

Member/Officer Relations Protocol

(Including Guidance on Access to Information)

A INTRODUCTION

1. Following the adoption of the Code of Conduct for Members, the opportunity has been taken to produce the Protocol with regard to Member/Officer Relations. This protocol includes some general guidance on Access to Information.
2. Given the variety and complexity of Member and Officer relations, this Protocol does not seek to cover everything or be prescriptive in its application. General guidance is offered on some of the issues that most commonly arise or cause concern. It is hoped, therefore, that the approach which this Protocol adopts will serve as a guide to dealing with other issues that may arise from time to time.
3. This Protocol seeks to encourage best practice and to promote greater clarity and certainty between the various relationships. If Members are unsure about any matter, they should contact the Monitoring Officer for appropriate advice and assistance. If Officers are unsure about any matter, they should contact the Chief Executive the relevant Director, and/or the Monitoring Officer. If there is any disagreement in the interpretation of this Protocol, the opinion of the Monitoring Officer will prevail.
4. Where appropriate, the Monitoring Officer will also consult the Chief Finance Officer, the Head of Paid Service and the Leaders of the Political Groups on any further general guidance. In addition, there will be a specific code for planning matters and it is anticipated that a national code will be introduced for Officers. Members and Officers should, therefore, keep abreast of such issues and respect each other and not do anything to bring the Council, their offices or professions into disrepute.

B GENERAL MEMBER/OFFICER ISSUES

5.1 The opportunity is taken to **reinforce** the following points:

- (i) In order to ensure the business of the Council is transacted in an effective and efficient manner and with a view to ensuring that the Council is not brought into disrepute, the **key guiding principle** for Members and Officers has to be one of “**engendering mutual trust, openness, honesty, fairness, transparency and treating everyone with respect**”;
- (ii) Officers, being employees of the Council, must act in the best interests of the Council, as a whole and must not give politically partisan advice. Anyone breaching this requirement will face disciplinary action;
- (iii) Political Group meetings, whilst they perform an important part in the preliminaries to Council decision-making, are **not** formal decision-making bodies of the Council and, as such, are **not** empowered, even under the new constitutional arrangements, 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 **Members and Officers** understand and interpret such decisions accordingly;
- (iv) Officer support to Political Groups must **not** extend beyond providing information and advice in relation to **Council business** (not Party politics/business);
- (v) It is good practice for Party political debates and decision making to take place **in the absence of** Officers, in order to avoid any suspicion of impropriety or misunderstanding;
- (vi) Officers must respect the confidentiality of any Political Group discussions; and
- (vii) any breach of this part of the Protocol by an Officer must

be brought to the attention of the Head of Paid Service and/or the Monitoring Officer for consideration.

Legal and External Audit Considerations:

- 5.2 Members of the Council do not, as elected Members, have any special immunity from civil or criminal wrongs that they may commit against fellow Members, Officers or members of the public. Members must abide by the Code of Conduct for Members and ensure they do not, for example, slander or libel another person. During the course of their normal duties for the Council, Members will, therefore, only have a qualified (not absolute) protection against prosecution or civil action.
- 5.3 Members must also not pressurise Officers to change their professional opinions on any Council business matter or do anything that compromises, or which is likely to compromise, the impartiality of Officers or those who work for, or on behalf of the Council. It is also imperative that Members are clear about their roles and the roles of Officers, so as to avoid getting inappropriately involved in, for example, the internal office management, discipline and/or other employment related issues, as the actions of the Member(s) may be held to be the actions of the Council, as an “employer”.

Standards ~~Board~~ for England Issues:

- 5.4 Any member of the public (including Members and Officers) can complain to the Council’s Standards Committee against an alleged breach of the Code of Conduct for Members and/or bring private civil litigation proceedings against an elected Member. The External Auditor can also take legal action against an elected Member and the Council, as a whole, for any breaches of law.

Public Relations Issues:

- 5.5 The Council’s Communications Section are responsible for dealing with the press and other media organisations on behalf of the Council. It is important, therefore, that all official

communication relating to the Council (but not party political or private matters) is dealt with by this Section, so as to ensure the proactive, effective and efficient management of the Council's public image, relations and interface.

C SPECIFIC POINTS ON MEMBER/OFFICER RELATIONS

- 6.1 The relationship between Members and Officers generally is characterised by mutual trust, respect and courtesy. These are **essential** for good local government and serve to enhance local democracy.
- 6.2 Close personal familiarity between individual Members and Officers can damage professional relationships and can prove embarrassing to other Members and Officers. Situations should be avoided, therefore, that could give rise to suspicion and/or appearance of improper conduct of behaviour. This includes excessive socialising between Members and Officers.

6.3 Members shall use the Council email address provided for that member when acting in an official capacity as a member

Employer/Employee Issues:

- 6.43 Any dealing between Members and Officers should, therefore, be conducted with mutual trust, respect and courtesy, and neither party should seek to take an unfair advantage. In particular, Members should recognise and pay due regard to their role as an employer in their dealings with Officers, as Officers could use inappropriate behaviour and conduct of Members in bringing employment cases against the Council. In particular, it is quite proper for a Member to make written/oral representations about a constituent employee to the Chief Executive or the relevant Director, but the Member should avoid taking a proactive part to represent or in any other way advocate on behalf of any such employee in any disciplinary procedures brought by the Council against any such employee.
- 6.54 Members must, in particular, guard against putting inappropriate pressure on junior officers and must ensure that

all communication between them (including written communication) does not bring the Council into disrepute, cause any embarrassment to them, or lead to the breakdown of mutual trust, respect and courtesy in Member/Officer relations.

- | 6.65 In seeking advice and support, Members should have due regard to the seniority of the Officer with whom they are dealing and recognise that, whilst those Officers owe an overriding duty to the Council as a whole, such duties are first expressed to their respective line managers and not to any individual Member. For this reason, Members should not give direct instructions to staff.

Equality Issues:

- | 6.76 The Council has statutory duties with regard to equality issues and in accordance with the Code of Conduct for Members, Members must also promote equality by not discriminating against others. Members and Officers shall not, therefore, by their behaviour or speech act discriminatorily with regard to, for example, a person's gender, race, disability, religion, ethnicity, nationality or sexual orientation. Such principles will apply to the implementation of personnel policies, recruitment and promotion as they apply to day to day dealings with fellow human beings.

Officer Conduct or Capability Issues:

- | 6.87 Members should not raise matters relating to the conduct or capability of an Officer (or of Officers, collectively) at meetings held in public or before the Press, as Officers have no means of responding to the same in public. If Members feels that they have not been treated with the proper mutual trust, respect or courtesy or has any concern about the conduct or capability of an Officer, they should raise the matter, in private, with the relevant Officer and, if necessary, the Chief Executive or the relevant Director. Any concerns with regard to a Director should be discussed in private with the Chief Executive.

6.98 Members will be in breach of the Code of Conduct for Members if they require any Officer to:

- (a) change any professional advice; or
- (b) take any action which the Officer considers to be unlawful or illegal or which could amount to maladministration or breach any relevant Codes of Conduct (including professional codes of conduct).

Monitoring Officer/Chief Finance Officer Consultation:

6.109 Members are required to consult with the Monitoring Officer and the Chief Finance Officer over any legality, maladministration, financial impropriety, or probity issues or where they have any doubt as to whether particular decisions are or were likely to be contrary to the Council's policy framework, the budget or the law. Inappropriate or late consultation will not satisfy the need to consult those Officers at the relevant time.

Political Groups:

6.110 Members of the Executive, Scrutiny and Regulatory Committees shall, at all times, respect the political impartiality of Officers and must not expect or encourage Officers to give a political view on any matter.

6.124 For the avoidance of doubt, it must be recognised by all that, in discharging their duties, Officers serve the Council, as a whole, and not exclusively any Political Group, combination of groups, or any individual Members.

6.132 Officers may properly be called upon to support and contribute to the deliberations of Political Groups but they must at all times, maintain political neutrality. This applies, in particular, to Politically Restricted Officers, who are governed by the Local Government and Housing Act 1989. All Officers must, in their

dealings with Political Groups and individual Members, treat them in a fair and even handed manner.

| 6.143 Any request for advice given to a Political Group or Member will be treated with the strictest of confidence by the Officers concerned and will not be accessible to any other Political Group(s). Factual information upon which any advice is based will, if requested, be available to all Political Groups.

| 6.154 When attendance is requested for Political Group meetings:

| 6.154.1 the request to attend a Political Group meeting must be made through and approved by the Chief Executive;

| 6.154.2 such a request can only be made in relation to Council business; and

| 6.154.3 Officers will:

- (i) provide relevant factual advice and assistance;
- (ii) leave during the deliberations of the Political Group on the issue;
- (iii) respect the confidentiality of any Political Group decision at which they are present; and
- (iv) not champion, defend, action or spend any resources of the Council, or be held responsible for actioning in any way whatsoever the decisions of the Political Group(s), unless and until such decisions have become the formal decisions of the Council.