

## **MEMBER - OFFICER RELATIONS PROTOCOL**

### **1. Underlying Principles**

- 1.1 The Local Government Act 2000 set up an Ethical Framework for Local Government introducing a Statutory Code of Conduct for Members and requiring the appointment of a Standards Committee to promote and maintain high standards of conduct.
- 1.2 The Members' Code of Conduct sets out in general terms aspects of conduct which Members must observe in carrying out official duties and which have direct relevance to relations between Members and between Members and Officers.
- 1.3 This Protocol sets up a framework for good working relationships between Members and Officers with regards to their respective roles, as set out below and in the Council's Constitution, as the best means of supporting the work of this Council.
- 1.4 The Protocol seeks to set out not only current practices and conventions but also aims to promote clarity and certainty on dealing with other issues.
- 1.5 The Protocol will also reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers so that together they enhance and maintain the integrity of the Council and its public reputation.

### **2. Member - Officer Relations**

- 2.1 Both Members and Officers serve the public but their roles and responsibilities differ. Members represent their constituents and the wider public. Officers are responsible to the Council and must give advice to Members and the Council and carry out the Council's work under the direction and control of the Council, the Cabinet and its Committees and sub-Committees.
- 2.2 The relationship between Officers and Members should be characterised by mutual respect which is essential to good local government.
- 2.3 Members can expect from Officers:-

- Commitment to the Council as a whole and not only to one part
- Respect and courtesy
- The highest standards of integrity
- Timely responses to enquiries and complaints
- Impartial, professional advice
- Regular up to date information that can be considered appropriate and relevant to their needs having regard to any individual responsibilities that they have and positions that they hold
- Awareness of and sensitivity of the political environment
- Appropriate confidentiality
- Support for the role of Members within the arrangements made by the Council

- That they will not use their relationship with Members to seek to advance their personal interests or to influence decisions improperly
- Compliance with this Protocol at all times
- Compliance with the Officers' Code of Conduct
- Compliance with relevant Equalities legislation

#### 2.4 Officers can expect from Members:-

- Respect and courtesy
- The highest standards of integrity
- An understanding of and support for respective roles, work loads and pressures
- That they will not raise matters relating to the conduct or capability of an Officer, or of the employees collectively, at meetings held in public or in the Press. Employees have no means of responding to criticism like this in public.
- That they will not require Officers to change their professional advice nor take any action which an Officer considers unlawful or illegal or which would amount to maladministration or breach of a statutory code of conduct
- Leadership
- Not to be subject to bullying or discrimination or to be put under undue pressure
- That they will not use their relationship with Officers to seek to advance their personal interests or those of others or to influence decisions improperly
- Recognise and pay due regard to their role as an employer in their dealings with Officers
- Compliance with the Members' Code of Conduct
- Compliance with this Protocol at all times
- Compliance with relevant Equalities legislation

2.5 Close personal familiarity between individual Members and Officers can damage professional relationships and prove embarrassing to other Members and Officers. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct. This includes excessive socialising between Members and Officers.

2.6 Any act against an individual Officer may be regarded as a form of bullying, intimidation or harassment if it is intended to influence unfairly that person's actions, thoughts or deeds. Whilst this Protocol cannot give guidance on every situation where such behaviour may occur, the Council is committed to promoting professional and courteous working relationships between individuals.

2.7 Members should consult with the Monitoring Officer and the Chief Finance Officer about legality, maladministration, financial impropriety and probity or where they have any doubt as to whether the particular decisions were or are likely to be contrary to the policy framework or budget.

2.8 In seeking advice and support Members should have due regard to the seniority

of the Officer with whom they are dealing and the fact that, while those Officers owe duties to the Council as their employer such duties are first expressed to their respective manager and the Chief Executive and not to any individual Member. For this reason Members should not give direct instructions to staff unless authorised so to do by the Constitution. If so authorised instructions shall be given to the relevant Chief Officer rather than a more junior member of staff.

- 2.9 All dealings between Members and Officers should observe reasonable standards of courtesy and neither party should seek to take advantage of their position.
- 2.10 If there are any occasions where Members may have reason to complain about the conduct or performance of an Officer, all such complaints should be made personally, either to the Chief Executive or Monitoring Officer as appropriate and in the case of the Chief Executive to the Monitoring officer. It is particularly important that such complaints are made in this way and are not aired in public such as at a meeting of the Council, to other external bodies or members of the public or in the Press.
- 2.11 Similarly, if there is concern by an Officer in relation to a Member's conduct, all such concerns should initially be brought personally by the relevant Chief Officer to the attention of the Chief Executive or in his/her absence to the Monitoring Officer.
- 2.12 All Members have the same right and obligations in their relationship with Officers and should be treated equally. However, Members of the Executive and Chairs of Committees have additional responsibilities and their relationship with Officers may be different and more complex from those of Members without those responsibilities and this is recognised in the expectations they are entitled to have of Officers. Also, where a political group forms an administration either alone or in partnership with another group or groups, it is recognised that the relationship with Officers, particularly those at a senior level, will differ from that with opposition groups.

### **3. The Role of Officers**

- 3.1 To initiate and to implement the policies set and the decisions made by Members.
- 3.2 To provide professional and technical advice to Members.
- 3.3 To carry out those functions delegated to Officers.
- 3.4 To provide reasonable help, support and advice to all Members.
- 3.5 To represent the Council on outside bodies.
- 3.6 To act in a specific capacity listed below where appointed so to do by the Council:

**The Head of Paid Service (Chief Executive)** (as defined by the Local Government and Housing Act 1989 section 4) has the following functions and

duties:

to prepare proposals for the consideration of the Council as to the co-ordination of the discharge of the Council's functions; the number and grades of staff that are required to discharge those functions; the organisation of the Council's staff; and the appointment and proper management of the Council's staff.

**The Monitoring Officer (Director of Legal Services)** (as defined by the Local Government and Housing Act 1989 section 5) has the following functions and duties:

to prepare reports for the consideration of the Council where it appears to him that any proposal, decision or omission by the Council, a Committee, Sub-Committee, or Officer has given rise or is likely to give rise to a contravention of any statute or maladministration or injustice as mentioned in Part III of the Local Government Act 1974.

**The Chief Financial Officer (Director of Finance & Digital Services)** (as defined by the Local Government Act 1972 section 151) has the following functions and duties:

to prepare reports for the consideration of the Council where it appears to him that any Committee, Sub-Committee, or Officer has or is about to make a decision which involves or would involve the Council incurring expenditure which is unlawful; or has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and is likely to cause a loss or deficiency to the Council; or is about to enter an item of account, the entry of which would be unlawful.

#### **4. The Role of Members**

- 4.1 To promote the social, economic and environmental well being of the community.
- 4.2 Collectively be the ultimate policy makers and decision makers and carry out a number of strategic and corporate functions.
- 4.3 Represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities.
- 4.4 Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances.
- 4.5 Balance different interests identified within the electoral division and represent the ward as a whole.
- 4.6 Be involved in decision making.
- 4.7 Be available to represent the Council on other bodies.
- 4.8 To promote the highest standards of conduct and ethics and to treat each other with courtesy and respect.
- 4.9 To act collectively as the employer of the staff.
- 4.10 To act in a specific capacity listed below where appointed so to do by the Council in accordance with the Constitution:

- Chair of the Council
- Leader of the Executive
- Executive Member
- Portfolio Holder (with or without delegated authority)
- Chair of the Scrutiny Committee
- Member of the Scrutiny Committee
- Chair of a Committee other than Scrutiny
- Member of a Committee other than Scrutiny
- Representing the Council on Outside Bodies

### **Rights and Duties of Individual Members**

4.11 All Members have the right:-

- To inspect documents in the possession or control of the Council as set out in the Council's Constitution
- To attend Committee, Sub Committee, Joint Committee, training sessions and such meetings as are necessary for the proper performance of that Member's duties
- To see accounts and make copies before the Annual Audit to inspect specific books, contracts, bills etc
- To receive approved allowances

4.12 There are also duties on individual Members to:-

- Abide by the Members Code of Conduct and this Protocol
- To disclose personal and prejudicial interests as set out in the Code of Conduct
- To register the receipt of any gifts and hospitality at levels determined by the Council
- To use all reasonable endeavours to attend meetings of the Council, its Committees, sub-Committees, other events and any outside bodies to which they have been appointed and to give apologies [with reason] where appropriate on those occasions where the Member is unable to attend
- To attend and participate in opportunities for training and development including policy development
- To take into account advice provided by the Chief Executive, the Monitoring Officer or Officers of the Council.

## **5. Members in their role as Local Members**

5.1 When acting in their electoral ward role Members:

- need to be mindful of their competing roles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on Officer time; and

- recognise the Officer's right to suggest that senior Officers, the Executive (Council) or a Committee should authorise additional work requested by individual Members.

**6. The Relationship between the Overview and Scrutiny Committees and Officers (when executive decisions are being scrutinised)**

- 6.1 The Council's Overview and Scrutiny Committees shall seek the advice of the Monitoring Officer where they consider there is doubt about the legality of Executive decisions or the Monitoring Officer and other appropriate Officers where they consider a decision of the Executive might be contrary to the policy framework.
- 6.2 When considering calling Officers to give evidence the Committee shall not normally, without the consent of the relevant Chief Officer, request the attendance of a junior Officer to ensure that such Officers are not put under undue pressure.
- 6.3 When asking Officers to give evidence before the Committee questions should be confined, so far as possible, to questions of fact and explanation and professional opinion relating to policies and decisions.
- 6.4 Where they consider it appropriate the Committee may ask Officers to explain advice given to Members (of the Executive) prior to decisions being taken and explain decisions they themselves have taken under the Scheme of Delegation.
- 6.5 The Committee shall not question Officers in such a manner whereby the nature and frequency of the questions or tone or language used could be considered by a reasonable person to be harassment, discriminatory or otherwise unacceptable nor deal with matters which are of a possible disciplinary/capability nature.
- 6.6 The Committee shall, at all times respect the political impartiality of the Officers and must not expect Officers to give a political view.

**Officer Relationships with Party Groups**

- 6.7 It must be recognised by all Officers and Members 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.
- 6.8 Officers may properly be called upon to support and contribute to the deliberations of political groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even handed manner.
- 6.9 The support provided by Officers can take many forms, ranging from a briefing with the Leader of the Executive, the Leaders of other political groups, or Chairs of Committees, to a presentation to a full party group meeting.
- 6.10 Any request for advice given to a political group or Member will be treated with strict confidence by the Officers concerned and will not be accessible to any other political groups. Factual information upon which any advice is based will, if requested, be available to all political groups.
- 6.11 When attendance is requested for political group meetings:
- 6.11.1 the request to attend a group meeting must be made through the Chief

Executive;

- 6.11.2 Officers will not attend party group meetings which include persons who are not Members of the Council or be present at purely party political discussions;
- 6.11.3 such a request can only be made in relation to Council business;
- 6.11.4 Officers must respect the confidentiality of any party group discussions at which they are present.

## **7. Confidentiality and the Press**

- 7.1 Any Council information provided to a Member in his/her capacity as a Member must only be used by the Member in connection with the proper performance of their duties. Confidential information should not be disclosed to the media, discussed or released to any other persons. Members should not disclose or use confidential information for the personal advantage of themselves or anyone known to them or to the disadvantage or the discredit of the Council or anyone else.
- 7.2 Officers and Members have a responsibility to protect the Council's reputation. Leaking of confidential information including exempt agenda items and minutes to the media or public criticism of individual Officers by Members or of individual Members by Officers is unacceptable. There are clear requirements set out both in the Members' Code of Conduct and in the Officer Code of Conduct regarding confidentiality.
- 7.3 Duties of confidentiality (under common law) arise when one person (the 'confident') is provided with information by another (the 'confider') either orally or in writing in the expectation that the information will only be used or disclosed in accordance with the wishes of the confider.

Examples of this duty are;-

- if the relationship is inherently confidential e.g. lawyer and client
  - If the relationship is personal e.g. between colleagues in circumstances that suggest an expectation of confidentiality
  - If there is risk through identification e.g. whistle blowers
- 7.4 The fact that information is not marked 'confidential' does not necessarily prevent it from being confidential as this may be inferred from the subject matter and the surrounding circumstances. Confidentiality is unlikely to be established where the information is already known to a wide circle or is in the public domain. Wherever possible, officers and Members should clearly indicate in correspondence or verbally when they expect information to remain confidential to avoid confusion.
  - 7.5 Whilst this Protocol is not aimed in any way at restricting a Member's freedom of speech or right to contact the media, Members must distinguish between acceptable levels of political debate and unacceptable or derogatory personal comments or remarks when they comment on particular issues. Comments to the Press should not challenge the integrity and good faith of other Members or

be based on inaccurate information offered without due regard or attempt to establish the facts.

## **8. Correspondence and E mails**

- 8.1 All correspondence, including Emails between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where it is necessary to copy the correspondence to another Member this should be made clear to the original Member, before any correspondence is sent.
- 8.2 Correspondence including emails between an individual Member and an Officer should not routinely be copied by the Member to the media. Officers other than the Press and Communications Team should not contact the Press (unless authorised to do so) and should comply with the requirements of the Officers' Code of Conduct.
- 8.3 Local government should promote openness and transparency so information should not be disseminated secretly. E mails by and from Members should not be blind copied, without acknowledging to whom the e-mail has been copied.
- 8.4 Members who do not use the Council's IT equipment will nevertheless comply with the Council's ICT Security Policy, and this Protocol.

## **9. Use of Social Media**

- 9.1 Members and Officers must use social media (facebook, twitter, blogs etc) responsibly and in accordance with both the law and Members' and Officers' Codes of Conduct. Care must be taken not to disclose confidential information, particularly personal data relating to third parties, which is protected by Data Protection Legislation.

## **10. Attendance by Members at meetings arranged by Officers**

- 10.1 Members are free to meet Officers to discuss aspects of the Council's business, bearing in mind the reasonable calls of their other duties.
- 10.2 Officers will arrange many meetings with colleagues or third parties to discharge the routine business of the Council or to action its decisions. The convention is that Members will not be present at these meetings but will be advised either informally or through reports to Cabinet and Committees of any relevant discussions and/or outcomes. There may be occasions where a Member may be invited to attend a meeting by the appropriate Officer or by a resolution of a Committee.
- 10.3 Members may request meetings with Officers and bring third parties to that meeting where appropriate.



## **11. Breaches of this Protocol**

- 11.1 Allegations by an Officer of a specific breach of this Protocol by a Member should be made to the Monitoring Officer. It is hoped that any potential problems may be resolved by early discussion between the Members involved and the Monitoring Officer. If this proves impossible the Monitoring Officer may, in consultation with the Chair of the Standards Committee refer the matter to the Standards Committee and invite them to reach a view as to whether the Protocol has been breached. The view of the Standards Committee will be reported at a Council meeting. The Standards Committee will follow the Council's Local Protocol resolution procedures (suitably adapted) for dealing with any complaints made against Members under this Protocol.
- 11.2 The Chief Executive will decide whether disciplinary procedures are appropriate in the case of alleged breach of this Protocol by Officers.
- 11.3 Allegations by a Member of a specific breach of this protocol by another Member will be dealt with in accordance with the Council's Local Protocol resolution procedures (suitably adapted).

## **12. Training and Briefing**

- 12.1 Training and briefing for the operation of this Protocol for Members and Officers will be arranged as required and overseen by the Standards Committee.

## **13. Advice**

- 13.1 The Council's Monitoring Officer and Deputy Monitoring Officer will give advice on the interpretation and operation of this Protocol.

## **14. Review**

- 14.1 The operation of this Protocol will be regularly monitored and reviewed by the Standards Committee with particular reference to findings on breaches, and recommendations made to Council for amendment where necessary.

