees about the action which they propose to take but the responsibility for the final decision remains with the employee who is accountable for it. Conveners should bear this in mind when discussing proposed action with employees.

9. Committee Conveners will have many dealings with employees. Those employees should always seek to assist a committee Convener, but it must be remembered that they are ultimately responsible to the Head of the Service.

Political groups

10. Most Councils operate through a system of groups of councillors, many of them based on political affiliation. All employees must, in their dealings with political groups and individual members, treat them in a fair and even-handed manner. Employees must at all times, maintain political neutrality.

11. The support provided by employees can take many forms, ranging from the meeting with the Convener and Vice-Convener before a committee meeting to a presentation to a full party group meeting. Whilst in practice such support is likely to be in most demand from whichever party group is for the time being in control of the Council, it should be available to all party groups. The advice given by employees to different party groups should be consistent.

12. Certain matters must, however, be clearly understood by all those participating in this type of process, councillors and employees alike.

In particular:

- Council rules about groups' access to employees, e.g. all requests being approved by the Chief Executive, must be followed;
- employee support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. The observance of this distinction will be assisted if employees are not expected to be present at meetings or parts of meetings, when matters of party business are to be discussed;
- party group meetings, whilst they form part of the preliminaries to Council decision-making, 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;
- where employees 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 committee or sub-committee when the matter in question is considered;
- political groups need to recognise that information and advice given by employees should be used to enhance discussion and debate at Council and committee meetings. If such information is used for political advantage, for example media

briefings beforehand, then the process could become devalued and place employees in a difficult position in giving information and advice; and

- the Convener of a political group meeting attended by employees has a responsibility for ensuring that those attending are clear on the status of the meeting and the basis on which employees are attending.

13. Special care needs to be exercised whenever employees are involved in providing information and advice to a meeting of a political group which includes persons who are not members of the Council. Such persons will not be bound by the Codes of conduct for councillors and employees (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons employees may not be able to provide the same level of information and advice as they would to a members only meeting.

14. Any discussion with a political group or councillor must be treated with strict confidentiality by the employees concerned and should not be accessible to any other political group. It is acknowledged, however, that factual information upon which any advice is based will, if requested, be available to all political groups.

15. Should any difficulty or uncertainty arise in the area of employee advice to party groups, this shall be raised with the Chief Executive who should discuss the matter with the group leader.

Local representative

16. All councillors represent part of the area of the Council. Within each Council's rules about consultation and councillor involvement, employees must treat all councillors fairly and openly in their role as local representatives. When performing their local representative role, councillors will be seen by the public as representing the Council and should act in accordance with the principles of the Code of Conduct for Councillors and this protocol.

Communications

17. Communications between an individual councillor and an employee should normally not be copied by the officer to any other councillor. Where it is necessary to copy the communications to another member, this should be made clear to the original councillor at the time.

Appointments

18. Where councillors are involved in the appointments of employees they must act fairly and openly and judge candidates solely on merit.

Social relationships

19. The relationship between councillors and employees depends upon trust and this will be enhanced by the development of positive, friendly relationships. Councillors and employees 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 employees and

councillors can damage the relationship of mutual respect and the belief that employees give objective and professional advice and commitment to the Council. Councillors and employees should, therefore, be cautious in developing close personal friendships while they have an official relationship.

Public comment

20. Councillors should not raise matters relating to the conduct or capability of employees in public. Employees must accord to councillors the respect and courtesy due to them in their various roles. There are provisions in the Code of Conduct for Employees about speaking in public and employees should observe them.
Employees supporting councillors

21. Where Councils arrange for employees to support members directly in carrying out their duties, particular considerations apply. Such employees are normally involved in administrative and practical support of councillors. While such staff may operate to the requirements of individual councillors in their daily business, it must be remembered that the employees are accountable to their line managers and any issues about conflicting priorities, conduct or performance must be referred to those managers.

Fife Supplement to Annex C: Protocol For Relations Between Councillors and Employees in Councils

Relationships with Administration and other political groups and members

In principle, officers should at all times treat elected members, and groups of elected members, equally. However, given the increased contact between officers and members of the Administration, it is inevitable that officers should have a closer working relationship with them, particular conveners and vice-conveners of committees.

That should not lead officers to actively promote or espouse particular policy positions until they are the settled will of the Council. Officers do of course have an obligation to provide a professional recommendation on what course the Council should take on a particular issue: however they, and members of the Administration, should recognise that officers are employed to serve the Council as a whole.

When the Administration comprises more than one political group, care should be taken by officers to treat all groups in the Administration equally at all times. At the same time members of a joint Administration must not put officers in a position where they might be liable to treat other Administration groups differently.

Protocol Guidance for Managing Visits by Local Elected Members, Government Ministers, VIPs and other Political Representatives to Fife Council Facilities

Managing Visits to your Establishment

From time to time, Fife Council will organise, or be asked to organise, a visit or an event and invite local councillors, MPs, MSPs, external VIPs or a government minister to visit one of our facilities. This could be, for example, the opening of a new school, a new facility or the launch of a new service.

Before making arrangements for any kind of high-profile event your Executive Director or Head of Service should contact the Leader of the Administration and the Chief Executive with a brief outline of the event and a suggested date (or dates). You should obtain consent from the Chief Executive before you proceed further.

There are a range of protocols which you need to follow when hosting a visit to any Fife Council facility. Before issuing an invite or accepting a request to visit, you should always first ascertain:-

- the status of the VIP (are they a locally elected representative and at which level – constituency, regional, etc).;
- if the VIP is connected to a specific region or country, in what capacity they will be visiting;
- the purpose of their visit and if there are other VIPs in the party;
- the length of the visit;
- if it is part of a wider programme of visits (i.e. to other Councils).

Someone from the service should be appointed to be the overall lead for the visit. They will be responsible for co-ordinating the visit and making sure that the appropriate people are notified or invited and all protocols are adhered to.

Visits by Senior Councillors

The Provost, Depute Provost, Council Leader and Conveners (including Area) may visit any facility at any time to promote a particular initiative, project or investment. This is part of the everyday working of the Council. In these instances, there is no need to notify or invite any other elected members to the event, even if the visit is to be publicised.

Elections

In the period prior to an election, you must make sure the Council is seen to be acting in a way which is politically neutral. The Council's pre-election guidance must be followed at such times.

Frequently Asked Questions

1. **I've been contacted by one of our ward councillors who would like to visit my facility. What should I do now?**

Identify if this is a simple fact-finding visit or if they plan to publicise this visit in any way.

If there is to be no publicity, then the visit can go ahead with no need to inform anyone else.

If the councillor wants publicity, then notify the other ward councillors, the Convener for your area of work, Local Area Convener and the Council Leader that the visit is taking place.

A simple email is sufficient, e.g. *I am writing to inform you that Councillor John Bloggs will be visiting Anytown Primary School on 2nd March at 2.00 p.m. to see the work we are doing to support families with autistic children.*

2. **I've been contacted by our MP/MSP(including one of the Mid-Scotland and Fife list MSPs) who would like to visit my facility. What should I do now?**

Notify your local ward councillors, Area Convener, Convener for your area of work and Council Leader that the visit is taking place but there is no need to invite anyone else, even if the visit will be publicised.

3. **A councillor from outside our local ward/MP/MSP from outside our constituency has asked to visit my facility. What should I do now?**

First ascertain if they wish to publicise the visit in any way. If not, then the visit can go ahead without notifying anyone else.

If they wish to publicise the visit, you should notify the Chief Executive, the Council Leader, relevant Convener, Area Convener and all ward councillors to inform them of the visit and that they may attend if they wish.

4. **A government minister or other VIP has asked to visit my facility. What should I do now?**

First speak to your Executive Director who will seek permission from the Chief Executive and the Council Leader. Then see the official list (below) of who to invite to such events

Once you have composed your guest list, this should be approved by the Chief Executive and the Leader.

Then ascertain if the visit is to be publicised in any way. If so, contact the Council's Communications Team who will then liaise with the government communications team regarding publicity.

5. I'd like to invite some VIPs to attend the opening of a new facility or other high-profile event. Who should I invite?

First speak to your Executive Director who will seek permission from the Chief Executive and the Council Leader, then see the official list (below) of who to invite to such events.

Once you have composed your guest list, this should be approved by the Chief Executive and the Leader.

Notify the Communications Team of the event to discuss how this will be publicised.

6. I want to have just a very low-key event to promote a particular project or service. Who needs to be invited?

You should invite the Council Leader, Convener for your area of work and local Area Convener. Notify all ward councillors allowing them the option to attend if they wish.

A simple email will be enough, e.g. *I am writing to invite you to the launch of our drop-in centre at Anytown Care Village on 2nd March at 2.00 p.m. to see the work we are doing to support vulnerable adults.*

7. I'd like to invite my local elected member to come to our facility to speak to a particular group. Do I need to invite others?

Yes – all locally elected councillors for your ward should be given the opportunity to attend. In the interests of political fairness and to ensure the Council is seen to be non-biased, it is important that all local elected members are given equal opportunity to visit your facility.

This can be done by email, e.g. *Our P4 pupils are doing a project on local democracy and would like a local councillor to speak to them on this. I am writing to you all to ask if you would be interested in coming along to speak to the children and answer some of their questions. Unfortunately, we do not have the capacity for you all to attend but we will accept the first offer we receive and try to accommodate any further offers if time and space allow.*

8. I'd like to invite my constituency MSP/MP to come to our facility. Do I need to invite others?

There is no need to invite anyone else along but, as a matter of courtesy, you should notify your ward councillors, Area Convener, Convener for your area of work, Council Leader and list MSPs in the case of an MSP.

A simple email is all that is required, e.g. *I am writing to notify you that Jill Bloggs, MSP is visiting our facility on date/time.*

9. **I'd like to invite a list MSP to come to our facility. Do I need to invite others?**

Yes – all list MSPs for Mid-Scotland and Fife should be invited as well as the constituency MSP, even if you do not intend to publicise the visit. In the interests of political fairness and to ensure the Council is seen to be non-biased, it is important that all list MSPs are given equal opportunity to visit your facility.

This can be done by email e.g. I am writing to you all to ask if you would be interested in speaking to our Modern Studies class who are currently studying the Scottish Parliament. Unfortunately, we do not have the capacity for you all to attend but we will accept the first offer we receive and try to accommodate any further offers if time and space allow.

Notify your local ward councillors, Area Convener, Convener for your area of work and Council Leader once a visit is confirmed.

For further help and advice, contact the Communications Team on 440872. You can find your ward members, constituency MPs and MSPs on FISH. Go to “The Council and partners” bubble (top right), and click Local Reps in the drop down menu.

Invitation list for visits organised by external organisations

1. Council Leader
2. Leader of the Opposition
3. Convener/Vice-Convener - choose from the following committees:
 - Cabinet Committee
 - Community Empowerment Act Review Committee
 - Fife Planning Review Body
 - Health & Social Care Integration Joint Board
 - Pensions Committee
 - Rates Appeal Committee
 - Regulation & Licensing Committee
 - Education Scrutiny Committee
 - Environment, Transportation & Climate Change Scrutiny Committee
 - Finance, Economy & Corporate Services Scrutiny Committee
 - People & Communities Scrutiny Committee
 - Standards, Audit & Risk Committee
 - West & Central Area Planning Committee
 - North East Planning Committee
4. Convener, Area Committee - choose the relevant Convener from one of the following:
 - City of Dunfermline
 - Cowdenbeath
 - Glenrothes
 - Kirkcaldy
 - Levenmouth
 - North East Fife
 - South West Fife
5. Councillors - invite by ward as appropriate

Invitation list for events organised by Fife Council

1. Council Leader
2. Leader of the Opposition
3. Convener/Vice-Convener - choose the relevant committee from the above list.
4. Councillors - invite by ward as appropriate
5. **MPs** - invite by constituency
 - North East Fife
 - Glenrothes

- Kirkcaldy and Cowdenbeath
- Dunfermline and West Fife

6. **MSPs** - invite by constituency

- North East Fife
- Mid Fife and Glenrothes
- Kirkcaldy
- Dunfermline
- Cowdenbeath

7. **Regional MSPs for Mid Scotland and Fife** - invite all

Guidelines on Use of Facilities for Elected Members

Introduction

Elected Members will, as part of their role, use Council facilities such as physical assets, email, internet and phone. However, there are certain restrictions on the extent to which they can use facilities: these come both from legislation and the Councillors' Code of Conduct.

The Council is prohibited by [section 2 of the Local Government Act 1986](#) from publishing any material which appears to be designed to affect public support for a political party. Publicity is defined very widely. It includes 'any communication, in whatever form, addressed to the public at large or to a section of the public'.

It should be noted that these obligations apply at all times but particular care is required during a pre-election period. The effect of this is that Elected Members cannot, for example, display party banners or party flags on Council premises (e.g. Group rooms) where they can be seen by members of the public. Similarly, emails and other forms of communication provided by the Council should not be used by Members for party political purposes.

The [Councillors' Code of Conduct](#) states, at 3.16:

'The Council will normally provide facilities to assist councillors in carrying out their duties as councillors or as holders of a particular office within the Council. This may involve access to secretarial assistance, stationery and equipment such as telephones, fax machines and computers. Such facilities must only be used in carrying out Council duties in accordance with your relevant Council's information technology, communications and member support policies or for incidental personal use as authorised by your Council and not related in any way to party political or campaigning activities. Where the Council recognises party political groups, assistance to such groups is appropriate in relation to Council matters but must not extend to political parties more generally and you should be aware of and ensure the Council complies with the statutory rules governing local authority publicity.'¹

This set of Guidelines represents the Council's policy on use of such facilities.

Use of Resources – General Principles

In common with Council officers, you and your colleagues serve the public, and you must remember this principle when you use Council equipment, materials and resources, in order to ensure value for money.

You must not use Council equipment or resources for personal purposes unless:-

¹ See also the guidance notes in the annotated version of the Code (hyperlink refers).

- the use is minor in nature (e.g. making a short telephone call, sending the occasional e-mail, brief use of the internet or photocopying a letter); and
- any costs are reimbursed to the Council.

Email, Phone and Internet Guidelines

Internet access, telephone use and email communication is primarily for business use. However, the Council operates within a framework of openness and trust and recognises that in certain circumstances, particularly where there is a need to communicate urgently, it may be appropriate for Elected Members to send personal messages externally or receive them from an outside source. However, this should not in any circumstances be for party political purposes.

The Council telephone system should not be used for frivolous or trivial means or in any way bring the Council into disrepute e.g. calling into a radio station quiz, or conducting a business. This would be regarded as misuse of Council equipment.

The Code of Conduct's principle of "respect" requires Elected Members to respect employees and other Elected Members and the role they play, treating them with courtesy at all times. In consideration of colleagues, while in the office personal mobile phones should be set on discreet or low volume mode. This is particularly the case during formal meetings like Council or Committees. Elected Members should bear in mind the work environment and respect their colleagues by avoiding inappropriate activity like sending explicit texts or photos on mobile phones.

The guidelines for telephone usage also apply to other electronic devices such as MP3 players.

Interception of Emails

The Council exercises the right to intercept email, telephone calls and monitor Internet access under The Investigatory Powers (Interception by Businesses etc. for Monitoring and Record-keeping purposes) Regulations 2018 including where the monitoring and record keeping is necessary:

- to investigate or detect the unauthorised use of the systems;
- to establish the existence of facts relevant to the Council's business;
- to ascertain compliance with regulatory/self-regulatory practices and rules;
- to ascertain or demonstrate standards which ought to be achieved by employees using the system;
- to protect national security/prevent or detect crime;
- to ensure the effective operation of the system; and
- to monitor communications (but not record keeping) to determine whether communications are relevant to the carrying on of the Council's business.

In exercising its right to monitor email messages, telephone calls and Internet access, the Council is conscious of its obligations under the General Data Protection Regulations and the Data Protection Act 2018. Any information gained will only be used for the stated purpose of monitoring.

The Council will observe the guidelines laid down in Part 3 of the Information Commissioner's *Employment Practices Data Protection Code: Monitoring at Work*. These are as follows:

- We shall not monitor the content of email messages and Internet access unless it is clear the business purpose for which the monitoring is undertaken cannot be achieved by the use of a record of email traffic or Internet access traffic alone. Any such monitoring will, as far as possible, be strictly limited and targeted.
- We shall only conduct detailed monitoring where an assessment shows that monitoring is justified, particularly taking account of the privacy of those using the systems, including those sending email messages to the Council.
- Wherever possible, we shall avoid opening email messages, especially ones that clearly show they are private or personal.
- Email monitoring will be confined to address and heading and automated monitoring of content for inappropriate language, unless it is essential for a valid and defined reason to examine content. Automated scanning performs malware detection, spam analysis and detection, encrypted email detection and large mail blocking.
- Where reasonable and practicable, and unless this is already obvious, we shall ensure that those sending email messages to Elected Members, as well as Elected Members themselves are aware of any monitoring and the purpose behind it.
- If it is necessary to check the email accounts of Elected Members in their absence, we shall make sure that they are aware that this will happen.
- We shall inform Elected Members of the extent to which information about their Internet access and email use is retained in the system and for how long.

Email Monitoring

The Council reserves the right to monitor, at any time, email messages, including deleted email messages, and the systems upon which such email messages are stored and circulated. This right is reserved solely for the purpose of monitoring communications for business purposes as set out below:

- to check mailboxes of absent Elected Members;
- to meet information requests (either on active or archived / deleted emails);
- to ensure that no discriminatory or offensive content appears in email etc; and
- automatic monitoring will occur on all emails for inappropriate language, antivirus and spam checking. (Further checks may occur in the future).

Email should not be encrypted in a manner which would prevent the Council decrypting the email in full for monitoring purposes.

While an email that is clearly private does not fall within the definition of a communication that is relevant to the Council's business, we maintain a right to monitor such a communication where there is a reasonable suspicion that the content breaches the Council's policy, for example by transmitting confidential information or any offensive or illegal material, or to meet legal requirements.

Internet

The Council reserves the right to monitor, at any time, all Internet access, including Internet browser history files, storage of temporary Internet files and any downloads from an Internet site. This right is reserved solely for the purpose of monitoring Internet access as set out above.

Telephones

The Council has a range of telephony systems in place including VOIP that can monitor telephone usage. Monitoring reports provide management information regarding, for instance, percentage calls answered, % calls abandoned, answer times and answering performance by day, time, month and volume of calls. Many numbers dialled from the Council telephony system VOIP, and numbers calling into the Council telephony system VOIP, will be kept on record.

The Council reserves the right to monitor, at any time, all telephone usage (VOIP or number monitoring on other systems), including making or receiving personal calls with Council equipment, making or receiving work related calls on Council equipment. This right is reserved solely for the purpose of monitoring telephone usage as set out above.

Calls are not normally recorded apart from those in and out of, for example, the Contact Centre and the Out of Hours lines (CSESL - incorporating Community Alarms).

Operating Principles for Email Users

Some Council email accounts can be accessed from home or other remote locations. Council policies and guidelines apply regardless of where accounts are accessed. The Information Security Policy provides guidance on the collection, storage and use of all information assets and is available on FISH.

Always keep the following points in mind:

- Think carefully before personal or sensitive information (known as special category data) is sent by email including customer, client and staff information and anything that is considered commercially confidential. Even when using email within the Council network, Elected Members should not send sensitive material when they are unsure who will be opening the email or who might have proxy access to it.
- Always file a secure copy of business-critical email (received and sent messages) in client files for record-keeping purposes. Delivery confirmations cannot be guaranteed as proof of delivery for email messages sent across the Internet.
- Email must be archived and deleted appropriately.
- If working outside the office environment, take care to ensure that sensitive/special category data cannot be accessed by others e.g. paper or electronic files being

- read over your shoulder, easy access to computer files, or passwords.
- Beware of viruses; although software tools are in place to scan all email for viruses upon entry to the email system, Elected Members must take all reasonable steps to guard against viruses being introduced into the Council's computer system or the systems of third parties. In particular be careful with email attachments from unsolicited or unknown senders; if there are concerns do not open or run them. Files with an .exe file extension can be particularly damaging to Council systems.
 - Suspicious emails should not be opened, particularly where there is concern that a virus may be attached. Also staff should not forward/circulate emails warning of viruses – they may in fact be hoaxes. Such emails should be reported immediately to the IT Call Management Centre who will advise appropriate action.
 - Elected Members should also contact the IT Call Management Centre if there is a suspicion that a virus may have defeated the Council's defences and infected their PC. Further use of the computer should be avoided until the IT Call Management Centre has been notified.
 - The Council will post updates about suspect email messages on FISH.
 - Intentional introduction of viruses is a criminal offence under the Computer Misuse Act 1990.
 - Never distribute documents, pictures, music or works of others without the copyright owner's permission. Copying materials which are protected by copyright, without the permission of the copyright owner, is an offence which can give rise to both personal liability and liability on the part of the Council.
 - Do not enter into contractual commitments by email. Communicating by email is easy and informal and there is a danger that the communicating parties can be lulled into a false sense of security. This might lead individuals to form contractual obligations without following the set procedures for the formation of contracts.
 - Personal or confidential information should not be sent to personal email accounts as the council has no control over the security of these accounts. Email auto-forwarding to non-Council addresses should not be used. Elected Members who require access to email and other systems should use the Council's remote access systems for this purpose.

Emails relating to Council information should be retained within the Council email system. Emails relating to party political matters may be forwarded as appropriate.

Operating Principles for Internet Users

The Council has software and systems in place that monitor and record all Internet usage. Our security systems record (for every user) each Internet site visit and we reserve the right to do so at any time. No Elected Member should have any expectation of privacy as to his or her Internet access.

- A wide variety of materials may be considered offensive by colleagues, customers or suppliers. It is a violation of the Council's policy to store, view, and print or redistribute any document or graphic file that is not directly

related to the user's job or the Council's business activities if it may cause offence to others.

- Except where required by employment duties, the downloading or display of any kind of sexually explicit image or document or other offensive or obscene material, e.g. racist, homophobic, anti-religious, paedophilic, etc., on the Council's system, that may be capable of constituting any form of discrimination or criminal offence, may constitute a violation of the Councillors' Code of Conduct. In addition, sexually explicit or other offensive or obscene material should not be archived, stored, distributed, edited or recorded using our network or computing resources unless required by employment duties.
- The downloading or display of any kind of illegal material on Council systems is prohibited. In addition, such material should not be distributed, edited or recorded using our network or computing resources.

The Council has installed an Internet firewall to assure the safety and security of the Council's networks. We shall block access from within our networks to all such sites that we know of. If an Elected Member accidentally connects to a site that contains sexually explicit or other offensive or obscene material or illegal material, he or she must disconnect from that site immediately and inform the IT Call Management Centre that the access has been possible.

Elected Members must not use the Council's Internet and Intranet facilities to violate the laws and regulations of the United Kingdom or breach its International obligations. We shall co-operate with any legitimate law enforcement activity.

Any software or files downloaded via the Internet into the Council's network, with the exception of files with public or community ownership, become the property of the Council. Any such files or software may be used only in ways that are consistent with their licenses or copyrights.

No Elected Member may use the Council's Internet facilities to:

- Download or distribute pirated software or data
- Propagate any computer virus
- Disable or overload any computer system or network

Elected Members must take particular care to understand the copyright, trademark, defamation and public speech control laws, so that our use of the Internet does not inadvertently violate any laws which might be enforceable against us.

Any file that is downloaded must be scanned for viruses before it is run or accessed.

Elected Members may not use the Council's Internet facilities to download entertainment software or games, or to play games against opponents over the Internet unless for business-related use.

Elected Members with Internet access may not use the Council's Internet facilities to

download copyright images, music, or videos unless there is an express business-related use for the material.

Elected Members must not access the Internet using Council equipment by routes other than those approved by IT Service.

Responsibilities

Passwords are confidential and should be protected. Employees and Elected Members have a duty to ensure password security as detailed in the Password Management Policy.

By accessing Council systems using appropriate passwords etc, employees and Elected Members are agreeing to the restrictions on use outlined in this document. The Council will from time to time remind users of their responsibilities for Internet, telephone and email use. Users have a responsibility to familiarise themselves with relevant guidance such as this; the Councillors' Code of Conduct; the Council's Data Protection Policy and the Information Security Policy.



Elected Member Enquiries Procedure for Fife Council Staff

<u>Contents</u>	<u>Page</u>
Introduction	3
Background	3
Corresponding with Politicians/Civil Servants (new section?)_ - Helena	
Types of Enquiry	3
'Need to Know' Enquiries	3
Enquires of Behalf of Constituents	4
Business as Usual Requests	4
FOI/EIR Requests	5
Subject Access Requests	5
Conclusion	5
Appendix	6

1. **Introduction**

This procedure outlines the process for Fife Council employees to follow when they receive an enquiry from an elected member. In the majority of cases, this also applies to enquiries from MPs and MSPs (directly or on their behalf).

Enquiries can be received in writing, in person, by telephone, by email or online (for example through FifeDirect).

2. **Background**

There are many processes which may be relevant in dealing with an enquiry from an elected member and/or MP/MSP. This procedure aims to set out all these processes and provide guidance for staff on key factors which should be taken into account. Employees should be aware of any relevant timescales that apply and any logging requirements.

This procedure does not apply to complaints from elected member. If you have any queries about the complaints procedure and keeping an elected member informed in these circumstances then please contact the Escalation & Resolution Team: Escalation.Resolution@fife.gov.uk 01592 583593.

3. **Types of Enquiry**

The different types of enquiry as are follows:

Need to Know Enquiries

Enquiries on behalf of constituents

Business as Usual Requests

FOI/EIR Requests

Subject Access Requests (SAR)

The different type of enquiries, and the process for managing these, are outlined further below. A process map for identifying the relevant procedure is attached at the Appendix.

4. **Need to Know Enquiries – applies to Councillors only**

- 4.1 Elected Members have the rights to access information held by the Council where it is necessary to enable the member to properly perform their duties as

a councillor. This is known as the “Need to Know” principle. For example, if a councillor is a member of a particular committee then they have the right to inspect documents relating to the business of that committee. If they are not a member of that committee then the councillor would have to show good cause why sight of them is necessary to perform their duties.

4.2 If the Elected Member has accessed the information via the “Need to Know” principle then it is likely that this information is confidential and the elected member is bound by confidentiality. Therefore, they should not publish or otherwise disclose the information to a third party.

4.3 The decision whether the “Need to Know” principle applies, lies with the Head of Legal and Democratic Services. If you believe that an enquiry from an elected member falls within this category, then please contact the Head of Legal and Democratic Services or Committee Services Manager as soon as possible for advice.

5. Enquiries on behalf of constituents

5.1 As part of the enquiry process, elected members and MPs/MSPs/MEPs may request that they are provided with information about their constituent. This can include personal and / or sensitive personal data (now known as special categories of personal data).

5.2 When requesting information, elected members must provide confirmation, either via e-mail (from their councillor e-mail address or MP/MSP/MEP email address) or in paper format that:

- the elected member represents the ward/constituency in which the individual lives (or has a relevant wider remit);
- the elected member makes it clear that they are representing the individual in any request for their personal information;
- the information required is relevant to the subject matter of the enquiry; and
- the information is necessary to respond to the individual’s complaint/enquiry.

5.3 Where the enquiry meets the above criteria – there is no requirement for the elected member to provide a completed mandate from the constituent. This was agreed with elected members via the Cross Party Working Group in September 2015. However, where the response will contain medical information, staff may request a mandate signed by the constituent. To align with NHS requirements, Health and Social Care will require a mandate to disclose medical information.

5.4 Where an elected member (including MP/MSP/MEP) makes an enquiry for information about someone other than their constituent (for example, the

constituent's child or relative), in the absence of evidence to confirm that the constituent is acting on behalf of the third party, personal data should generally not be disclosed without the consent of the third party.

5.5 If you have any queries about the disclosure to an elected member in these circumstances then please contact the Data Protection Team:
dataprotection@fife.gov.uk.

6. Business as Usual Requests

6.1 Where you receive a request from an elected member (including MP/MSP/MEP) and you will be releasing ALL information within 20 working days then you may respond to the elected member as a business as usual enquiry.

6.2 This only applies where the enquiry is routine and the information requires no consideration or redaction.

6.3 The enquiry must be acknowledged within 2 days and fully responded to within two weeks, unless complex. If it is complex, you must advise the elected members of the reasonable timescales for responding (and within 20 working days).

6.4 It is recommended that you retain a copy of the original enquiry and the response.

7. FOI/EIR Requests

7.1 Where requests do not fall into the above categories, then it is likely that further consideration may be required, and exemptions may apply to the information. In these cases requests should be treated formally under the required process.

7.2 These requests are to be directed to information.requests@fife.gov.uk when received by the service.

7.2 Responding to requests under FOI/EIR should not add additional delays in responding to the request and in all instances, these also require to be responded to within 20 working days.

8. Subject Access Requests

8.1 In some cases, where the request requires copies of personal data to be provided, these will require to be managed in line with the Data Protection Legislation 2018.

8.2 This will relate to instances where information requires to be reviewed prior to release to remove any third party data that the applicant is not entitled to receive copies of.

8.3 These requests are to be directed to information.requests@fife.gov.uk when received by the service.

9. Conclusion

9.1 Given the different processes available for responding to elected member enquiries, it can be difficult for Fife Council employees to identify the correct process. Employees should consider this Procedure upon receipt of the enquiry and work through the Process Map at the Appendix.

8.2 The following contact details may be of assistance:

For FOI/EIR/SAR queries please contact:

Information.requests@fife.gov.uk

For all other data protection queries please contact:

dataprotection@fife.gov.uk

REVISION:

Date: 19 June 2019
0.1

Created by: F Stuart

Version:

Appendix

