

## Part 4 – Section 3 – Councillor/Officer Protocol

### 1 INTRODUCTION AND PRINCIPLES

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another; to define their respective roles, and to provide guidance for dealing with particular issues that may most commonly arise or cause concern.
- 1.2 Given the variety and complexity of such relations, the Protocol does not seek to be prescriptive and it may not cover all situations. It is hoped, however, that the general approach set out in this Protocol will serve as a guide in dealing with other issues that may not be specifically covered.
- 1.3 This Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these Codes is to enhance and maintain the integrity of local government by demanding very high standards of personal conduct.
- 1.4 Mutual respect between Members and Officers is essential to good local government. It is important in all dealings between Members and Officers that both should observe reasonable and consistent standards of courtesy and that neither party should seek to take advantage of their position. Close personal familiarity between individual Members and Officers can damage this relationship and prove embarrassing to other Members and Officers.
- 1.5 The relationship has to function without compromising the ultimate responsibilities of Officers to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that employees can legitimately provide to Members. This Protocol seeks to set a framework that assists the working relationships between Members and Officers.

### 2 ROLE OF MEMBERS AND OFFICERS

#### Members

- 2.1 The roles of Members and Officers are different, but complementary. Both Members and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council as a whole, and they are accountable to the Chief Executive. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council and Cabinet and the various Committees (including Locality Boards).
- 2.2 There are a number of crucial roles for Members. Four, in particular, can be summarised as follows:
  - 2.2.1 to provide strong leadership for communities and to contribute share to in the policy and budget decisions of the full Council, suggest policy improvements and scrutinise the Cabinet's policy proposals and their implementation;
  - 2.2.2 to monitor and review the Council's performance in implementing approved policy and in delivering services and projects;
  - 2.2.3 to represent their constituents, promoting and communicating the interests of the electorate within the Council decision making processes and dealing with their day to day problems and concerns as they arise;
  - 2.2.4 to represent the Council externally on joint committees, and on key partner and other outside bodies.
- 2.3 Members should not get involved in the day to day operational management of services. Equally, Officers should not get involved in politics.

#### Officers

- 2.4 Officers serve the whole Council. Officers support and advise the Council, and the constituent parts of its decision-making machinery; implement Council decisions and may themselves take decisions formally delegated to them through the approved Scheme of Delegation. All Officers are required to be politically neutral, and for senior Officers this is enforced through the political restrictions of the Local Government and Housing Act 1989. This position is also enshrined in the Council's Officers' Code of Conduct which forms part of the Council's Constitution.
- 2.5 Within this context, it is important to recognise the differing roles of certain Officers:
- 2.5.1 The Chief Executive and Corporate Directors form the Corporate Management Team, which provides a formal interface between Members and Officers, and which has a leading role in relation to policy co-ordination and performance management.
- 2.5.2 Assistant Directors and other Chief Officers are directly responsible for the day to day delivery of services within the Council's established policy and decision-making framework.
- 2.5.3 Officers within services themselves are primarily accountable to their Directors and when assisting Members should always do so within the parameters of whatever authority they have been given by their Director.
- 2.6 In particular, it should be recognised that Members do not, as elected or co-opted members, have any special immunity from civil or criminal wrongs that they may commit against fellow Members, Officers or members of the public. Members must ensure that they do not, therefore, for example, bully, harass, slander or libel another person. During public meetings of the Council, the Cabinet and Committees, statements made by Members may attract "legal privilege" which may be a defence to an action for defamation. Unlike Parliament and the Courts, local authorities only benefit from "qualified", rather than "absolute", privilege. As such there are conditions that must be met before qualified privilege will attach to a statement (including that Members should generally believe that statements they make are true and they should be made without malice).
- 2.7 Any member of the public (including Officers) can complain to the Council's Monitoring Officer about a Member's alleged breach of the Council's Members' Code of Conduct and / or bring private, civil action against a Member.

### **Members' Expectations**

- 2.8 Members can expect from Officers:
- 2.8.1 A commitment to the Council as a whole, and not to any political group.
- 2.8.2 A working partnership based on an understanding of and support for respective roles, workloads and pressures.
- 2.8.3 Reasonable and timely response to enquiries and complaints.
- 2.8.4 Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of Officers.
- 2.8.5 Regular, up to date information on matters that can reasonably be considered appropriate and relevant to Members' needs, having regard to any individual responsibilities that they have and positions that they hold.
- 2.8.6 Awareness of and sensitivity to the political environment.
- 2.8.7 Respect, dignity and courtesy and not acting in a discriminatory way through behaviour or speech.
- 2.8.8 Relevant training and development in order to carry out their role effectively.

- 2.8.9 Integrity, mutual support and appropriate confidentiality.
- 2.8.10 That Officers will not use their relationship with Members to advance their personal interests or to influence decisions improperly.
- 2.8.11 That Officers will at all times comply with the relevant Code of Conduct.
- 2.8.12 Support for the role of Members as the local representatives of the Council, within the parameters of support approved by the Council.
- 2.8.13 That Officers will promote equality of opportunity in all Council matters.

2.8.13 2.8.14 That Chief Officers keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting their ward.

### **Officers' Expectations**

2.9 Officers can expect from Members:

- 2.9.1 A working partnership based on an understanding of and support for respective roles, workloads and pressures.
- 2.9.2 Political leadership and direction.
- 2.9.3 Respect, dignity and courtesy and not acting in a discriminatory way through behaviour or speech.
- 2.9.4 Integrity, mutual support and appropriate confidentiality.
- 2.9.5 Not to be subject to bullying or harassment or to be put under undue pressure. Members should have regard to the seniority of Officers in determining what reasonable requests are, having regard to the relationship between Members and Officers, particularly at junior levels.
- 2.9.6 That Members will not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly.
- 2.9.7 That Members will at all times comply with the Members' Code of Conduct.
- 2.9.8 That Members will promote equality of opportunity in all Council matters.

### **Limitations on Behaviour**

2.10 The distinct roles of Members and Officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exhaustive list:

- 2.10.1 Close personal, as opposed to working, relationships between Members and Officers can confuse these separate roles and detrimentally affect the proper discharge of the Council's functions, not least by creating the perception in others that a particular Member or Officer may be securing advantageous treatment.
- 2.10.2 The need to maintain the separate roles means that there are limits to the matters on which Members may seek the advice of Officers, both in relation to personal matters and party-political issues.
- 2.10.3 Relationships with a particular individual or party groups should not be such as to create public suspicion that an Officer favours that Member or group above others. The issue of Officer attendance and advice to political groups is specifically covered at paragraphs 3.1 to 3.4 of this Protocol.

## **3 OFFICER ADVICE TO GROUPS OF MEMBERS**

- 3.1 It is common practice for political groups to give preliminary consideration to matters of Council business in advance of such matters being considered. As an example, the Council's monthly Notice of Forthcoming Key Decisions will identify the Key Decisions that the Cabinet will be considering. Individual Members and/or groups of Members may properly call upon Officers to support and provide factual advice to their deliberations. The support provided by Officers can take many forms, ranging from a briefing meeting prior to a committee meeting, to a presentation to a full group meeting. Briefing of political groups should only be undertaken by the Chief Executive or Directors, or otherwise with the approval of the Chief Executive.
- 3.2 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
- 3.2.1 Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of a 'political' nature. Officers are not expected to be present at meetings, or parts of meetings, where matters of political business are to be discussed.
- 3.2.2 Similarly, where Officers provide information and advice to a group of Members meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Cabinet, Overview and Scrutiny or other Committee meeting when the matter in question is considered.
- 3.3 Officers must respect the confidentiality of any group discussions at which they are present in the sense that they should not relay the content of any such discussion to another group of Members, unless specifically asked to do so by a member of the group to whom the duty of confidentiality is owed.
- 3.4 Any particular cases of difficulty or uncertainty in this area of Officer advice to groups of Members should be raised with the Chief Executive or, in their absence, the Council's Monitoring Officer, who will discuss them with the relevant Group Leader(s).

#### **4 OFFICER / MEMBER RELATIONSHIPS**

- 4.1 It is clearly important that there should be a close working relationship between Cabinet members and Committee members, including their Chairs, and the relevant Chief Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question an Officer's ability to deal impartially with other Members.
- 4.2 Whilst Cabinet Members will routinely be consulted as part of the process of drawing up agenda items for a forthcoming meeting, it must be recognised that in some situations an Officer will consider it their duty to submit a report on a particular matter. In these circumstances, an Officer will always be fully responsible for the contents of any report submitted in their name. Similarly, a Member will also be fully responsible for that part of any report submitted in their name. Any issues arising between a Member and an Officer in this area should be referred to the Chief Executive for their resolution. Where individual Members wish to place an item on a Cabinet agenda, they should notify the Chief Executive in accordance with **Part 3** of the Constitution.
- 4.3 It must be remembered that Officers within a Service are accountable to their Director and ultimately to the Chief Executive, and that whilst Officers should always seek to assist any Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director. Officers should also refer to **Part 3** (Responsibility for Functions) and Part 4, Section 2 ([Officers' Code of Conduct](#)) in the Council's Constitution for clarification about the bounds of their responsibility.

#### **5 UNDUE PRESSURE**

- 5.1 A Member should not apply undue pressure on an Officer to do anything which they are not empowered to do, or which is against the Officer's professional judgement, or to undertake work outside normal duties or normal hours.

- 5.2 Similarly, an Officer must not seek to influence an individual Member to make a decision in their favour, nor raise personal matters relating to their job, nor make claims or allegations about other Officers, except in accordance with any agreed Council procedure or in accordance with law. Members who receive any such approach from an Officer should advise the Chief Executive immediately.

## **6 GRIEVANCES OR COMPLAINTS**

### **Procedure for Officers**

- 6.1 From time to time the relationship between Members and Officers may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or Member, Officers will have recourse to the Grievance Procedure where the matter concerns their employment, or to the Council's Monitoring Officer as appropriate in the circumstances. In the event of a grievance or complaint being upheld, the matter will be referred to the Chief Executive who, having advised the Leader of the Council and the appropriate group leader, will decide on the course of action to be taken.

### **Procedure for Members**

- 6.2 In the event that a Member is dissatisfied with the conduct, behaviour or performance of an Officer, they should not raise the matter in public or before the press, as Officers have no means of responding to the same in public. The matter should be raised with the appropriate Corporate Director. Where the Officer concerned is a Director, the matter should be raised with the Chief Executive. Where the Officer concerned is the Chief Executive, the matter should be raised with the Monitoring Officer. If the matter cannot be resolved informally, it may be necessary to invoke the Council's disciplinary procedure.

## **7 MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS**

- 7.1 Subject to the Access to Information Procedure Rules, Members are free to approach the appropriate Service to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent. Such approaches should be directed to the Corporate Director, Assistant Director or other nominated representative. If Members wish to visit Officers, they should contact the Corporate Director or Assistant Director to make arrangements whenever possible.
- 7.2 With respect to the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law, and are subject to the [Access to Information Procedure Rules](#).
- 7.3 The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a member has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.
- 7.4 The information sought by a Member should be provided in a timely manner. It should only be provided by the respective Directorate as long as it is within the limits of the Directorate's resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.
- 7.5 It is important for Chief Officers to keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the areas that they represent. It is expected that Members will be kept informed about proposals that affect their ward and should also be invited to attend Council initiated events within their ward.
- 7.6 If a Member asks for specific information relating to the work of a particular Department, and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate Cabinet Member or Committee Chair concerned should be advised about the information provided.
- 7.7 Any Member may apply in confidence to the Chief Executive or appropriate Chief Officer for procedural advice or information to address a constituency issue.

- 7.8 The Code of Conduct provides that a Member must not disclose information given to the Member in confidence by anyone, or information which the Member believes, or ought reasonably to be aware, is of a confidential nature except where:
- 7.8.1 the Member has the consent of a person authorised to give it;
  - 7.8.2 the Member is required by law to do so;
  - 7.8.3 the disclosure is made to a third party for the purposes of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - 7.8.4 the disclosure is reasonable and in the public interest and made in good faith and in accordance with the law.
- 7.9 In order to safeguard against possible breaches of the Data Protection Legislation (which applies to all information of a personal nature) a member should always seek advice from the Chief Executive or Monitoring Officer before disclosing confidential information. Generally personal information cannot be released without the consent of the person to whom it relates. Improper disclosure of confidential information can put the member and the Council at legal and financial risk.

## **8 ATTENDANCE OF OFFICERS AND MEMBERS AT OVERVIEW AND SCRUTINY COMMITTEES**

- 8.1 The Local Government Act 2000 empowers an Overview and Scrutiny Committee to require Cabinet Members and Officers to attend meetings of the committee and answer questions. It is the statutory duty of Members and Officers to comply with such requests. This statutory position is reflected in the [Overview and Scrutiny Procedure Rules](#) and, in general, should only need to be exercised in relation to senior Officers, namely Corporate Directors, Assistant Directors, third tier or other appropriate senior Officers.
- 8.2 It is important for the reputation of the Council that Overview and Scrutiny Committees use this power in a responsible and constructive manner which will assist the Committee in its work.
- 8.3 The [Overview and Scrutiny Procedure Rules](#) contain requirements relating to the giving of proper notice to the Member or Officer concerned. It is important that care is taken to identify the relevant Officer who is best equipped to help the committee in its work. That will not necessarily be the Chief Officer. Where there is any doubt the Chairman of the Overview and Scrutiny Committee concerned should consult with the relevant Chief Officer to identify the appropriate Officer.
- 8.4 Overview and Scrutiny Committees must always treat a Member or Officer appearing before it with respect and courtesy. The Member or Officer is there to help the Committee with its work and a positive and constructive approach should be taken by all parties. Committees should in particular refrain from any personal criticism. Chairs of Overview and Scrutiny Committees have a particular responsibility in setting the tone of the meeting to ensure this protocol is followed.
- 8.5 Overview and Scrutiny Committees should always bear in mind that when Officers appear to answer questions their evidence should, so far as possible, be confined to questions of fact and explanation relating to policies and decisions.
- 8.6 Officers may explain: what the policies are; the justification and objectives of those policies as the Cabinet sees them; the extent to which those objectives may have been met; and how administrative factors may have affected both the choice of policy measures and the manner of their implementation.
- 8.7 Officers may be asked to explain and justify advice they have given to Cabinet Members prior to decisions being taken and they may also be asked to explain and justify decisions they themselves have taken under delegated powers.
- 8.8 Officers should not be drawn into discussion of the merits of alternative policies where this is politically contentious. Any comment by Officers should always be consistent with the requirement to be politically impartial.

## **9 SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS**

- 9.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, email, internet, photocopying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

## **10 CORRESPONDENCE**

Official letters entering into formal commitments on behalf of the Council should be sent in the name of the appropriate employee, rather than over the name of a Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member. It may be appropriate in some circumstances for a letter to be sent in the name of a member, for example in response to a letter of complaint sent direct to that member. But this should be the exception rather than the norm and it should only be done following consultation with the Chief Executive or appropriate Corporate Director.

## **11 MEDIA**

- 11.1 Communication with the media can be an important part of a Member's workload. In general, Members provide comment and views, as appropriate to their role, while employees provide factual information. If a Member has any queries regarding liaison with the media, they should contact the appropriate officer concerned or the Press Office.
- 11.2 Members are reminded that they must not use Council resources to publish any material that (in whole or in part) appears to be designed to affect public support for a political party.

## **12 WARD MEMBERS**

Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. More generally, Officers should consider whether other policy or briefing papers or other topics being discussed with a Cabinet Member should be discussed with relevant Ward Members. Officers should seek the views of the appropriate Cabinet Member(s) as to with whom and when this might be done.

### **Cabinet Briefings**

- 13 Cabinet members meet occasionally with Officers to discuss agendas and items of business to be considered at Cabinet meetings. These meetings are Informal meetings which are outside formal procedures for decision making as set out in the Councils Constitution.

## **13 14.CONCLUSION**

It is hoped that, by following good practice and securing sensible and practical working relationships between Members and Officers, we can provide one of the cornerstones of a successful Local Authority and thereby enhance the delivery of high value quality services to the people within the Council's area. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Officers.