



PART 5 - CODES AND PROTOCOLS

PART 5C – PROTOCOL FOR MEMBER/OFFICER RELATIONS

1. Introduction - Respective Roles of Members and Officers

- 1.1 The purpose of this protocol is to guide members and officers of the Council in their relations with one another.
- 1.2 This protocol reflects the principles underlying the Code of Members' Conduct. The object of that Code is to enhance and maintain the integrity (real and perceived) of local government and demands high standards of personal conduct.
- 1.3 The Code of Members' Conduct (part 3 General Obligations) provides, inter alia, that :
 1. *You must treat others with respect*
 2. *You must not:*
 - (a) *do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006).;*
 - (b) *bully any person; and*
 - (c) *do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Council.*
6. *You:*
 - (a) *must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;*
7. (1) *When reaching decisions on any matter you must:*
 - (a) *have regard to any relevant advice provided to you by the authority's Officers – in particular by:*
 - (i) *your authority's chief finance officer; or (ii) your authority's monitoring officer,*

where that officer is acting pursuant to his or her statutory duties.

1.4 In line with the Code's reference to "respect" it is important that in any dealings between Members and Officers the parties should be courteous and that neither party should seek to take unfair advantage of his or her position.

1.5 The fundamental principles essential for ensuring proper relationships between Members and Officers are:

- (i) the political neutrality of Officers; and
- (ii) a clear understanding of, and respect for, their distinct roles.

2. **Political Neutrality**

2.1 The primary responsibility of any Officer is to serve the Council as a corporate body. Where this duty conflicts with any duty to individual Members of the authority then the duty to the Council shall prevail.

2.2 Officers must act apolitically, whether or not they hold politically restricted posts, and Members must try to avoid putting Officers, whether intentionally or otherwise, in situations where their political neutrality might be compromised or appear to be compromised. This would include actions such as applying pressure on an Officer to alter the presentation or substance of their advice in reports.

3. **Officers as Employees**

3.1 Officers are employed by the Council as a corporate body.

3.2 The Employment Rules (Part 4F of the Constitution) deal with the appointment, disciplining and dismissal of officers. In general terms members shall not be involved in such matters other in respect chief officers, deputy chief officers, statutory officers and political assistants.

3.3 Members can expect Officers to:

- Maintain confidentiality where necessary and lawful
- Perform their duties effectively, efficiently and with political neutrality
- Behave in a professional and courteous manner
- Be helpful to Members and respect their role
- Avoid close personal familiarity with Members and not use their relationship with Members to advance their personal interests or to influence decisions improperly
- Report to the Strategic Director any time a Member asks or pressurises the Officer to deal with a matter outside of Council Procedure or policy
- Demonstrate an understanding of and support for respective roles, workloads and pressures
- Comply with any relevant code of conduct

3.4 Officers can expect from Members:

- Leadership within the political sphere and direction
- Respect, dignity and courtesy
- An understanding of and support for respective roles, workload and pressures
- Not to be subjected to bullying or undue pressure, including through written and verbal communications
- Not to use their position or relationship with officers to advance their personal interests or those of others to improperly influence decisions
- Compliance with the relevant code of conduct

4. Relationship between the Leader and Officers

- 4.1 The Leader will be at the centre of the Cabinet and will need the close working support of a number of Officers, including, perhaps, a political assistant.

The relationship between the Leader and those Officers must never be, or give the appearance of being, so close as to bring into question the Officers' ability to deal impartially with other Members, especially those belonging to other party political groups.

- 4.2 If the Cabinet chooses to appoint a political assistant, he will be, and will remain, an employee of the Council, not of the Cabinet, and he will be subject to the same corporate obligations and conditions of service as all other Council employees, except where variations are specifically provided in his conditions of contract reflecting the particular nature of his post.

5. Relationships between Members of the Cabinet and Chairmen and Officers

- 5.1 It is clearly important that there should be a close working relationship between members of the Cabinet (whether or not they exercise personal executive powers), chairmen of overview and scrutiny committees and of other committees and the Strategic Directors, Assistant Directors and other senior Officers who support them in their respective roles.

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 political groups.

- 5.2 Where a Director, Assistant Director or a senior Officer submits a report to the Cabinet, an overview and scrutiny committee or a committee, he will always be fully responsible for any part of its contents submitted in his name.
- 5.3 Whilst Officers should always seek to assist members of the Cabinet, a chairman or, indeed, any Member, they must not in so doing go beyond the limits of the authority they have been given by their Strategic Director.

6. Area Committees, Partnerships et cetera

- 6.1 The increasing involvement of the Council in various forms of partnerships with other bodies, and possibly Area Committees, creates situations where Members and Officers are drawn into new non-traditional working relationships. These could pose difficulties if Members and Officers lose sight of the fundamental principles which define their different roles.

7. **Officer Advice to Party Political Groups**

- 7.1 Party Political Groups are a recognised part of the local government structure and their role is recognised and facilitated by statute.

Officers may properly be called upon to support and contribute to deliberations by party political groups of matters likely to come before the Council, the Cabinet or committees. They must do so in ways which do not compromise their political neutrality.

- 7.2 The support provided by Officers can take many forms, ranging from a briefing meeting with a Cabinet member or a chairman to a presentation to a full party group meeting.

Whilst in practice such Officer support is likely to be most in demand from whichever party group forms the administration of the Council, such support is available to all party political groups.

- 7.3 Any request for an officer to attend a party group meeting should be made through the Chief Executive or the appropriate Strategic Director.

- 7.4 The following matters must be understood by all those participating in party political group meetings, Members and Officers alike -

- (a) Officer support 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 party 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 party business are to be discussed ;

- (b) party group meetings, whilst they may 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 can not in any way bind the Council;

- (c) where officers provide information to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for the obligation to provide all necessary information and advice to the Cabinet or the committee when the matter in question is considered;

- (d) any strategy or policy which may emerge from the meeting is that of the party group alone ;
- (e) special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council ;

such persons will not be bound by the Code of Conduct and the statutory and other 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 Member only meeting.

- 7.5 Officers must respect the confidentiality of any party group meetings at which they are present in the sense that they should not relay the content of any such discussion to another party. Officers should not be requested to answer questions on such matters by Overview & Scrutiny Committees.

8. Support Services to Members and Party Political Groups

- 8.1 The only basis on which the Council can provide support services (e.g. stationery, typing, printing, photo-copying, I.T., 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.

9. Members' Access to Information and to Council Documents

- 9.1 Members are free to approach the Chief Executive's Directorate or any other Directorate to provide them with such information, explanation and advice, especially about the functions of the Directorate concerned, 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 Directorate's activities to a request for specific information on behalf of a constituent. Such approaches should only be made to the Strategic Director or the relevant Assistant Director, unless they have agreed otherwise.
- 9.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 9.3 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Cabinet or committee meeting. These rights are summarised in the Access to Information Procedure Rules (Part 4D) and extend not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not however apply to documents relating to certain items which may appear as exempt items on the agenda (pink papers), to the advice of any

political advisor or to documents which are in rough draft or evolution and have not been finalised.

9.4 The common law right of Members is broader; it is based on the principle that any Member has a prima facie right to inspect Council documents so far as his or her access to the documents is reasonably necessary to enable the Member properly to perform his or her duties as a Member of the Council. This principle is commonly referred to as the “need to know” principle.

9.5 The exercise of this common law right depends therefore upon the Member's ability to demonstrate that he or she has the necessary “need to know”.

In this respect a Member has no right to “a roving commission” to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the “need to know”. This question must initially be determined by the Strategic Director holding the document in question, with advice, if necessary, from the Monitoring Officer.

9.6 In some circumstances (e.g. a committee member wishing to inspect documents relating to the functions of that committee or a member of an overview and scrutiny committee wanting to be informed about a matter within the remit of that committee) a Member's “need to know” will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms. It is unlikely that a Member will ever have a “need to know” in respect of personal details about individual officers.

9.7 Whilst the term “Council document” is broad and includes for example, any document produced with Council resources, it is accepted by convention that a member of one party political group will not have a “need to know”, and therefore a right to inspect, a document which forms part of the internal workings of another party political group.

9.8 A Member is not entitled to inspect any document, or have access to any information, about a matter in which he or she has a pecuniary interest or is acting in a professional capacity, for example, on behalf of a client negotiating with the Council or involved in litigation against the Council.

9.9 A Strategic Director or Assistant Director may refuse a Member access to a document for these or other good reasons such as the request being frivolous, vexatious or where a reasonable amount of information has already been provided. He must inform the Member in writing of the actual reason.

9.10 If a Member is not satisfied with a decision by a Strategic Director or Assistant Director, he or she may refer the matter to the Chief Executive, who having sought such advice as he considers appropriate, shall determine finally whether or not the Member should be given the access requested.

If the original request had been made to the Chief Executive and a Member is not satisfied with his decision, the matter shall be referred to the Monitoring Officer for determination.

9.11 Members also have the same rights as any member of the public to access to information under the Freedom of Information Act 2000 and the Environmental Information Regulation 2004.

9.12 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer.

10. Involvement with Ward Councillors

10.1 Wherever a public meeting is organised by the Council to consider a local issue, all the Members representing the ward or wards affected must 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 must be notified at the outset of the exercise.

11. Public Meetings called by Individual Councillors or Party Political Group

11.1 If an individual Member or a party political group convenes a public meeting, publicity for the meeting must clearly state the basis on which it is being held and should not state or imply it is a Council meeting.

11.2 Any request for an Officer to attend such a meeting must be made through the Chief Executive or the appropriate Strategic Director.

It must be made clear to those attending such a meeting that any Officer is there in his or her official capacity, is politically neutral and that his or her presence does not signify support for a particular political proposal or initiative. This is essential because of the need for Officers to act, and to be seen to act, impartially and to comply with any political restrictions under which they operate.

12. Member/Officer Dealings and Correspondence

12.1 Members should normally only deal with the Chief Executive, Strategic Directors and Assistant Directors unless they have specifically agreed that direct approaches can be made to specified officers. In this respect it is important that members should not take advantage of an officer's junior status in order to make demands which are inappropriate to that status. Members should also appreciate that junior officers may need to discuss with their line managers any requests made, or information (confidential or otherwise) provided, by the member.

12.2 Similarly Members should normally only address correspondence to the Chief Executive or the Strategic Director or the Assistant Director most concerned with the subject and those officers will normally reply personally. It is open to those officers to agree other arrangements such as enabling direct correspondence with their service managers or team leaders.

- 12.3 Correspondence between an individual Member and an officer should not normally be copied by the Officer to any other Member, unless the Member has himself or herself sent copies to other Members; in this case copies will normally be sent to those Members as well.

Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original member.

- 12.4 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. in respect of executive matters or representations to a Government minister) for a letter to appear in the name of a Member, but this should be the exception rather than the norm.

Letters which create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

13. **Complaints**

- 13.1 Should a Member have cause to complain about the actions or failings of any Officer of the Council below Assistant Director level, he or she should lodge their complaint in writing with the Assistant Director responsible for that Officer. If the complaint is against an Assistant Director, the complaint must be lodged in writing with the Strategic Director. If the complaint is against a Strategic Director, the complaint must be lodged in writing with the Chief Executive. If the complaint is against the Chief Executive personally the complaint must be lodged in writing with the Monitoring Officer.
- 13.2 An Officer having cause to complain about the actions or failings of any member should lodge his or her complaint in writing with the Chief Executive and, where the complaint appears to involve an allegation of a breach of the Code of Members' Conduct, the Chief Executive will consult the Monitoring Officer.
- 13.3 Complaints should not be raised or referred to during council, committee or cabinet meetings, except for those expressly called for that purpose.