

PART 5

2. PROTOCOL FOR MEMBER/OFFICER RELATIONS

1.0 INTRODUCTION AND PRINCIPLES

- 1.1 The objectives of this Protocol are to guide Members¹ and officers of the Council² in their relations with one another in such a way as to ensure the smooth running of the Council and to foster good working relationships.
- 1.2 The Council has adopted Codes of Conduct for both officers and Members. The Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and officers. The shared objective of these Codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.3 Members and officers must at all times observe this Protocol. This Protocol is a local extension of the Members' and Employees' Codes of Conduct. Consequently a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 1.4 This Protocol should be read in conjunction with the Members' and Employees' Codes of Conduct, the Council's Constitution and any guidance issued by the Audit and Governance Committee and/or Monitoring Officer.
- 1.5 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that officers are protected from accusations of bias and any undue influence from Members.
- 1.6 Details of the resources provided to members and officer will be provided subsequently in a separate document.
- 1.7 Given the variety and complexity of relations between Members and officers of the Council, this Protocol does not seek to be comprehensive. It is hoped, however, that the framework it provides will serve as a guide to dealing with a range of circumstances.

2.0 THE ROLE OF MEMBERS

- 2.1 Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.

¹ Unless the context indicates otherwise, the terms Member and Members include non-elected i.e. co-opted Members as well as elected councillors.

Protocol on Member/Officer Relations

- 2.2 At all times Members should be aware that the role they are performing may impact upon the nature of their relationship with officers and the expectations that officers may have of them.
- 2.3 Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.
- 2.4 Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
- 2.5 Every Member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, , and often serves on local bodies.
- 2.6 Some Members have roles relating to their position as members of the Cabinet, Overview and Scrutiny Committees, and other public bodies.
- 2.7 Members serving on Scrutiny Committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor local health service provision.
- 2.8 Members who serve on other committees and sub-committees collectively have delegated responsibilities, e.g. deciding quasi-judicial matters which by law are excluded from the remit of the Cabinet.
- 2.9 Some Members may be appointed to represent the Council on local, regional or national bodies.
- 2.10 As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Members they have a duty always to act in the public interest.
- 2.11 Members are not authorised to instruct officers to undertake work or disclose information other than:
 - through the formal decision-making process where for example the individual member has a need to know or a role in the decisions to be made under delegated powers;
 - to request the provision of consumable resources provided by the Council for Members' use⁴.
- 2.12 Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council. Where the council is conducting negotiations formally or having informal discussions with a view to financial transactions, it is not appropriate for individual members to conduct parallel discussions outside the remit conducted by officers and nominated members under delegated powers.

Protocol on Member/Officer Relations

- 2.13 Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration.
- 2.14 Members must have due regard to the impartiality and integrity of the authority's statutory officers and its other employees, and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice or making public criticism of officers without first referring the matter to the officer's line manager and following the council's procedures.
- 2.15 Members should only become involved in commercial transactions at the formal decision making stage. When dealing with a commercial transaction Members should be aware of the requirements of the Contracts Procedure Rules and relevant guidance.

Members should take into account that where officers are involved in commercial transactions at a preliminary to or part of delegated decision making then it is not open to an individual member to conduct parallel discussions or negotiations or to seek disclosure of financial information where there is not a demonstrated need to know that relates to the member's specific exercise of their councilor duties in each case.

3.0 THE ROLE OF OFFICERS

- 3.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.
- 3.2 Under the direction and control of the Council, officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 3.3 Officers have a duty to implement decisions of the Council which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's constitution, and duly minuted.
- 3.4 Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
- 3.5 Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
- 3.6 Officers must 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.
- 3.7 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

Protocol on Member/Officer Relations

particular, there is a statutory limitation on officers' involvement in political activities.

- 3.8 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.

4.0 THE RELATIONSHIP

- 4.1 Members are elected by, and officers are servants of the public and Members and officers are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the electorate and serve only so long as their term of office lasts. Officers are accountable to the Council as a whole.

Their job is to give advice to Members (individually and collectively) and to carry out the Council's work under the direction and control of their line manager and the Council. Accordingly, where officers are implementing council decisions, it is inappropriate for individual members to seek to instruct officers to conduct work outside the remit of the delegated decision being implemented or on parallel proposals initiated by the individual member.

- 4.2 The conduct of Members and officers should be such as to instill mutual confidence and trust. The key elements are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- 4.3 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. The use of more extreme forms of behaviour and emotion is rarely conducive to establishing mutual respect and is not a basis for constructive discussion.
- 4.4 Informal and collaborative two-way contact between Members and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection. Inappropriate relationships can be inferred from language/behaviour. Close personal familiarity between individual Members and Officers can damage the relationship of mutual respect and prove embarrassing to other Members and Officers. To protect both Members and officers, officers should address Members as 'Councillor X/Mayor, save where circumstances clearly indicate that a level of informality is appropriate, e.g. a one to one meeting between a Director and their respective Executive Member.
- 4.5 Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 4.6 It is not enough to avoid actual impropriety. Members and officers should

Protocol on Member/Officer Relations

always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.

- 4.7 A Member should not raise matters openly or through the media relating to the conduct or capability of an officer in a manner that 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 long-standing tradition in public service. An 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.
- 4.8 A Member who feels s/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability 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,
 - never make a criticism in public, and
 - take up the concern with the officer privately.
- 4.9 If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, s/he should raise the matter with the respective Strategic Director. The Director will then look into the facts and report back to the Member. If the Member continues to feel concern, then s/he should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 4.10 Robust challenge is important in ensuring policies and service performance are meeting the Council's strategic objectives, especially during the Scrutiny process. Nothing in this protocol is therefore intended to stop Members holding officers to account for decisions made under delegated powers. Officers are accountable to the Council for any decision they make and may be required to report to and answer questions from a Scrutiny Committee except in relation to Council functions. A Scrutiny Committee may also call-in Key Decisions before they are implemented. Members may also individually request sight of delegated decision notifications, and raise queries about a decision with the decision-maker or an appropriate senior officer.
- 4.11 Where an officer feels that s/he has been the subject of a sustained or systematic challenge which is unfounded or in any other way unreasonable by a Member, s/he should raise the matter with his/her Director⁵, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Director, will after consultation with the complainant take appropriate action either by approaching the individual Member and/or group whip or by referring the matter to the Monitoring Officer.

5.0 BREACHES OF THE PROTOCOL

- 5.1 In relation to Members, failure to comply with the Members' Code of Conduct may lead to a complaint to the Monitoring Officer, and failure to comply with the rules in relation to Disclosable Pecuniary Interests may lead to the Member committing a criminal offence.
- 5.2 Allegations of breaches by officers will be referred to the employee's line manager for consideration of appropriate action including disciplinary investigation under the Council's Disciplinary Rules.

6.0 MONITORING AND INTERPRETATION

- 6.1 The Monitoring Officer will report to the Council regarding any proposals for amendment to this protocol.
- 6.2 Questions on the interpretation of this protocol will be determined by the Monitoring Officer.