

## **Section 17 - Member/Officer Protocol**

### **17.1 Introduction**

- 17.1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another.
- 17.1.2 The primary responsibility for Members is to set policy as a Member of Council. Officers are responsible for implementing those policies.
- 17.1.3 Given the variety and complexity of such relations, the Protocol does not seek to be prescriptive or comprehensive but does seek to provide guidance on some of the issues that most commonly arise. The approach to these issues will serve as a guide to dealing with other issues. The protocol seeks to supplement and help to interpret but not to supplant the statutory provisions, Members' Code of Conduct and other guidance, the provisions elsewhere in the Constitution, and the disciplinary code which applies to Officers.
- 17.1.4 The Protocol also seeks to reflect the principles underlying the respective rules of conduct that apply to Members and Officers. Its purpose, therefore, is to enhance and maintain the integrity of local government by seeking high standards of personal conduct.
- 17.1.5 Members and Officers are servants of the public and they are indispensable to one and other, but their responsibilities are distinct. Members are responsible

to the electorate and serve only so long as their term of office lasts. Officers are responsible to the council.

- 17.1.6 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 Officers can legitimately provide to Members. The Protocol seeks to set a framework that assists the working relationships between Members and Officers.

## **17.2 Roles of Members**

- 17.2.1 Members undertake many different roles. Broadly these are:
- (a) To determine council policy and provide community leadership
  - (b) To monitor and review council performance in delivering services
  - (c) To represent the council externally; and
  - (d) To act as advocates for their constituents.

## **17.3 Roles of Officers**

- 17.3.1 Briefly, Officers have the following main roles:
- (a) Providing professional advice to the Council and its various bodies and to individual Members.
  - (b) Initiating policy proposals.

- (c) Implementing agreed policy, managing and providing services and being accountable for the efficiency and effectiveness of the services provided.
- (d) Ensuring that the Council always acts in a lawful manner.

## **17.4 Respect and Courtesy**

- 17.4.1 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Officers. It is important that both Members and Officers remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of other Members, or other Officers, in public places.
- 17.4.2 Members should not raise matters relating to the conduct or capability of an Officer at meetings held in public or before the press as an Officer has no means of responding to such criticisms in public. If a Member is dissatisfied with the conduct of an Officer, they should refer the matter to the relevant individual:
  - If dissatisfied with the conduct of an Officer, they should refer the matter to the relevant Head of Service who will carry out an investigation using the Council's agreed procedure.
  - If a complaint relates to a Chief Officer or the Statutory Officers the matter should be referred to the Chief Executive.

- If a complaint relates to the Chief Executive the matter should be referred to the Leader of the Council.

## **17.5 Undue Pressure**

- 17.5.1 A Member should not apply undue pressure on an Officer either to do anything that they are not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.
- 17.5.2 Members must respect the impartiality of Officers and do nothing to compromise it, e.g. by insisting that an Officer change their professional advice.
- 17.5.3 Similarly, an Officer must neither seek to use undue influence on an individual Member to make a decision in their favour, nor raise personal matters to do with their job, nor make claims or allegations about other Officers.

## **17.6 Familiarity**

- 17.6.1 Close personal familiarity between individual Members and Officers can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of Confidential Information. Such familiarity could also cause embarrassment to other Members and/or Officers and could give rise to suspicions of favouritism.

- 17.6.2 Members should be aware of the need for a professional relationship with Officers.
- 17.6.3 Any familial relations between a Member and an Officer must be declared to the Monitoring Officer as soon as it is known about. If the Officer is about to be appointed, following a recruitment process, the Monitoring Officer must confirm in writing that the appointment is still acceptable.

## **17.7 Breach of Protocol**

- 17.7.1 If a Member considers that he has not been treated with proper respect or courtesy they may raise the issue with the Officer's line manager. If direct discussion with the line manager does not resolve the complaint it should be referred to the Head of Service responsible for the Officer concerned. Breach of the Protocol may give rise to disciplinary proceedings against an Officer if the circumstances warrant it.
- 17.7.2 If an Officer considers that a Member has contravened the protocol they should consult their line manager who will, if necessary, involve the Head of Service. In certain circumstances breach of the Protocol may also constitute a breach of the Members' Code of Conduct. If the breach is sufficiently serious this may warrant a formal reference to the Monitoring Officer as a complaint to be considered for potential investigation by the Standards Committee but many complaints will be capable of an informal resolution. The Monitoring Officer or the Chief Executive will assist in this process if necessary.

## **17.8 Provision of Advice and Information to Members**

- 17.8.1 Members are free to approach Officers of the Council to provide them with such information 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.
- 17.8.2 Officers should always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed i.e. either a full response or, if this is not possible, an acknowledgement that fully explains what is happening within five working days of the receipt of the enquiry.
- 17.8.3 The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law.
- 17.8.4 The Access to Information Procedure Rules in the Constitution explain the position with regard to access to papers relating to the business of a Council body.
- 17.8.5 The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a Member has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.

- 17.8.6 Members may be entitled under the Freedom of Information Act 2000 to receive information which falls outside their common law rights based on the “need to know”. Officers are encouraged to supply documents to Members without the need for a formal Freedom of Information request if it is apparent from the Member’s enquiry that any individual would be entitled to receive such documentation. The Council’s Information Governance and Data Protection Manager will be able to advise on whether any request would fall within the Freedom of Information Act 2000.
- 17.8.7 The information sought by a Member should only be provided by the respective service as long as it is within the limits of the service’s resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.
- 17.8.8 It is important for services and their staff to keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the areas that they represent. Local Members should be informed about proposals that affect their Wards and should also be invited to attend Council initiated events within their Wards.
- 17.8.9 If a Member asks for specific information relating to the work of a particular service which is on the agenda of a Committee meeting, and it appears possible or likely that the issue could be raised or question asked on the basis of the information provided at that meeting, then the appropriate Executive Member or Committee Chairman

concerned should be advised about the information provided.

17.8.10 Officers have to advise Members from time to time that a certain course of action cannot be carried out. Members sometimes assume that this is a case of Officers deliberately obstructing the wishes of politicians. Officers are employed to give unbiased professional advice and. Officers are encouraged to accompany negative advice with suggestions as to how Members might achieve some or all of their objectives in other ways.

## **17.9 Confidentiality**

17.9.1 Members should be aware of their data protection responsibility. The Council may disclose personal information to a Member which should only be used for the purposes of carrying out their duties.

17.9.2 Members must not disclose information given to them in confidence by anyone, or information acquired which they believe, or ought reasonably to be aware, is of a confidential nature, except where:

- (a) they have the consent of a person authorised to give it;
- (b) they are required by law to do so;
- (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person;  
or

- (d) the disclosure is:
  - (i) reasonable and in the public interest; and
  - (ii) made in good faith and in compliance with the reasonable requirements of the authority.

17.9.3 Confidential Committee papers (pink papers) are to be treated as Confidential Information unless the relevant Committee resolves not to exclude press and public. Members are reminded that the author of the report makes the initial decision as to whether or not the papers are to be treated as confidential. The decision as to whether they remain confidential is for the Committee. Other information may be confidential if it falls into one of the seven definitions of information that is exempt from disclosure to the public and press which is at paragraph 12.9.4 in Section 12 - Access to Information Procedure Rules.

17.9.4 Officers should make it clear to Members if they are giving them Confidential Information. If a Member is not sure whether information is confidential, they should ask the relevant Officer and treat the information as confidential in the meantime.

17.9.5 Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council.

17.9.6 If a Member receives Confidential Information and considers it should be disclosed to another person because it is reasonable and in the public interest to do so then he or she must first consult with the

Monitoring Officer and shall not disclose the information without having regard to any advice given by that Officer.

## **17.10 Safeguarding**

- 17.10.1 Members and Officers must be cognisant of the council's safeguarding policy in their dealings with each other at all times and seek advice from the Council's Lead Safeguarding Officer.

## **17.11 Involvement of Ward Members**

- 17.11.1 Ward Members should be kept informed and consulted on relevant matters affecting their Ward, i.e. on Planning, Licensing and other relevant matters. In the case of public meetings in a particular locality, the Ward Member will normally be invited to attend and could normally be expected to be consulted on any form of consultative exercise on local issues.
- 17.11.2 So far as decision making is concerned, however, Members remain accountable to the whole electorate of the District and must make a personal decision on matters which come before them, balancing the interests of the electorate as a whole, including those members of the public who did not vote for them.

## **17.12 Provision of Support Services to Members**

- 17.12.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, word processing, printing, photocopying, 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.

### **17.13 Correspondence**

17.13.1 Official letters on behalf of the Council should be sent in the name of the appropriate Officer, rather than in the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to that Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

17.13.2 When acting in an official capacity Members shall only use the Council email address provided for that Member when acting in an official capacity as a Member. The use of personal e-mail addresses or those of other authorities (for example town/county) is strictly prohibited as it exposes the council to significant risks under the General Data Protection Regulation (Regulation (EU) 2016/679)

### **17.14 The Council's Role as Employer**

17.14.1 In their dealings with Officers, Members should recognise and have regard to the Council's role as employer. Members should be aware that Officers could rely on inappropriate behaviour of a Member in an employment case against the Council.

### **17.15 Political Activity**

17.15.1 There are a number of constraints that apply to an Officer who occupies a post that is designated as “politically restricted” under the terms of the Local Government and Housing Act 1989.

## **17.16 Political Party Group Meetings**

17.16.1 Party groups are an integral part of the way the council works and it is a proper function of Officers to support and contribute to party group consideration if required.

17.16.2 It is common for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups provided they maintain a stance which is politically impartial.

17.16.3 Any attendance of an Officer at a meeting of a party group shall be with the prior agreement of the Chief Executive. Usually the only Officers involved in attending group meetings will be the Chief Executive, Deputy Chief Executive and Heads of Service.

17.16.4 Officers will provide factual information and advice only on areas within their professional remit and in relation to issues currently or shortly to be considered by the Council, provided that the request does not relate to an individual matter such as a planning application, or does not disclose information given at a confidential briefing with the Executive. Such advice should be available to all party groups.

- 17.16.5 Any such meeting will be held at the council offices or virtually.
- 17.16.6 The only other persons present at such a meeting should be Members of the Council.
- 17.16.7 Officers must leave group meetings before groups enter into political discussion. It is important that the political neutrality of Officers is preserved and that group confidentiality is maintained by Officers.
- 17.16.8 Both Members and Officers are subject to their own Codes of Conduct which can be found in the Constitution. This Protocol provides guidance on working relationships between Members and Officers. It is essential that both are familiar with the detailed obligations in their respective Codes of Conduct which will prevail in the event of any conflict between the Codes and this Protocol.

## **17.17 Sanctions**

- 17.17.1 Complaints about any breach of this Protocol by a Member may be referred to the Monitoring Officer. It should be noted that certain breaches may also amount to breaches of the Code of Conduct for Members.
- 17.17.2 Complaints about any breach of this protocol by an Officer may be referred to the Chief Executive or the relevant Head of Service.