

Part 4 – Section 3 – Councillor/Officer Protocol

1 INTRODUCTION AND PRINCIPLES

- 1.1 The purpose of this Protocol is to guide Councillors (including Co-Opted Members) and Officers of the Council in their relations with one another; to define their respective roles, and to provide guidance for dealing with particular issues that may most commonly arise or cause concern.
- 1.2 The Council has adopted Codes of Conduct for both Councillors and Officers and this Protocol is a local extension of those Codes. Consequently, a breach of the provisions of this Protocol may also constitute a breach of those Codes. This Protocol also seeks to reflect the principles underlying the respective Codes of Conduct. The shared object of these Codes is to enhance and maintain the integrity of local government by demanding very high standards of personal conduct.
- 1.3 Given the variety and complexity of such relations, the Protocol does not seek to be comprehensive. It is hoped, however, that the framework set out in this Protocol will serve as a guide in dealing with a range of circumstances.
- 1.4 Mutual respect between Councillors and Officers is essential to good local government. It is important in all dealings between Councillors and Officers that both should observe reasonable and consistent standards of courtesy and that neither party should seek to take advantage of their position. Close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.
- 1.5 The relationship has to function without compromising the ultimate responsibilities of Officers to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that employees can legitimately provide to Councillors. This Protocol seeks to set a framework that assists the working relationships between Councillors and Officers. If the protocol is followed it should ensure that Councillors receive objective and impartial advice and that each party is protected from undue influence from the other.

2 ROLES AND RESPONSIBILITIES

- 2.1 The roles of Councillors and Officers are different, but complementary. Both Councillors and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council as a whole, and they are accountable to the Chief Executive. Their job is to give impartial advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council and Executive and the various Committees. Councillors should not get involved in the day to day operational management of services. Equally, Officers should not get involved in politics.

Councillors

- 2.2 There are a number of crucial roles for Councillors. Four, in particular, can be summarised as follows:
 - 2.2.1 to act as policy makers, taking the policy and budget decisions of the full Council, suggesting policy improvements and scrutinising the Executive's policy proposals and their implementation;

- 2.2.2 to monitor and review the Council's performance in implementing approved policy and in delivering services;
 - 2.2.3 to represent the community, act as community leaders, promote the social, economic and environmental well-being of the community and to act as advocate for their ward by representing the Council in their ward and responding to the concerns of constituents;
 - 2.2.4 to serve on Council Committees, Community Panels and to represent the Council externally on joint committees, and on key partner and other outside bodies.
- 2.3 As politicians, Councillors may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Councillors they have a duty always to act in the public interest.
- 2.4 Councillors do not, as elected or co-opted Councillors, have any special immunity from civil or criminal wrongs that they may commit against fellow Councillors, Officers or members of the public. Councillors must ensure that they do not, therefore, for example, bully, harass, slander or libel another person. During public meetings of the Council, the Executive and Committees, statements made by Councillors may attract "legal privilege" which may be a defence to an action for defamation. Unlike Parliament and the Courts, local authorities only benefit from "qualified", rather than "absolute", privilege. As such there are conditions that must be met before qualified privilege will attach to a statement (including that Councillors should generally believe that statements they make are true and they should be made without malice).
- 2.5 Any member of the public (including Officers) can complain to the Council's Monitoring Officer about a Councillor's alleged breach of the Council's Members' Code of Conduct and / or bring private, civil action against a Councillor.

Officers

- 2.6 Officers serve the whole Council and are responsible for giving advice to Councillors to enable them to fulfil their roles. All Officers are required to be politically neutral, and for senior Officers this is enforced through the political restrictions of the Local Government and Housing Act 1989. This position is also enshrined in the Council's Officers' Code of Conduct which forms part of the Council's Constitution.
- 2.7 Within this context, it is important to recognise the differing roles of certain Officers:
- 2.7.1 The Chief Executive, the Monitoring Officer, the s151 Officer, the Assistant Chief Executive and the Directors form the Chief Officer Group, which provides a formal interface between Councillors and Officers, and which has a leading role in relation to policy co-ordination and performance management.
 - 2.7.2 Assistant Directors and other senior Officers are directly responsible for the day to day delivery of services within the Council's established policy and decision-making framework.
 - 2.7.3 Officers within services themselves are primarily accountable to their Directors and when assisting Councillors should always do so within the parameters of whatever authority they have been given by their Director.
- 2.8 Under the direction and control of the Council, Officers manage and provide the Council's services. They have a duty to implement lawful decisions of the Council and may themselves take decisions formally delegated to them through the approved Scheme of Delegation.

- 2.9 Officers have a contractual and legal duty to be impartial and must not allow their professional judgement and advice to be influenced by their own personal views. They must always act in the Council's best interests to the best of their abilities.
- 2.10 Officers have the right not to support Councillors in any role other than that of Councillor and not to engage in actions incompatible with this Protocol.

3 EXPECTATIONS

- 3.1 The conduct of Councillors and Officers should be such as to instil mutual confidence and trust. The key elements are a recognition of and respect for each other's roles and responsibilities which should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- 3.2 An Officer shall not discuss with a Member personal matters relating to that officer or another officer. This does not prevent an Officer raising on a personal basis, and in their own time, a matter with their Ward Councillor.
- 3.3 Both Councillors and Officers will do their best to give timely responses to the other's enquiries.
- 3.4 Councillors and Officers should respect each other's free (ie non-Council) time.

Councillors' Expectations

- 3.5 Councillors can expect from Officers:
- 3.5.1 A commitment to the Council as a whole, and not to any political group.
- 3.5.2 A working partnership based on an understanding of and support for respective roles, workloads and pressures.
- 3.5.3 Reasonable and timely response to enquiries and complaints.
- 3.5.4 Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of Officers.
- 3.5.5 Regular, up to date information on matters that can reasonably be considered appropriate and relevant to Councillors' needs, having regard to any individual responsibilities that they have and positions that they hold.
- 3.5.6 Awareness of and sensitivity to the political environment.
- 3.5.7 Respect, dignity and courtesy and not acting in a discriminatory way through behaviour or speech.
- 3.5.8 Relevant training and development in order to carry out their role effectively.
- 3.5.9 Integrity, mutual support and appropriate confidentiality.
- 3.5.10 That employees will not use their relationship with Councillors to advance their personal interests or to influence decisions improperly.
- 3.5.11 That Officers will at all times comply with the relevant Code of Conduct.

- 3.5.12 Support for the role of Councillors as the local representatives of the Council, within the parameters of support approved by the Council.
- 3.5.13 That Officers will promote equality of opportunity in all Council matters.

Officers' Expectations

3.6 Officers can expect from Councillors:

- 3.6.1 A working partnership based on an understanding of and support for respective roles, workloads and pressures.
- 3.6.2 Political leadership and direction.
- 3.6.3 Respect, dignity and courtesy and not acting in a discriminatory way through behaviour or speech.
- 3.6.4 Integrity, mutual support and appropriate confidentiality.
- 3.6.5 Not to be subject to bullying or harassment or to be put under undue pressure. Councillors should have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between Councillors and Officers, particularly at junior levels.
- 3.6.6 That Councillors will not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly.
- 3.6.7 That Councillors will at all times comply with the Members' Code of Conduct.
- 3.6.8 That Councillors will promote equality of opportunity in all Council matters.

4 RELATIONSHIPS

- 4.1 Councillor/ Officer relationships should be conducted in a positive and constructive way, observing standards of courtesy and mutual respect. Neither should seek to take unfair advantage of their position nor seek to exert undue influence over the other party.
- 4.2 Collaborative two-way contact between Councillors and Officers is encouraged, but personal familiarity can damage the relationship, as might a family or business connection. Councillors and Officers must inform the Monitoring Officer of any relationship which might be seen as having the potential to unduly influence their work in their respective roles and thereafter follow any advice given.
- 4.3 Relationships with a particular individual or party groups should not be such as to create public suspicion that an Officer favours that Councillor or group above others.
- 4.4 It is clearly important that there should be a close working relationship between Executive members and the Officers who support and 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 an Officer's ability to deal impartially with other Councillors and party groups. Officers will make arrangements for briefing Executive Councillors about business within their remit.

- 4.5 Whilst Executive Councillors will routinely be consulted as part of the process of drawing up agenda items for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a professional duty to submit a report on a particular matter. A Director or Chief Officer will always be fully responsible for the contents of any report submitted in their name. Any issues arising between an Executive Councillor and a Chief Officer should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council. Similarly, a Councillor will also be fully responsible for that part of any report submitted in their name. Any issues arising between a Councillor and an Officer in this area should be referred to the Chief Executive for their resolution as above.
- 4.6 It must be remembered that Officers within a Service are accountable to their Director and ultimately to the Chief Executive, and that whilst Officers should always seek to assist any Councillor, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director. Officers should also refer to Part 3 (Responsibility for Functions) and Part 4, Section 2 (Officers' Code of Conduct) in the Council's Constitution for clarification about the bounds of their responsibility.

5 OFFICER ADVICE TO GROUPS OF COUNCILLORS

- 5.1 It is common practice for political groups to give preliminary consideration to matters of Council business in advance of such matters being considered. As an example, the Council's monthly Notice of Forthcoming Key Decisions will identify the Key Decisions that the Executive will be considering. Individual Councillors and/or groups of Councillors may properly call upon Officers to support and provide factual advice to their deliberations. The support provided by Officers can take many forms, ranging from a briefing meeting prior to a committee meeting, to a presentation to a full group meeting. Briefing of political groups should only be undertaken by the Chief Executive or Directors, or otherwise with the prior approval of the Chief Executive.
- 5.2 Certain points must, however, be clearly understood by all those participating in this type of process, Councillors and Officers alike. In particular:
- 5.2.1 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 a 'political' nature. Officers are not expected to be present at meetings, or parts of meetings, where matters of political business are to be discussed.
- 5.2.2 Similarly, where Officers provide information and advice to a group of Councillors meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Executive, Overview and Scrutiny or other Committee meeting when the matter in question is considered.
- 5.3 Officers must respect the confidentiality of any group discussions at which they are present in the sense that they should not relay the content of any such discussion to another group of Councillors, unless specifically asked to do so by a member of the group to whom the duty of confidentiality is owed.
- 5.4 Members must not refer in public or at meetings of the Council to any advice or information given by Officers to a political group meeting.
- 5.5 Officers accepting an invitation to the meeting of one political group shall not decline an invitation to advise another group about the same matter and must give substantially the same advice to each.

- 5.6 Officers have the right to refuse to attend a political group meeting or to leave the meeting if they feel it no longer appropriate to be there.
- 5.7 Special care needs to be exercised whenever officers are requested to provide information and advice to a political group meeting which includes persons who are not Elected Councillors of the Authority. Such persons are not bound by the Members' Code of Conduct, in particular the provisions concerning declarations of interests and confidentiality, and for this and other reasons Officers will usually not attend the meeting.
- 5.8 Any particular cases of difficulty or uncertainty in this area of Officer advice to groups of Councillors should be raised with the Chief Executive or, in his absence, the Council's Monitoring Officer, who will discuss them with the relevant Group Leader(s).

6 UNDUE PRESSURE

- 6.1 A Councillor should not apply undue pressure on an Officer to do anything which they are not empowered to do, or which is against the Officer's professional judgement, or to undertake work outside normal duties or normal hours.
- 6.2 Similarly, an Officer must not seek to influence an individual Councillor to make a decision in their favour, nor raise personal matters relating to their job, nor make claims or allegations about other Officers, except in accordance with any agreed Council procedure or in accordance with law. Councillors who receive any such approach from an Officer should advise the Chief Executive immediately.

7 GRIEVANCES OR COMPLAINTS

- 7.1 From time to time the relationship between Councillors and Officers may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or Councillor, the Council's Grievance and Disciplinary Procedures and Member Code of Conduct will apply where appropriate.
- 7.2 A Councillor must not raise matters openly or through the media relating to the conduct or capability of an officer in a manner which is incompatible with the objectives of this Protocol and particularly in relation to any pending or ongoing complaint or disciplinary process involving the Officer. This is a longstanding tradition in public service where the Officer has no means of responding to such criticisms in public. Furthermore, open criticism may prejudice the bringing of disciplinary proceedings in circumstances where this might otherwise be appropriate.
- 7.3 A Councillor who feels they have not been treated with proper respect, courtesy or who has any concern about the conduct or capability of an officer should take up the concern with the officer privately and, if the matter is not resolved, with their Director (or Chief Executive if the complaint relates to a Director). Councillors must avoid personal attacks on, or abuse of, the Officer and must ensure that any criticism is well founded and constructive.
- 7.4 Where an officer feels that they have not been properly treated with respect and courtesy by a Councillor, they must first raise the matter with their Director or Chief Executive as appropriate. Where it is considered that a breach of the Member Code of Conduct may have occurred the matter will be referred to the Monitoring Officer.

8 COUNCILLORS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

- 8.1 Councillors are free to approach the appropriate Service to provide them with such information, explanation and advice 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 Service's activities to a request for specific information on behalf of a constituent. Such approaches should be directed to the Director, Service Manager or other nominated representative.
- 8.2 With respect to the legal rights of Councillors to inspect Council documents, these are covered partly by statute and partly by the common law, and are subject to the Access to Information Procedure Rules.
- 8.3 The exercise of the common law right depends upon a Councillor's ability to demonstrate a "need to know". In this respect a Councillor has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.
- 8.4 The information sought by a Councillor should be provided in a timely manner. It should only be provided by the respective Department as long as it is within the limits of the Department's resources. For their part, Councillors should seek to act reasonably in the number and content of the requests they make.
- 8.5 It is important for Chief Officers to keep Councillors informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the areas that they represent. It is expected that Councillors will be kept informed about proposals that affect their ward and should also be invited to attend Council initiated events within their ward.
- 8.6 If a Councillor asks for specific information relating to the work of a particular Department, and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate Executive member or Committee Chair concerned should be advised about the information provided.
- 8.7 Any Councillor may apply in confidence to the Chief Executive or appropriate Chief Officer for procedural advice or information to address a constituency issue.
- 8.8 The Code of Conduct provides that a Councillor must not disclose information given to the Councillor in confidence by anyone, or information which the Councillor believes, or ought reasonably to be aware, is of a confidential nature except where:
- (a) the Councillor has the consent of a person authorised to give it;
 - (b) the Councillor is required by law to do so;
 - (c) the disclosure is made to a third party for the purposes of obtaining professional advice provided that the third party agrees not to disclose the information to any other person;
or
 - (d) the disclosure is reasonable and in the public interest and made in good faith and in accordance with the law.
- 8.9 In order to safeguard against possible breaches of the Data Protection Legislation a Councillor must always seek advice from the Chief Executive or Monitoring Officer before disclosing confidential information. Generally personal information cannot be released without the consent of the person to whom it relates. Improper disclosure of confidential information can put the Councillor and the Council at legal and financial risk.

9 OVERVIEW AND SCRUTINY COMMITTEES

- 9.1 The Local Government Act 2000 empowers an Overview and Scrutiny Committee to require Executive Councillors and Officers to attend meetings of the committee and answer questions. It is the statutory duty of Councillors and Officers to comply with such requests. This statutory position is reflected in the Overview and Scrutiny Procedure Rules and, in general, should only need to be exercised in relation to senior Officers, namely Directors, Assistant Directors or other appropriate senior Officers.
- 9.2 It is important for the reputation of the Council that Overview and Scrutiny Committees use this power in a responsible and constructive manner which will assist the Committee in its work.
- 9.3 The Overview and Scrutiny Procedure Rules contain requirements relating to the giving of proper notice to the Councillor or Officer concerned. It is important that care is taken to identify the relevant Officer who is best equipped to help the committee in its work. That will not necessarily be the Chief Officer. Where there is any doubt the Chairman of the Overview and Scrutiny Committee concerned should consult with the relevant Chief Officer to identify the appropriate Officer.
- 9.4 Overview and Scrutiny Committees must always treat a Councillor or Officer appearing before it with respect and courtesy. The Councillor or Officer is there to help the Committee with its work and a positive and constructive approach should be taken by all parties. Committees should in particular refrain from any personal criticism. Chairs of Overview and Scrutiny Committees have a particular responsibility in setting the tone of the meeting to ensure this protocol is followed.
- 9.5 Overview and Scrutiny Committees should always bear in mind that when Officers appear to answer questions their evidence should, so far as possible, be confined to questions of fact and explanation relating to policies and decisions.
- 9.6 Officers may explain: what the policies are; the justification and objectives of those policies as the Executive sees them; the extent to which those objectives may have been met; and how administrative factors may have affected both the choice of policy measures and the manner of their implementation.
- 9.7 Officers may be asked to explain and justify advice they have given to Executive members prior to decisions being taken and they may also be asked to explain and justify decisions they themselves have taken under delegated powers.
- 9.8 Officers should not be drawn into discussion of the merits of alternative policies where this is politically contentious. Any comment by Officers should always be consistent with the requirement to be politically impartial.

10 SUPPORT SERVICES

- 10.1 Councillors should make use of their political group support officer when they require any support with signposting or contacting Council officers or where there are difficulties with regard to communication. Information will be released by the Council from time to time to assist Councillors by providing contact details for relevant teams.
- 10.2 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, email, internet, photocopying, transport, etc.) to Councillors 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 must never be used in connection with party political or campaigning activity or for private purposes.

Correspondence

- 10.3 Official letters including email correspondence) entering into formal commitments on behalf of the Council should be sent in the name of the appropriate Officer, rather than over the name of a Councillor. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor. It may be appropriate in some circumstances for a letter to be sent in the name of a Councillor, for example in response to a letter of complaint sent direct to that Councillor. But this should be the exception rather than the norm and it should only be done following consultation with the Chief Executive or appropriate Chief Officer.

Media

- 10.4 Publicity and Press Releases are an important means by which the Council tells the public about the services it provides. The Local Government Act 1986 prohibits political publicity, defined as any material which, in whole or in part, appears to be designed to affect public support for a political party. The Government has issued a Code of Recommended Practice on Local Authority Publicity which applies to all publicity at the public expense and to which all local authorities must have regard. Particular care must be taken around the time of an election.
- 10.5 When acting in the role of Councillor, any contact with the media (including the issue of Press Releases or a request for interview or a quote) should be carried out in accordance with any relevant protocols and, for this reason, the Council's Communications team should be consulted. The Monitoring Officer may be required to advise around the time of an election.
- 10.6 At no time may Councillors use any Council resources to publish any material that (in whole or in part) appears to be designed to affect public support for a political party.
- 10.7 Press Releases of statements made by Officers must promote or provide information on Council policy or services. They will be factual and consistent with Council policy and cannot be used to promote a political group.
- 10.8 If a Councillor has any queries regarding liaison with the media, they should contact the Council's Communications team for advice.

11 WARD COUNCILLORS

Whenever a public meeting is organised by the Council to consider a local issue, all the Councillors 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 or community engagement on a local issue, the Ward Councillors should be notified at the outset of the exercise. More generally, Officers should consider whether other policy or briefing papers or other topics being discussed with an Executive member should be discussed with relevant Ward Councillors. Officers should seek the views of the appropriate Executive member(s) as to with whom and when this might be done.

12 IMPLEMENTATION AND INTERPRETATION

- 12.1 Allegations of breaches of this Protocol by Councillors will be raised with the Monitoring Officer for referral to the relevant Group Leader or the Chief Whip of the relevant political group or, where the breach may amount to a breach of the Members' Code of Conduct, to the Standards and Governance Committee.
- 12.2 Allegations of breaches by Officers will be raised with the relevant Director or (where the allegation concerns a Director) with the Chief Executive for consideration of appropriate action including disciplinary action.
- 12.3 Questions of interpretation of this Protocol will be determined by the Monitoring Officer.