

A PROTOCOL FOR MEMBER/OFFICER RELATIONS

1. Introduction

- (1) The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another.
- (2) Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped that the approach which it adopts to these issues will serve as a guide to dealing with other issues.
- (3) This protocol also reflects the Codes of Conduct which apply to Members and Officers. Those codes seek to enhance and maintain the integrity (real and perceived) of local government and they therefore demand very high standards of personal conduct.

2. Roles of Councillors and Officers

- (1) Both Councillors and Officers serve the public. They depend on one another, but their responsibilities are distinct. Councillors are responsible to the electorate and are responsible for setting policy. Officers are responsible to the Council: their job is to give advice to Councillors and the Council and to carry out the Council's work under the direction and control of the Council and its Committees.

(It should be noted that, under the law, responsibilities can be delegated by Council to Committees, Sub-Committees or individual named Officers, but not to individual Members under the "Alternative Arrangements" detailed in this Constitution).

- (2) Mutual respect between Councillors and Officers is essential to good local government. Close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.

- (3) Members must, however, respect the impartiality and integrity of all the Council's Officers. Similarly, Officers must respect the role of Members as elected representatives. It is important that any dealings between Members and Officers should observe proper standards of courtesy and that neither party should seek to take unfair advantage of their position.

3. Members' Access to Information and Council Documents

- (1) The Council believes in open government. Information will generally be freely available to all Members.
- (2) This approach has to be qualified, however, in relation to certain appropriately confidential information. Moreover, devoting a significant amount of staff resources to identify and collate information of marginal benefit could not be justified.
- (3) Where, in a Principal Officer's view, a request for information will require a significant amount of staff resources to provide the information, which he/she feels unable to commit, he/she should seek guidance from the Deputy Chief Executive so that a satisfactory solution, in consultation with Members, can be found. In the event of a dispute, a decision will be made by the Chief Executive in consultation with the Leader of the Council.
- (4) Members have a statutory right to inspect any Council document which contains material in relation to any business which is to be transacted at a Council, Committee or Working Party meeting. This right applies irrespective of whether the Member is a Member of the Committee or Working Party concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers.
- (5) In addition to inspection of reports to Council, Committees and Sub-Committees, and papers on which the production of those reports relied, which are available to the public under the Access to Information legislation, the common law right of Members is much broader. It is based on the principle that any Member has a right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council.

- (6) The proper exercise of this common law right depends on whether it is reasonably necessary for the Member to have the information in order properly to perform his/her duties. The propriety of a request for information must initially be determined by the Deputy Chief Executive. In the event of a dispute, a decision on the point will be made by the Monitoring Officer in consultation with the Chairman of the Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee.
- (7) Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as a Member of the Council. A Member should never disclose or use confidential information for the personal advantage of him/herself or of anyone known to him/her, or to the disadvantage or discredit of the Council or anyone else.

4. Breach of Confidentiality

Any unauthorised disclosure of confidential information constitutes a breach of the Code of Conduct for Members. In this event, the Monitoring Officer shall refer the matter to the Standards Board for consideration.

5. Personal Abuse or Unfair Criticism

- (1) Members shall abide by the Council's Code of Conduct.
- (2) Officers, whether individually or collectively, shall not be the subject of personal abuse or unfair criticism in connection with any statements made by them which are made within their professional remit, for example at any meetings of full Council or any Committee or Working Party. Where the Monitoring Officer considers that this part of the protocol has been breached, he/she shall report the matter to the next meeting of the Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee.
for consideration and onward recommendation to Council.

- (3) Similarly, Members shall not be the subject of personal abuse or unfair criticism by Officers. Where the Monitoring Officer considers that this part of the protocol

has been breached, he/she shall report the matter to the Head of Paid Services and Head of Human Resources for consideration under the Council's Disciplinary Procedures.

6. Officer Advice to Committees, Working Parties and Political Group Meetings

- (1) It is essential that such advice is impartial and to the highest professional standard. In order to ensure such standard is maintained, the Head of Paid Service will determine which Officers should attend political group meetings. (Service Leads will decide who should attend Committees, Sub-Committees and Working Parties).
- (2) There is now statutory recognition for political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making bodies. Officer support is available to all political groups and individual Members. Any request for Officer support should be made to the relevant Service Lead.
- (3) Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:-
 - (i) 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 political group business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of political group business are to be discussed.
 - (ii) Political 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.

- (iii) Similarly, where Officers provide information and advice to a political 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 when the matter in question is considered.
- (iv) Special care needs to be exercised whenever Officers are involved in providing information and advice to a political group meeting which includes persons who are not members of the Council. Such persons will not be bound by the Council's Code of Conduct for Members (in particular, the provisions concerning the declaration of interests and confidentiality) and, for this and other reasons, Officers may not be able to provide the same level of information and advice as they would to a Members-only meeting.
- (v) Officers must respect the confidentiality of any political group discussions at which they are present. They should not relay the content of any such discussion to another political group or to any individual.
- (vi) Any particular cases of difficulty or uncertainty in this area of Officer advice to political groups should be raised with the Head of Paid Service who will discuss them with the relevant group leader(s).

7. Support Services to Members and Political Groups

- (1) The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, 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 political or campaigning activity or for private, business or social purposes.
- (2) Any private use of telephones and fax machines or the Council's Internet services must be reported to the ICT Manager and a charge for this use may be made.

8. Officer/Policy and Resources Committee/Member/Chairman Relationships

- (1) It is clearly important that there should be a close working relationship between Policy and Resources Committee Members, the Chairmen of Committees, the Chief Officers, Service Leads and Principal Officers of any Service Area who report to the Policy and Resources Committee or other Committees. However, such relationships should never be allowed to become so close, or appear to be so close as to bring into question the Officers' ability to deal impartially with the Member(s) concerned or other Members.
- (2) On those occasions when the Leader of the Council or Chairman of a Committee (as appropriate) is consulted as part of the process of drawing up the agenda for a forthcoming meeting, the Head of Paid Service concerned will have ultimate responsibility for the final content of that agenda because settling the agenda constitutes an executive act which cannot be delegated to an individual Member.

(**Note:** If full Council, a Committee or Sub-Committee has previously instructed that a specific matter should appear on a future agenda, then that item will automatically appear, because that instruction is an executive act).
- (3) Similarly, the Chief Executive, Deputy Chief Executive, Service Lead or Principal Officer will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between a Chairman and an Officer in this area should be referred to the Head of Paid Service for resolution, in consultation with the Chairman of the Council.
- (4) In relation to action between meetings, it is important to remember that the law only allows for decisions (in relation to the discharge of any of the Council's functions) to be taken by a Committee or an Officer.
- (5) Finally, it must be remembered that Officers within a Service Area are accountable to their Principal Officer and that whilst Officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given.

9. Officers' Delegated Powers

- (1) The Council gives delegated authority to certain Senior Officers to act on the Council's behalf. The terms of that authority frequently require the Officer to consult certain Members, e.g. the Chairman of a Committee. In other cases, the Officer should decide whether to consult, as a matter of courtesy.
- (2) If a matter relates solely to a particular Ward, the Officer with delegated authority shall consult the appropriate Ward Member(s), subject to the provisions of paragraph (1) applying.

10. Correspondence

(1) Correspondence between an individual Member and an Officer should not be copied by the Officer to any other Member without the Member's consent. However, where such correspondence concerns Council policy, or the interpretation of Council policy, in this instance a copy should be sent to the Leader of the Council and Chairman of the relevant Committee, together with the Chief Executive, Deputy Chief Executive and relevant Service Lead and Principal Officer, and this should be made clear to the original Member. Under no circumstances should 'silent copies' be made available to a third party, and copies should only be sent to third parties with the express permission of the Member involved.

(2) Official letters on behalf of the Council should normally be sent out over the name of the appropriate Officer, rather than over the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear over the name of a Member, but this should be the exception rather than the rule. Moreover, it is not legal for letters which, for example, create obligations or give instructions on behalf of the Council to be sent out over the name of a Member, as this would constitute an executive act, which cannot be delegated to an individual Member.

11. Involvement of Ward Councillors

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 consultation exercise on a local issue, the Ward Members should be notified at the outset of the exercise.

12. Presentation of Council Policy and Practice

All Officers are expected to explain and promote Council policy and practice, but not to engage in party political disputes. Where there is, or is likely to be, criticism, from whatever source, of Council policy and practice, it is incumbent on Officers to assist the Council in explaining and promoting the particular policy or practice in issue.