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## **Standards Committee – 23 January 2008**

### **Report of The Head of Civic, Democratic & Legal Services**

#### **Review of the Protocol on Officer/Member Relations**

##### **Summary**

1. This report concerns the review of the Officer/Member protocol currently in place at City of York Council. The review forms part of the actions arising from the findings of the recent Ethical Governance Health-check conducted in conjunction with the Audit Commission.
2. One area identified for further work was that of raising awareness of the different roles and responsibilities undertaken by officer and by elected members. The officer/member protocol is designed to assist in ensuring functional and professional working relationships between elected councillors and employed officers of the council. It seeks to do this by offering some guidance and clarity about the different roles of councillor. The existing protocol has been in place for some years and it is an opportune moment to review its content to look to see if it may be improved.

##### **Background**

3. The Member/Officer protocol can be found in most council constitutions and at CYC it is located at Part 5C. The purpose of the document is to offer guidance to Officers and Councillors as to aspects of their working relationships with each other.
4. It is recognised that the roles of Officers and Councillors differs significantly and that this difference can, in some instances, give rise to tensions or antagonisms. The Officers are paid employees of the Council itself, i.e. the corporate body of the council. They are employed to provide services and advice in the operational running of the council. They report to their line manager and ultimately all officers report to the Council's S.4 Officer, the Head of Paid Service (HOPS) who is invariably the council's Chief Executive. The Officers are not directly responsible to Councillors and their primary duty is to the interests of the council as a whole.
5. Councillors, on the other hand, have allegiances to their political groups which are entirely separate from the corporate body of the council and may have differing priorities and interests. Councillors also have a role as representing

the residents within their wards and here again the interests of the individual ward residents may not exactly mirror those of the council as a corporate body.

6. The difference in the roles can give rise to conflicts between officers and Councillors for instance where the Councillor is proposing action and the Officer advice is not supportive or is contradictory. There may be differences of professional judgement for instance relating to judgements about planning applications. Additionally, Officers may find themselves having to advise that a course of action is either not permissible within the legal framework or is represents a high risk to the Council. Experience has shown that in such circumstances, tensions can arise and Officers may, rightly or wrongly, feel under considerable pressure to temper their advice. The overriding consideration here is that local authorities are publicly funded bodies that must operate within a highly regulated environment and they must bare in mind the public interest when making decisions.
7. The results of the Ethical Health-check work conducted by the Audit Commission revealed that a small but significant number of senior officers at CYC who reported that they felt that they had been subjected to inappropriate pressure from Councillors in connection with the provision of advice or preparation of reports. In response to this finding the Council held two awareness raising sessions for Councillors and Officers and the review of this protocol is a further action in response.
8. In addition to the issue highlighted by the findings of the Ethical Health-Check another matter which has, to my knowledge, arisen in the day to day workings of the council is that relating to confidentiality particularly where that relates to advice provided to the administration in the formulation of its policy proposals. This is a particularly tricky area for Officers who can feel caught in the middle if asked to divulge the content of emerging policies whilst still in a draft state.

### **Review Process**

9. I have concluded that the simplest way to get the review of this protocol underway is for me to provide the committee with an amended version of the existing protocol as a starting point and to include a number of examples of these protocols from other councils. I attach at Appendix A, the existing CYC protocol with some suggested amendments.
10. I have also attached in the appendices examples of the protocols taken from the following councils:-
  - a) Peterborough
  - b) Telford & Wrekin
  - c) Wigan MBC
  - d) Cheltenham BC

11. From the examples it is possible to see distinct approaches, for instance at the most basic level, length and complexity, Peterborough are clearly significantly more detailed in their approach than the other examples. I would say that having looked at around 20 council's protocols for the purposes of this report, the Peterborough protocol was the longest and most complicated that I found.
12. The difference in approach may result from the purpose which the authority regard the protocol as fulfilling. Is it intended to be guidance aimed directly at officers and councillors, or is intended as regulations that can be interpreted by the Monitoring Officer. I would say that the Peterborough model falls into the latter category.
13. I have approached my amendments on the basis that the protocol is intended to be directly accessible to both Officers and Councillors, and the public also. I have sought to reduce the length of the existing document by removing irrelevant information, and simplify the language where possible to make it easier to understand. I have also introduced a list of bullet points at the start of the protocol that are intended to capture the key messages for those who don't get past the first page or two. I have also sought to augment the protocol in certain areas such the provision of advice and preparation of reports.

### **Consultation**

14. Following consideration of the amended version I shall invite comments and proposals from members of the standards committee as to whether the amended version will suffice, whether further amendments are necessary or whether you would like me to go away and re-draft the thing starting from scratch but following a different style. A further option is that of retaining the existing version unchanged.
15. In all but the last of these scenarios I would propose that the proposed draft version be circulated to representatives of the Officer cohort and of the Councillors. I would welcome suggestions on how to do this but at the very least would propose circulating it amongst all Councillors and amongst the Assistant Directors and Directors on the Officer side.

### **Options**

16. There are three main options for the committee as follows:-
  - a) To retain the existing code unaltered;
  - b) To agree an amended draft version, based on the option existing one, such as the example at Appendix A, and instruct the Monitoring Officer to undertake consultation exercise and report the results of that consultation to a future meeting;
  - c) If the committee feels that a complete re-draft is required then it will need to agree the key elements of the revised document and highlight the particular style it wishes to see, and instruct the Monitoring Officer to prepare a draft document meeting the criteria set down.

## Implications

17.

Legal	There are no legal implications arising from this report or the proposals it contains. There is no legal requirement that a local authority must have a member/officer protocol but it is almost universally the case that they voluntarily adopt such a document.  Quentin Baker quentin.baker@york.gov.uk
Financial	There are no financial implications arising from this report or the proposals it contains.
Human Resources	There are no human resource implications arising from these recommendations.

## Recommendations

18. I hereby recommend that the Standards Committee: -

- a) **Endorses the content and format of the existing protocol on Officer/Member relationships, or;**
- b) **The committee agrees an amended version of the existing document and instructs the Monitoring Officer to undertake a consultation exercise based on that proposed draft document and reports the results of that consultation back the committee in due course.**
- c) **If the committee is of the opinion that a more fundamental re-working of the existing protocol is necessary, it agree a set of proposed criteria concerning the style, content and format of the new document and instructs the Monitoring Officer to prepare a draft protocol in accordance with those criteria, to be reported back to the committee at the earliest opportunity.**

## Contact Details

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**Specialist Implications Officer(s)** None

**Wards Affected:** *List wards or tick box to indicate all*

All

**For further information please contact the author of the report**

## Background Papers:

### Appendices:

Appendix A:- Existing protocol with amendments in tracked changes

Appendix B:- Peterborough City Council's Protocol

Appendix C:- Wigan MBC

Appendix D:- Telford & Wrekin BC

Appendix E:- Cheltenham BC