

Section 16

A Protocol for Member/Officer Relations

1. Introduction

- 1.1 The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another. It is hoped the Protocol will help build and maintain good working relationships between Members and Officers as they work together

Employees who are required to give advice to members are referred to as “Officers” throughout.

- 1.2 A strong, constructive, and trusting relationship between Members and Officers is essential to the effective and efficient working of the Council.
- 1.3 It is recognised that relationships between Members and Officers are very varied and can often be complex. Therefore, this Protocol does not seek to be prescriptive or comprehensive and may not cover all situations. However, it is hoped that the framework it provides will serve as a guide to dealing with a wide range of circumstances. This protocol is to a large extent no more than a statement of current practice and convention. In some respects however, it seeks to promote greater clarity and certainty.
- 1.4 This protocol also seeks to reflect the principles 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 (real and perceived) of Local Government and they therefore demand very high standards of personal conduct.
- 1.5 The provisions of this Protocol will be interpreted having regard to the requirements of the Members’ Code of Conduct, the Officers’ Code of Conduct, the Council’s Whistleblowing Protocol, the No Surprises Protocol and the Council’s policies, procedures and processes.
- 1.6 The principles underlying the protocol are:
- Selflessness – serving only the public interest.
 - Honesty and integrity – not allowing these to be questioned; not behaving improperly.
 - Objectivity – taking decisions on merit.
 - Accountability – to the public; being open to scrutiny.
 - Openness – giving reasons for decisions.
 - Personal judgement – reaching one’s own conclusions and acting accordingly
 - Respect for others – promoting equality; avoiding discrimination; respecting others (Member/Member, as well as Member/officer and officer/officer).
 - Duty to uphold the law – not acting unlawfully.
 - Stewardship – ensuring the prudent use of a council’s resources.
 - Leadership – acting in a way which has public confidence.

- 1.7 Both Councillors and Officers serve the public and they are indispensable to one another. However, their responsibilities are distinct. Councillors decide policy for Council and Officers give effect to Council policies.

2. Members

- 2.1 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.

It is important that any dealings between Members and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.

- 2.2 In line with the Code of Conduct, as set out in Section 14 of this Constitution, a Member must treat others with respect and must not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.

- 2.3 Officers can expect Members:

- to act within the policies, practices, processes and conventions established by the Council
- to work constructively in partnership with Officers acknowledging their separate and distinct roles and responsibilities
- to understand and support the respective roles and responsibilities of officers and their associated workloads, pressures and reporting lines
- to give political leadership and direction and to seek to further their agreed policies and objectives with the understanding that Members have the right to take the final decision in issues based on advice to treat them fairly and with respect, dignity and courtesy
- to act with integrity, to give support and to respect appropriate confidentiality
- to recognise that Officers work to the instructions of their senior Officers and not to individual Members
- not to subject them to intimidation, harassment, or put them under undue pressure. Members will have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between the Member and Officer, and the potential vulnerability of Officers, particularly at junior levels
- not to request them to exercise discretion which involves acting outside the Council's policies and procedures
- not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a Member without proper and lawful authority
- not to use their position or relationship with Officers to advance their personal interest or those of others or to influence decisions improperly
- to comply at all times with the Members Code of Conduct, the law, the Constitution and such other policies, procedures, protocols and conventions agreed by the Council.

2.4 It is important that Members of the Authority:

- respect the impartiality of Officers and not undermine their role in carrying out their duties
- do not ask Officers to undertake work, or act in a way, which seeks to support or benefit a particular political party or gives rise to an Officer being criticised for operating in a party political manner
- do not ask Officers to exceed their authority where that authority is given to them in law, by the Council or by their Managers

2.5 The Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (section 151 Officer) and other Statutory Officers have specific responsibilities placed on them by law. These responsibilities go beyond their obligations as employees of the Council. Where an Officer is discharging his/her responsibilities under any statutory office a Member or Members shall not:

- improperly interfere with or obstruct the Officer in exercising those responsibilities
- victimise any Officer who is discharging or has discharged his/her responsibilities of the Statutory Office

3. Officers

3.1 The primary role of Officers is to advise, inform and support all members and to implement the lawfully agreed policies of the Council.

3.2 Officers are responsible for day-to-day managerial and operational decisions within the Council. Members should avoid inappropriate involvement in such matters.

3.3 In performing their role Officers will act professionally, impartially and with political neutrality. Whilst Officers will report a Member's view on an issue, the Officer should not be influenced or pressured to make comments, or recommendations which are contrary to his professional judgement or views.

3.4 Officers should:

- implement decisions of the Council and its subordinate bodies which are lawful, which have been properly approved in accordance with the requirements of the law and the Council's constitution, and are duly recorded.
- work in partnership with Members in an impartial and professional manner
- assist and advise all parts of the Council. Officers must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
- respond to enquiries and complaints in accordance with the Council's standards
 - 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.
- act with honesty, respect, dignity and courtesy at all times

- provide support and learning and development opportunities for Members to help them in performing their various roles
 - not seek to use their relationship with Members to advance their personal interests or to influence decisions improperly
 - comply, at all times, with the Officer Code of Conduct, and such other Policies or Procedures approved by the Council
- 3.5 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.
- 3.6 Some Officers may be appointed to local, regional or national bodies because of their particular skills and expertise. They may be appointed specifically to represent the Council or in their personal capacity.
- 3.7 A Member who is unhappy about the actions taken by, or conduct of, an officer should:
- avoid personal attacks on, or abuse of, the officer at all times,
 - ensure that any criticism is well founded and constructive,
 - ensure that any criticism is made in private
 - take up the concern with the appropriate Director or Deputy Chief Officer.
 - If the matter is of a particularly serious nature to inform the Chief Executive

4. The Relationship: General

- 4.1 Members and Officers are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the Public, whereas Officers are accountable to the Council as a whole.
- 4.2 At the heart of the Codes, and this Protocol, is the importance of mutual respect. Member/Officer relationships are to 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 nor seek to exert undue influence on the other party.

5. Officer Advice to Party Groups

- 5.1 There is 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.
- 5.2 The support provided by Officers can take many forms, ranging from a briefing meeting with a Chairman or Spokesperson prior to a Committee meeting to a presentation to a full party group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.

- 5.3 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 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;
 - (ii) 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; and
 - (iii) Similarly, 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.
- 5.4 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 National Code of Local Government Conduct (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.
- 5.5 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.
- 5.6 Any particular cases of 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).

6. Support Services to Members And Party Groups

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

7. Members' Access to Information and to Council Documents

- 7.1 Members are free to approach any Council Directorate to provide them with such information, explanation and advice (about the Directorate's functions) 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 normally be directed to the Director or Deputy Chief Officer concerned.
- 7.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 7.3 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, Committee or Sub-Committee meeting*. 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 documents relating to certain items which may appear in Part II (exempt) of the Agenda for meetings. Further details are contained in the Access to Information section of the Council's Constitution and the Access to Information Procedure rules set out therein. Examples are documents that contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations.
- 7.4 The **common law right** of members is much broader and is based on the principle that any member has a prima facie 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*. This principle is commonly referred to as the "need to know" principle.
- 7.5 The exercise of this common law right depends therefore upon the Member's ability to demonstrate that he/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 Deputy Chief Officer who holds the document in question (with advice from the Solicitor to the Council).
- 7.6 In some circumstances (e.g. a Committee Member wishing to inspect documents relating to the functions 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.
- 7.7 Whilst the term "Council document" is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Member of one party 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 group.

- 7.8 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Solicitor to the Council.
- 7.9 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.
- 7.10 The Code of Conduct states that a Member must not disclose confidential information or information which he or she believes to be of a confidential nature, except in some specific circumstances detailed in paragraph 4 (a) of the Code. (See Section 14 of this Constitution which also includes the Council's Protocol on the Disclosure of Confidential Information).
- 7.11 For completeness, Members do, of course, have the same right as any other member of the public to make requests for information under the Freedom of Information Act 2000.

8. Officer/Chairman Relationships

- 8.1 It is clearly important that there should be a close working relationship between the Chairman of a Committee and the Directors or Deputy Chief Officers who support that Committee. 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.
- 8.2 Whilst the Chairman of a Committee (or Sub-Committee) will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a duty to submit a report on a particular matter. Similarly, an 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 Chief Executive for resolution.
- 8.3 It is important to remember that the law allows for decisions (relating to the discharge of any of the Council's functions) to be taken only by the Council, regulatory committees such as planning, the Cabinet, individual Cabinet Members, the Leader of the Council or an Officer.
- 8.4 The Council's delegation scheme and resolutions passed at Committee meetings authorise named officers to take action in consultation with one or more Members such as the Chair and Vice-Chair of a Committee or a Cabinet member. In these circumstances it is the Officer, rather than the Member, who takes the action and it is the Officer who is accountable for it.
- 8.5 Finally, it must be remembered that Officers within a Directorate are accountable to their Director/Deputy Chief Officer and that 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 Directors/ Deputy Chief Officer

9. Correspondence

- 9.1 Correspondence 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 copies” should not be employed. Acknowledging that the “BCC” system of e-mailing is used, it should be made clear at the foot of any e-mails if another Member has received an e-mail by adding “cc Councillor x.”
- 9.2 Official letters or emails 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 or email to appear over the name of a Member, but this should be the exception rather than the norm. Letters or emails which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.
- 9.3 Correspondence to individual Members from Officers concerning regulatory matters such as planning, enforcement, licensing and environmental health matters should not be sent or copied to complainants or other third parties if they are marked “confidential”. This is to avoid recriminations and allegations of unfair treatment.

10. Press Comments and Press Releases

- 10.1 For more detailed information regarding the role of Members in connection with the issue of press releases, reference should be made to the Council’s Media Protocol dated May 2011 or any replacement thereof**
- 10.2 Directors or nominated representatives may respond to press enquiries but should confine any comments to the facts of the subject matter and the professional aspects of the function concerned. On no account must an Officer expressly or impliedly make any political opinion, comment or statement.
- 10.3 Any press release that may be necessary to clarify the Council’s position in relation to disputes, major planning developments, court issues or individuals’ complaints should be “signed off” by the appropriate Director or Solicitor to the Council after consultation with the Leader or Deputy Leader of the Council.

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 Ward or 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.

12. Breaches of the Protocol

- 12.1 Where a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the appropriate Director or Deputy Chief

Officer. Where the Officer concerned is a Director or Deputy Chief Officer, the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with the Monitoring Officer.

- 12.2 On the Members' side, where the relationship between Members and Officers breaks down or becomes strained, every effort will be made to resolve matters informally, through conciliation by an appropriate senior manager or Members. Officers will also have recourse to the Grievance Procedure or to the Council's Monitoring Officer, as appropriate. In the event of a grievance or complaint being upheld, the matter will be referred to the Chief Executive who, having advised the Leader of the Council and the other appropriate Group Leaders, will decide on the course of action to be taken, following consultation with the Standards Committee if appropriate.
- 12.3 Breaches of the protocol by a Member may also constitute a breach of the Members' Code of Conduct.