

PART 5C - PROTOCOL ON OFFICER/MEMBER RELATIONS

1 Introduction and Principles

1.1 The purpose of this Protocol is to provide a set of principles to guide Members and officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.

~~1.2 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 however that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.~~

~~1.3 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity or certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that officers are protected from accusations of bias and undue influence from Members.~~

~~1.4 This Protocol reflects the principle 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 and the Codes, therefore, demand very high standards of personal conduct.~~

~~1.5~~ 1.2 This Protocol should be read in conjunction with the Members' Code of Conduct, Employees' Code of Conduct, the Council's Constitution and any guidance issued by the Standards Committee, Audit and Governance Committee and/or the Monitoring Officer.

2 The Relationship: General Points

2.1 Both Councillors and officers are servants of the public, and they are indispensable to one another. But their roles and responsibilities are different distinct.

2.1.1 Councillors are responsible to the electorate and serve only so long as their term of office lasts. Members are representatives of the ward constituents and they also develop policies which will be implemented by the Officers.

2.1.2 Officers are responsible to the Council as a whole, they are employed by and ultimately responsible to the Chief Executive as Head of Paid Service. Their job is to provide professional advice and support to relevant parts of the Council in developing and implementing the policies and decisions.

2.2 These are very different roles and this may in some circumstances give rise to tensions and, as such, it is essential that the working relationship between Officers and Members is businesslike and founded upon mutual respect. At the heart of the Protocol is the importance of mutual respect.

2.2

2.3 Member/officer relationships should be conducted in a positive and constructive way. Therefore it is important that any dealings between Members and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influences on the other party.

3 Expectations

3.1 What can Members expect from Officers:-

- Political neutrality;
- A commitment to act in the interests of the Council as a whole and not to any one political group;
- A professional approach to the working relationship;
- An understanding of their role and its pressures;
- Timely response to enquiries;
- Professional advice;
- Confidentiality where appropriate;
- Courtesy and respect.

3.2 What can Officers expect from Members:

- Understanding of the requirements of their roles and an appreciation of competing calls on their time;
- A partnership working approach;
- Courtesy and respect;
- Political leadership and direction;
- Not to be bullied or subjected to inappropriate pressure;
- Acceptance of professional advice.
- Members shall act within the code of conduct at all times.

4 Specific Issues

4.1 Officer Advice and preparation of reports: – The provision of advice and the preparation of reports are central to the roles of many senior officers and they are under a duty to give their best advice in the interests of the Council as a whole. when carrying out these duties it is essential that they feel able to give full and frank advice even where this may not be supportive of a particular policy or decision promoted by a member. Members must not seek to unduly influence the content of any report or try to persuade an officer to change their professional advice when drafting their reports.

2-34.2 Social contact between Members and Officers:- Mutual respect between employees and Members is essential to good local government. Close personal familiarity between employees and Members that transcends the normal employer/employee relationship can potentially undermine Members' confidence in the political neutrality or even handedness of an officer ~~damage that relationship,~~ and should, therefore, ~~should~~ be avoided.

5 When Things Go Wrong

2.4

2.45.1 Procedure for Members:- From time to time the relationship between a Member and an Officer may become strained for various reasons including the tensions mentioned above. In such circumstances it is essential that theA Member should not raise such matters relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol. An Officer has no means of responding to such criticisms in public. If a Member feels he/she has not been treated with proper respect, courtesy or has any concerns about the conduct or capability of an Officer and fails to resolve it through direct discussion with the Officer, he/she should raise the matter with the respective Head of Service/Assistant Director. The Head of Service/Assistant Director will then look into the facts and report back to the Member. If the Member continues to feel concern then he/she should report the facts to the appropriate Director, or if, after doing so is still dissatisfied, should raise the issue with the Chief Executive. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.

2.55.2 Where an Officer feels that he/she has not been properly treated with respect and courtesy by a Member, he/she should raise the matter with his/her Head of Service/Assistant Director, Director or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Head of Service/ Assistant Director, Director or the Chief Executive will take appropriate action either by approaching the individual Member and/or Group Leader or by referring the matter to the Head of Civic, Democratic and Legal Services for advice on how to proceed.

~~3 **The Relationship: Officer Support to Members: General Points**~~

~~3.1 Officers are responsible for day-to-day managerial and operational decisions within the authority and will provide support to both the Executive and all Members in their several areas.~~

~~3.2 Certain statutory officers—the Chief Executive, the Monitoring Officer and the Chief Finance Officer—have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members.~~

~~3.3 The following key principles reflect the way in which Officers generally relate to Members:~~

~~(a) all officers are employed by, and accountable to, the authority as a whole;~~

~~(b) support from officers is needed for all the authority's functions including Full Council, Overview and Scrutiny, the Executive, individual Members representing their communities etc;~~

~~(c) day-to-day managerial and operation decisions should remain the responsibility of the Chief Executive and other officers;~~

~~(d) the Council should seek to avoid potential conflicts of interest for officers arising from the separation of the Executive and overview and scrutiny roles; and~~

~~(e) all officers will be provided with training and development to help them support the various Members roles effectively.~~

~~3.4 Where it has been decided that a named Officer is to take action between meetings following consultation with a Member or Members it must be recognised that it is the Officer, rather than the Member or Members, who takes the action and it is the Officer who is accountable for it.~~

~~3.5 Officers within a Directorate are accountable to their Head of Service/Assistant Director and their Director and 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 by their Head of Service/Assistant Director or Director.~~

4 ~~The Relationship:~~ Officer Support: Member and Party Groups

4.1 It must be recognised by all officers and Members that in discharging their duties and responsibilities, officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.

4.2 Party groups are a recognised part of local authorities ~~There is now statutory recognition for party 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 body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. ~~All officers must, in their dealings with political groups and individual Members, treat them in a fair and even handed manner.~~

4.34.2 In providing this support to party groups certain points must be understood by both officers and Members:

(a) Officer support must ~~not~~ be limited to extended beyond providing information and advice in relation to matters of a Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if it is recommended that officers are not present at meetings or parts of meetings where matters of party business are to be discussed.

(b) 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.

- (c) Where officers 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.

4.44.3 Special care needs to be exercised whenever officers are involved in providing information and advice to party groups or other meetings which include persons who are not Members of the Council or Elected Members. Such persons are not bound by the ~~Members' Code of Conduct National Code of Local Government Conduct~~ (in particular, the provisions concerning declarations of interest and confidentiality) and, for this and other reasons, Officers may not attend and/or give advice to such meetings.

4.54.4 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group. However the confidentiality of information discussed in the presence of an officer cannot be guaranteed in all cases as it will be subject to the Freedom of Information Act.

4.64.5 In relation to budget proposals;

- (a) The administration shall be entitled to confidential discussions with officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of the Executive/Council meetings, whichever is the earlier;
- (b) The opposition groups shall be entitled to confidential discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Executive/Council meetings, whichever is the earlier.

~~4.74.6 It must not be assumed by any party group or Member that any officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.~~

4.84.7 Any particular difficulty or uncertainty in this area of officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

5 ~~The Relationship:~~ Officer Support: The Executive

5.1 It is important that there should be a close working relationship between Executive Members and the Officers who support and/or interact with them. 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 other Members and other party groups.

5.2 Whilst Executive Members will be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a professional duty to submit a report. A Director, Head of Service/Assistant Director will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. ~~This is to be distinguished from a situation where there is a value of judgement to be made. Any issues arising between an Executive Member, Head of Service/Assistant Director in this area should be referred to Chief Executive for resolution in conjunction with the Leader of the Council.~~

~~5.3 The Executive and its Members have wide ranging Leadership roles. They will:~~

- ~~(a) Lead the community planning process and service improvement to meet the challenge of the CPA process with input and advice from overview and scrutiny panels, ward committees and any other persons/partners as appropriate;~~
- ~~(b) Lead the preparation of the local authority's policies and budget;~~
- ~~(c) Take in year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Full Council; and~~
- ~~(d) Be the focus for forthcoming partnerships with other local public, private, voluntary and community sector organisations to address local needs.~~

~~5.4 Where functions which are the responsibility of the Executive are delegated to officers or other structures outside the Executive, the Executive will remain accountable to the Council, through overview and scrutiny, for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out.~~

~~5.5.3~~ Under Executive arrangements, individual Members of the Executive may, in some situations, are allowed to take decisions. The Council has put in place mechanisms to ensure that the individual Executive Member seeks advice from relevant Members and officers before making a decision with his/her delegated authority. This includes taking legal advice, financial advice and professional officer advice as well as consulting the Monitoring Officer where there is doubt about powers to act/vires.

~~5.6~~ Decisions taken by individual Members of the Executive give rise to legal and financial obligations in the same way as decisions taken collectively. Therefore,

Members of the Executive should always be aware of the legal and financial liabilities which will arise from their decisions. ~~To ensure effective Leadership for the Council and the communities it serves, there are arrangements to ensure co-ordination of and sharing of responsibility for Executive decisions including those made by individuals.~~

5.75.4 Officers will continue to work for and serve the Council local authority as a whole. However, as the majority of functions will be the responsibility of the Executive it is likely that in practice many officers will be working to the Executive for most of their time. The Executive must respect the political neutrality of the officers. Officers must ensure that their political neutrality does not appear to be is not compromised.

6 ~~The Relationship:~~ Officer Support: Overview and Scrutiny

6.1 It is not the role of Overview and Scrutiny to act as a disciplinary tribunal in relation to the actions of Members or officers. Neither is it the role of officers to become involved in what would amount to disciplinary investigations on a panels behalf. This means:

- (a) Overview and scrutiny’s questioning about the conduct of individuals should be in the sense of establishing the facts about what occurred in the making of decisions or implementing of Council policies not to imply criticism or blame;
- (b) In these circumstances, it is for the Chief Executive to institute a formal enquiry, and Overview and Scrutiny may ask (but not require) him to do so.

6.2 Overview and Scrutiny should not act as a “Court of Appeal” against decisions or to pursue complaints by individuals, as other procedures exist for this. These are internal, eg the Corporate Complaints Procedure, and external/statutory, eg Local Government Ombudsman, Standards Board for England or appeal to the Courts. However:

- (a) Overview and Scrutiny may investigate the manner in which decisions are made but should not pass judgement on the merits of a decision in individual cases;
- (b) They can comment on the merits of a particular policy affecting individuals.

6.3 Wherever possible Overview and Scrutiny should provide written questions or details of indicative topics to someone invited to appear before a panel to ensure they have adequate time to prepare for the meeting. In addition, invitees ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Panel has previously indicated.

7 Members’ Access to Information and to Council Documents

7.1 Members have the ability to ask for information pursuant to their legal rights to information. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Director, Head of Service or Assistant Director of the Directorate concerned. In cases of doubt Members should approach the Head of Civic, Democratic & Legal Services for assistance.

7.2 The legal rights of Members to inspect Council documents are partly covered by statute and partly by common law. Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted by the Council. This right applies irrespective of whether the Member is a Member of the committee or sub-committee concerned and extends 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 the documents relating to items which may appear as a confidential item on the agenda for a meeting.

7.3 In relation to the business of the Executive, by virtue of Regulation 17 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Registration 2000:

- (a) Where there is a meeting and there is a document which is in the possession/under the control of the Executive relating to the business to be conducted at the meeting, that document shall be available for inspection;
- (b) Where the decision is made at a private meeting by an Executive Member or is a Key Decision delegated to an officer, the document shall be available either after the meeting closes or when the decision is made;
- (c) There are exemptions for confidential material.

7.4 The common law rights of Members are based on the principle that any Member has a 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.

7.5 The exercise of this common law right depends upon an individual Member being able 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 be determined by the particular Director or Assistant Director with advice from the Head of Civic, Democratic and Legal Services.

7.6 In some circumstances the Member will be expected to justify the request to inspect a document. In addition there will be a range of documents, which, because of their nature are either not accessible to Members or are accessible only by the political group forming the administration and not by the other political groups. An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft Committee reports, the disclosure of which prematurely might be against the Council's and/or the public interest.

7.7 Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, ie in connection with the proper performance of the Member's duties as a Member of the Council. Therefore, for example, early drafts of Committee reports/briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied, ie to brief the Member. [The members code of conduct contains specific rules about confidential information. This point is emphasised in the Members' Code of Conduct:](#)

~~*"A Member;*~~

~~*(a) — must not disclose information given to him or her in confidence by anyone without the consent of a person authorised to give it, or unless he or she is required to do so; and*~~

~~*(b) — must not prevent another person from gaining access to information to which that person is entitled by law"*~~

8 Correspondence

8.1 Correspondence between an individual Member and an officer should not be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy to another Member, this should be made clear to the original Member.

8.2 Official letters on behalf of the Council should be sent in the name of the appropriate officer, rather than in the name of the Member. It may be appropriate in certain limited circumstances (eg, representations to a Government Minister) for a letter to appear in the name of an Executive Member or the Leader, but this should be the exception rather than the norm. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

9 Communication of Officer Delegated Decisions

9.1 Notwithstanding the rights of Members to information and to Council documents set out in this protocol. Officers taking decisions under delegated authority from the Executive must ensure that relevant Members have prompt information regarding the decision, the reasons for the decision and the impact of the decision.

9.2 For the purposes of this protocol "relevant Member" will include:

(a) Members of any Ward upon which the decision is likely to impact.

- (b) Members of the Executive and Shadow Executive where the decision falls within their portfolio area.
- (c) Members of any relevant Committee or advisory panel where if it was not for delegation to officers, the decision would be taken by that Committee or panel.
- (d) All Members of the Council where the decision is likely to have a corporate impact.

9.3 If any Member becomes aware that they have not been provided with the information in accordance with this protocol the matter should be raised with the appropriate Director and/or the Chief Executive.

10 Publicity and Press Releases

10.1 Local Authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors and customers. Local Authorities use publicity to keep the public informed and to encourage public participation. The Council needs to tell the public about the services it provides. Good effective publicity should aim to improve public awareness of the Council's activities.

~~10.2~~ Publicity is a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential to ensure that decisions on publicity are properly made in accordance with [the Code of Recommended Practice on Local Authority Publicity](#) ~~clear principles of good practice~~ and the Council's Media Protocol. ~~In addition the Government has issued a Code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code is issued under the provision of the Local Government Act 1986 as amended by the Local Government Act 1988 which provides for the Secretary of State to issue Codes of Recommend Practice as regards the content, style, distribution and cost of local authority publicity, and such other matters as he thinks appropriate. That section requires that all local authorities shall have regard to the provision of any such Code in coming to any decision on publicity.~~

~~10.3~~ 10.2 Officers and/or Members should seek advice from Head of Marketing and Communications when making decisions on publicity, and particular care should be paid to any publicity used by the Council around the time of an election.

11 Involvement of Ward Councillors

11.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the 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. In addition officers should consider whether other policy or briefing papers, or other topics being discussed with an Executive Member should be discussed with relevant Ward Members. Officers should seek the views of the appropriate Executive Member(s) as to with whom and when this might be done.

12 Monitoring and Review

12.1 The application and implementation of this protocol will be monitored and reviewed by the Council's Standards Committee in consultation with the Council's Monitoring Officer.

