

MEMBER/OFFICER RELATIONS PROTOCOL

1. INTRODUCTION

- 1.1 Mutual trust and respect between Members and Officers is at the heart of the Council's good governance. They are essential if the partnership necessary for the effective running of the Council is to succeed.
- 1.2 The [Member] Code of Conduct states 'You must promote and support high standards of conduct when serving in your public post, in particular as characterised by leadership and example. You should have regard to the Council's guidance in Protocols on the conduct between officers and members and the conduct when serving on outside bodies.'
- 1.3 The most common contacts are between Councillors and senior employees at Director or Heads 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 at para.15 of this Protocol.
- 1.4 This Protocol guides Members and Officers of the Council in their relations with one another. Members and Officers have a responsibility to act fairly, honestly, in good faith and in an impartial way to meet the specified objectives of the Council. Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues, which most commonly arise. It is hoped however, that the approach, which it adopts to these issues, will serve as a guide to dealing with other issues. This Protocol supplements respectively the [Member] and [Employee] Codes of Conduct.

2. PRINCIPLES

- 2.1 Members and Officers 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.
- 2.2 Whilst Members and Officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as long as their term of office lasts. 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, employees may properly be called upon to assist the deliberations of political groups and also to help individual Members in their different roles. The Directors and Senior Officers have ultimate responsibility to ensure that the Council's responsibilities are implemented.

3. THE ROLE OF MEMBERS

- 3.1 Members 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, Members may wish to seek the advice of senior colleagues, or the Monitoring Officer.
- 3.2 Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the Council's policy framework, strategic plans and budget.
- 3.3 Members 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.
- 3.4 Every elected Member 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 outside bodies.
- 3.5 Members have personal, individual, and collective responsibility for the Council, as a local authority organisation and its activities. Members will therefore concern themselves with the performance, development, continuity and overall well-being of the Council.
- 3.6 As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Members, they have a duty always to act in the public interest.
- 3.7 Members are not authorised to instruct Officers other than:
- through the formal decision-making process;
 - to request the provision of consumable resources provided by the Council for Members' use;
 - where staff have been specifically allocated to give support to a Member or group of Members.
- 3.8 Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
- 3.9 Members must avoid taking actions, which are unlawful, financially improper or likely to amount to maladministration. When reaching decisions, Members should have regard to any advice provided by the Monitoring Officer or the Section 151 Officer.
- 3.10 Members must respect the impartiality of Officers and do nothing to compromise it, e.g. by insisting that an Officer change his/her professional advice.
- 3.11 Members should always deal with Officers in such a way as to preserve public confidence in the Council. It is equally important for Members to work with each other positively and with mutual respect. Whilst robust debate, challenges and party allegiances are integral to normal political life, it is not appropriate for Members to treat a colleague or an Officer with contempt, or hurl personal abuse to, or, physically attack a colleague or an Officer. Members must seek to act

courteously and with integrity at all times and set high standards that Officers and members of the public can follow.

- 3.12 In the conduct of Council business, there should be mutual respect and courtesy at all meetings and contacts, both formal and informal, between Members and Officers.
- 3.13 Members should avoid undermining respect for Officers at Council meetings, or in any public forum. This would be damaging both to effective working relationships and to the public image of the Council.
- 3.14 Members and Officers have a duty to raise any issues where they have reason to think that fraud/probity, corruption or malpractice of any sort is involved within the workplace and are encouraged to raise their concerns through the Council's Whistleblowing Policy.

4. THE ROLE OF OFFICERS

- 4.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, Officers will take into account all available relevant factors.
- 4.2 Under the direction and control of the Council and its committees, Officers 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.
- 4.3 Officers have a duty to implement decisions of the Council and its committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's Constitution, and duly minuted.
- 4.4 Officers 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.
- 4.5 Officers 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 Council as expressed in the Council's formal decisions.
- 4.6 Officers must be alert to issues, which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
- 4.7 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on Officers' involvement in political activities.
- 4.8 Officers serve the Council through its committees etc. They work to the instructions of their Director and/or Manager - not individual Members of the Council, whatever office the Member might hold. It follows therefore, that Officers must not be asked to exceed the bounds of authority they have been given by their Director and/or Manager, nor should they have unreasonable demands placed on them, in terms of support to an individual Member or Members. Officers will do their best to give timely responses to Members' enquiries.
- 4.9 Officers' work priorities are set and managed by their Managers or Director.

Members should avoid disrupting Officers' work by imposing their own priorities.

- 4.10 Except when the purpose of an enquiry is purely to seek factual information, Members should normally direct their requests and concerns to a Senior Officer or Director, at least in the first instance.
- 4.11 Members are entitled to all reasonable assistance from Officers in support of their role as Council representatives on outside bodies. Such assistance will include the provision of information about the body and the identification of a contact Officer to be available for briefing purposes and to assist the Member in reporting back to the Council on the activities of the body.

5. THE RELATIONSHIP BETWEEN MEMBERS AND OFFICERS

- 5.1 The conduct of Members and Officers should be such as to instil mutual confidence and trust. The key elements are 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.
- 5.2 Informal and collaborative two-way contact between Members and Officers is encouraged, but personal familiarity can damage the relationship, as might a family or business connection.
- 5.3 Members and Officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 5.4 It is not enough to avoid actual impropriety. Members and Officers 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 where conflict could be perceived. Specifically, a Member should not sit on a body or participate in any decision, which directly affects the Officer on a personal basis.
- 5.5 Officers serve the Council as a whole. They have a duty to implement the properly authorised decisions of the Council.
- 5.6 Members and Officers should respect each other's free (i.e. non-Council) time.
- 5.7 Officers can expect from Members:
 - political leadership and direction;
 - respect, dignity and courtesy;
 - an understanding of and support for respective roles, workload and pressures;
 - not to be subjected to bullying;
 - not to be harassed or placed undue pressure;
 - not to use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly;
 - to comply with the [Member] Code of Conduct.
- 5.8 Members can expect Officers to:
 - a. behave in a professional manner and courteous manner;
 - b. be helpful and respectful to Members;

- c. maintain confidentiality;
- d. perform their duties effectively, efficiently and with political neutrality;
- e. avoid personal close familiarity with Members and not use their relationship with Members to advance their personal interests or to influence decisions improperly;
- f. report to their Director any time that a Member asks or pressurises the Officer to deal with a matter outside of Council procedure or policy;
- g. demonstrate an understanding of and support for respective roles, workload and pressures;
- h. comply with the Employee Code of Conduct.

5.9 Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person whom the Member has some actual or perceived influence over. This can be contrasted with the legitimate challenges, which a Member can make in challenging policy or scrutinising performance. It is important that Members raise issues about poor Officer performance in the correct way and proper forum.

5.10 Members must not intimidate or attempt to intimidate any Officer who is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings relating to a failure to comply with the [Member] Code of Conduct.

5.11 A Member who is unhappy about the actions taken by, or conduct of, an Officer should:

- 1. avoid personal attacks on, or abuse of, the Officer at all times;
- 2. ensure that any criticism is well founded and constructive;
- 3. never make a criticism in public; and
- 4. take up the concern with the Officer privately.

If direct discussion with the Officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the Member should raise the issue with the Officer's Manager or the relevant Director.

5.12 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.

6. THE COUNCIL AS EMPLOYER

6.1 Officers are employed by the Council.

6.2 Members' roles are limited to:

- (a) the appointment of specified senior posts;
- (b) determining human resources policies and conditions of employment for specified posts, and
- (c) hearing and determining appeals for specified posts.

Members will not act outside these roles.

6.3 If participating in the appointment of Officers, Members should:

- i. remember that the sole criterion is merit;
- ii. never canvass support for a particular candidate;
- iii. not take part where one of the candidates is a close friend or relative;
- iv. not be influenced by personal preferences; and
- v. not favour a candidate by giving him/her information not available to the other candidates.

6.4 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.

7. SCRUTINY COMMITTEE AND OFFICERS

7.1 The Scrutiny Committee or the Committee Chairman acting on its behalf, may require Officers to attend meetings. Members should not normally expect junior Officers to give evidence. All requests should be made to Directors in the first instance.

7.2 When making requests for Officer attendance, Scrutiny Committee members will have regard to the workload of Officers.

7.3 Officers required to appear before the Scrutiny Committee may often be those who have advised the Cabinet or another part of the Council on the matter to be scrutinised. In these circumstances, the Officer may have a conflict of interest. Both Members and Officers need to consider the severity of the conflict. If deemed appropriate, research and advice must be sought elsewhere.

7.4 In giving evidence to the Scrutiny Committee, Officers must not be asked to express political views.

7.5 Officers should respect Members in the way they respond to Members' questions.

7.6 Members should not question Officers in a way, which could be interpreted as harassment or bullying. Neither should they ask about matters of a disciplinary nature.

7.7 Scrutiny proceedings must not be used to question the capability or competence of Officers. Members need to make a distinction between scrutinising the policies and performance of the Council and its services, and appraising the personal performance of staff. The latter is not a scrutiny function.

8. POLITICAL GROUPS AND OFFICERS

8.1 The Council operates through a system of groups of councillors, based on political affiliation. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner. Officers must at all times, maintain political neutrality.

- 8.2 The support provided by Officers can take many forms, ranging from the meeting with a Chairman and Vice-Chairman before a committee meeting to a presentation to a full political group meeting. Whilst in practice such support is likely to be in most demand from whichever political group is for the time being in control of the Council, it should be available to all political groups. The advice given by Officers to different political groups should be consistent.
- 8.3 Certain matters must, however, be clearly understood by all those participating in this type of process, Councillors and Officers alike. In particular:-
- 8.3.1 Officer attendance at group meetings must be approved in advance, by the the relevant Director.
- 8.3.2 Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers will 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.
- 8.3.3 Political group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal Council decisions. The presence of an Officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.
- 8.3.4 Where Officers provide factual information and advice to a political 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 committee of the Council.
- 8.3.5 It must not be assumed that an Officer is supportive of a particular policy or view considered at a political group meeting simply because he/she has attended or provided information to the meeting.
- 8.3.6 Officers will respect the confidentiality of any political group discussions at which they are present and, unless requested to do so by that political group, will not relay the content of such discussions to another party group or to other Members. This will not prevent an Officer providing feedback to other Officers on a need-to-know basis. Factual information upon which advice is based will, if requested, be available to all political groups.
- 8.3.7 The duration of an Officer's attendance at a political group meeting will be at the discretion of the group, but an Officer may leave at any time if he/she feels it is no longer appropriate to be there.
- 8.3.8 An Officer accepting an invitation to any one political group meeting will not decline an invitation to advise another group about the same matter.
- 8.3.9 Officers should be given the opportunity of verifying comments and advice attributed to them in any written record of a political group meeting.
- 8.3.10 No Member will refer in public or at meetings of the Council, to advice or information given by Officers to a political group meeting.
- 8.3.11 At political group meetings, where some of those present are not members of the

Council, care must be taken not to divulge confidential information relating to Council business.

8.3.12 Members must not do anything which compromises or is likely to compromise Officers' impartiality.

8.4 Special care needs to be exercised whenever Officers 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 Members and employees] (in particular, the provisions concerning the declarations of interest 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.

8.5 Should any difficulty or uncertainty arise in the area of Officer advice to political groups, this will be raised with the relevant Director who should discuss the matter with the group leader.

9. WARD MEMBERS AND OFFICERS

9.1 To enable them to carry out their ward role effectively, Members need to be fully informed about matters affecting their ward. Directors and Senior Officers must ensure that all relevant staff are aware of the requirement to keep local Members informed, thus allowing Members to contribute to the decision-making process and develop their representative role. This requirement is particularly important:

- (1) during the formative stages of policy development, where practicable;
- (2) in relation to significant or sensitive operational matters;
- (3) whenever any form of public consultation exercise is undertaken, and
- (4) during a scrutiny investigation.

9.2 Issues may affect a single ward. Where they have a wider impact, a number of local Members will need to be kept informed.

9.3 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the wards affected, should be invited to attend the meeting as a matter of course.

9.4 If a local Member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he/she should inform the relevant Officer. Provided the meeting has not been arranged on a party political basis:

- i. an Officer may attend, but is not obliged to do so; and
- ii. the meeting may be held in Council-owned premises.

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

9.5 Whilst support for Members' ward work is legitimate, care should be taken if Officers are asked to accompany Members to ward surgeries. In such circumstances:

- the surgeries must be open to the general public; and
- Officers should not be requested to accompany Members to surgeries held in the offices or premises of political parties.

9.6 Officers must never be asked to attend ward or constituency political party meetings.

9.7 In seeking to deal with constituents' queries or concerns, Members should not seek to jump the queue, but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested timescale, and may need to seek instructions from their Managers or Director.

9.8 Officers must treat all Councillors fairly and openly in their role as local representatives.

10. OFFICER/COMMITTEE CHAIRMAN RELATIONSHIP

10.1 It is clearly important that there should be a close working relationship between the Chairman of the committees of the Council and the Director and Senior Officers of the Department, which reports to that body. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question, the Officer's ability to deal impartially with other Members and other party groups.

10.2 Whilst the Chairman will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, in some situations, a Director will be under a duty to submit a report on a particular matter. Similarly, a Director will always be fully responsible (and retains ultimate responsibility) for the contents of any report submitted in his/her name. Any issues arising between a Chairman and a Director in this area, should be referred to the Managing Director for resolution.

10.3 Committee Chairmen are recognised as the legitimate elected spokesperson on their committees' areas of responsibility. Where authority is delegated to Officers (under the Scheme of Delegations to Officers), they will often wish to consult the relevant Chairman about the action which they propose to take, but the responsibility for the final decision remains with the Officer who is accountable for it.

10.4 A resolution may be passed at meetings which authorises an Officer to take action between meetings in consultation with the Chairman/Leader/Portfolio Member etc. Whilst such action is sometimes (incorrectly) referred to as 'Chairman's action', it is the Officer, not the Chairman, who takes the action and is responsible for it. Under the Council's Constitution, a Member has no legal power to take decisions on behalf of the Council and its committees etc.

10.5 Officers within a Directorate are accountable to their Director and whilst Officers should always seek to assist a Chairman (or indeed any Member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director. Officers are ultimately responsible to the Head of the Service.

11. THE MAYORALTY

11.1 The Mayor has a representative role on behalf of the Council and the Borough to local residents and those who work or study in the Borough. The position is non-political. It is reasonable for the Mayor to be supportive of local business, but the office should not be used for commercial promotions and the Mayor should not use his/her office, nor Officers, to by-pass recognised systems of working.

12. MEDIA RELATIONS

- 12.1 All formal relations with the media must be conducted in accordance with the Council's agreed procedures and the law on local authority publicity.
- 12.2 Press releases or statements made by Officers 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 political group.

13. COMMUNICATIONS

- 13.1 Communications between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of 'silent/blind copies' should not be employed.
- 13.2 Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister), for a letter to appear in the name of a Cabinet member, or Chairman of a committee, but this should be the exception rather than the norm. 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.

14. USE OF COUNCIL FACILITIES AND RESOURCES

- 14.1 The only basis on which the Council can lawfully provide support services to Members (e.g. stationery, typing, printing, photocopying, transport, computers etc), is to assist them in discharging their role as members of the Council.
- 14.2 Members should not approach or pressure staff to carry out duties or provide resources or support in a biased or partisan way. Examples are:
1. business which is solely to do with a political party;
 2. work in connection with a ward or constituency party political meeting;
 3. electioneering;
 4. work associated with an event attended by a Member in a capacity other than as a member of the Council;
 5. private personal correspondence;
 6. work in connection with another body or organisation where a Member's involvement is other than as a member of the Council; and
 7. support to a Member in his/her capacity as a councillor of another local authority.

15. EMPLOYEES SUPPORTING COUNCILLORS

- 15.1 Where the relevant Director arranges for Officers staff to support Members directly in carrying out their duties, particular considerations apply. Such employees are normally involved in administrative and practical support of Members. While such staff may operate to the requirements of individual Members 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.

15.2 Officers may receive and handle messages 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.

16. COMPLAINTS AND ALLEGATIONS OF BREACHES OF THIS PROTOCOL

16.1 If a Member believes an Officer may have acted other than in accordance with this Protocol, he/she should raise their concern with the relevant Director who will consider how the complaint or allegation should be dealt with. A breach of this Protocol by an Officer, may lead to an investigation under the Council's Disciplinary Policy and Procedure.

16.2 If an Officer believes a Member may have acted other than in accordance with this Protocol, he/she should raise their concern with the Monitoring Officer who 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 result in an investigation and a hearing before the Hearing Panel.

17. OVERSEEING COMPLIANCE WITH THIS PROTOCOL

The Audit Board oversees compliance with this Protocol.

18. FURTHER GUIDANCE

Further advice or clarification can be sought from the Monitoring Officer or the Head of Legal Services.

Adopted by the General Assembly of the Council - 30 July 2007 [Min.No.52]
Agreed by Cabinet – 25.04.2013 [Min. No. 181]
Reviewed and adopted by the Audit Board 13.5.2013 [Min.No.5]
Reviewed under Strategic Directors' delegated authority – 29 June 2020