

## Part 5.2 – Protocol for **Councillor**/Officer Relations

### 1. Introduction and Principles

- 1.1 The objectives of this Protocol are to guide **Councillors**<sup>1</sup> and officers of the Council 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 **Councillors**. The Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to **Councillors** 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 **Councillors** and officers must at all times observe this Protocol. This Protocol is a local extension of the **Councillors'** 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 **Councillors'** 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 **Councillors** receive objective and impartial advice and that officers are protected from accusations of bias and any undue influence from **Councillors**.
- 1.6 Details of the resources provided to **Councillors** and officer will be provided subsequently in a separate document.
- 1.7 Given the variety and complexity of relations between **Councillors** 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. The Role of **Councillors**

- 2.1 **Councillors** 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, **Councillors** may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.

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<sup>1</sup> Unless the context indicates otherwise, the terms **Councillor** and **Councillors** include non-elected i.e. co-opted **Councillors** as well as elected **Councillors**.

- 2.2 At all times **Councillors** 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, **Councillors** 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 **Councillors** 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 **Councillor** represents the interests of, and is an advocate for, their ward and individual constituents. They represent the Council in the ward, respond to the concerns of constituents, and often serve on local bodies.
- 2.6 Some **Councillors** have roles relating to their position as **Councillors** of the Cabinet, Overview and Scrutiny Committees, and other public bodies.
- 2.7 **Councillors** serving on Overview & Scrutiny Committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They can also monitor local health service provision.
- 2.8 **Councillors** who serve on 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 **Councillors** may be appointed to represent the Council on other local, regional or national bodies.
- 2.10 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.
- 2.11 **Councillors** are not authorised to instruct officers to undertake work or disclose information other than:
- a) Through the formal decision-making process where for example the individual **Councillor** has a need to know or who has a role in the decisions to be made under delegated powers;
  - b) To request the provision of the usual consumable resources provided by the Council for **Councillors'** use.
- 2.12 **Councillors** 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 **Councillors** to conduct parallel discussions outside the remit conducted by officers and nominated **Councillors** under delegated powers.

- 2.13 **Councillors** must not take actions which are unlawful, financially improper or likely to amount to maladministration. **Councillors must avoid taking actions which would be detrimental to the reputation of the Council.**
- 2.14 **Councillors** 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 their professional advice or making public criticism of officers without first referring the matter to the officer's line manager, following the Council's procedures.
- 2.15 **Councillors** should only become involved in commercial transactions at the formal decision making stage. When dealing with a commercial transaction **Councillors** should be aware of the requirements of the Contracts Procedure Rules and relevant guidance. **Councillors** 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 **Councillor** 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 **Councillor's** specific exercise of their **Councillor** duties in each case.

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

- 3.1 Officers are responsible for giving advice to **Councillors** to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors. Officers will inform ward **Councillors** of any council meeting or consultation or officer meetings relevant to their ward.
- 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 **Councillors**, the media or other sections of the public.
- 3.7 Officers have the right not to support **Councillors** in any role other than that of a **Councillor**, and not to engage in actions incompatible with this Protocol. In 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/professional capacity.

#### **4. The Relationship**

- 4.1 **Councillors** are elected by, and officers are servants of the public and **Councillors** and officers are indispensable to one another. However, their responsibilities are distinct. **Councillors** 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 **Councillors** (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 **Councillors** 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 **Councillor**.
- 4.2 The conduct of **Councillors** and officers should be such as to instil 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. **Councillor**/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between **Councillors** 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 **Councillors** 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 **Councillors** and Officers can damage the relationship of mutual respect and prove embarrassing to other **Councillors** and Officers. To protect both **Councillors** and officers, officers should

address **Councillors** 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 Strategic Director and their respective Cabinet **Councillor**.

- 4.5 **Councillors** 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. **Councillors** and officers should 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 **Councillor** should not sit on a body or participate in any decision which directly affects the officer on a personal basis.
- 4.7 A **Councillor** 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 **Councillor** who feels they have not been treated with proper respect, courtesy or have any concern about the conduct or capability of an officer should:
- a) Avoid personal attacks on, or abuse of, the officer at all times,
  - b) Ensure that any criticism is well founded, constructive **and based on evidence**,
  - c) Never make a criticism in public, and
  - d) 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, they should raise the matter with the respective Strategic Director. The Director will then look into the facts and report back to the **Councillor**. If the **Councillor** 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

Robust challenge is important in ensuring that policies and service performance are meeting the Council's strategic objectives, especially during the Overview & Scrutiny process. Nothing in this protocol is therefore intended to stop **Councillors** 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 an Overview & Scrutiny Committee except in relation to Council functions. The Scrutiny Committee may also call-in Key Decisions before they are implemented. Councillors 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 they have been the subject of a sustained or systematic challenge which is unfounded or in any other way unreasonable by a Councillor, they should raise the matter with their Director, especially if they do not feel able to discuss it directly with the Councillor concerned. In these circumstances the Director, will after consultation with the complainant take appropriate action either by approaching the individual Councillor and/or group leader or by referring the matter to the Monitoring Officer.

## **5. Breaches of the Protocol**

- 5.1 In relation to Councillors, failure to comply with the Councillors' 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 Councillor committing a criminal offence and the matter being referred to the Police where outside the jurisdiction of the Council and/or Monitoring Officer.
- 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. 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.