

## **Part 4. Protocol on Member/Officer Relations**

### **1. Introduction**

- 1.1 The purpose of this protocol is to guide Members and Officers of the Council in their relationships with one another. It is not intended to be prescriptive or comprehensive and seeks simply to offer guidance on some of the issues, which most commonly arise.
- 1.2 Together, elected members and officers make up 'the Council'. They are indispensable to one another and mutual respect and communication between both is essential for good local government. By working in conjunction, they bring the critical skills, experience and knowledge required to manage an effective council. Councillors provide a democratic mandate to the council, whereas officers contribute the professional and managerial expertise needed to deliver the policy framework agreed by councillors. The roles are very different but need to work in a complementary way. (see table 1)
- 1.2 The protocol seeks to reflect the principles underlying the respective Codes of Conduct, which apply to Members and Officers and should be read in association with those Codes. The shared objective of the Codes is to enhance and maintain the integrity of local government.
- 1.3 The partnership between members and officers should be based upon mutual trust and respect and all should aspire to the highest standards of ethical behaviour. Compliance with this Protocol is critical to meeting this aspiration.
- 1.4 This Protocol, whilst not legally binding, will be relevant in judging compliance with the Codes of Conduct. A breach of the provisions of this Protocol may also constitute a breach of the Member and Officer Codes.
- 1.5 The principles of this Protocol apply to all interactions between members and officers, including the use of Social Media.

### **2. Member / Officer relationships – general principles**

- 2.1 Both members and officers are servants of the public and are indispensable to one another, but their responsibilities are distinct. Members are responsible to the electorate and serve only as long as their term of office lasts. Officers are responsible to the Council as a whole; their job is to give advice and to carry out the Council's work under the direction and control of the Council and its Committees.
- 2.2 The importance of mutual respect, trust and confidence between members and officers of the Council is fundamental to this protocol. This is essential to good local government and will generate an efficient and unified working organisation.

- 2.3 Dealings between members and officers should observe reasonable standards of courtesy. Neither party should seek to take unfair advantage of their position or exert undue influence on the other.
- 2.4 Whilst the duties and responsibilities of members and officers are different, both are bound by the same framework of statutory powers and duties. It is fundamental to the efficient and effective operation of the Council that both understand the boundaries of their respective roles and that neither asks the other to step beyond those limits.
- 2.5 It is not the role of members to control the day to day management of the Council and they should not seek to give instructions to officers other than in accordance with the terms of reference of their committee.
- 2.6 Members are not authorised to initiate or certify financial transactions or to enter into a contract on behalf of the Council.
- 2.7 Members and officers must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under the Code of Conduct, when reaching decisions, to have regard to advice given by the Section 151 Officer or Monitoring Officer when they are discharging their statutory duties.
- 2.8 Members must respect the impartiality of Officers and do nothing to compromise it, e.g. by insisting that an Officer change their professional advice.
- 2.9 Members are not prevented from discussing issues with officers or promoting a particular point of view. Whilst officers will consider the views / advice of members they are not, in any way, compelled to provide advice which coincides with the member's view or preferred position. Any unreasonable requests by a member to an officer to change their professional recommendation will constitute unacceptable undue pressure which is not permissible.
- 2.10 All members and officers have certain basic responsibilities and obligations. There are, however, some members and officers who, either because of statute, tradition or decisions of the Council, have extended roles and additional responsibilities. Some Members hold positions of responsibility such as the Leader and Group Leaders, the Chair and Vice Chair of Council, Chairs and Vice-Chairs of Committees/Working Groups. The Statutory Officers are the Head of Paid Service (Chief Executive), the Chief Financial Officer (Section 151 Officer) and the Monitoring Officer. Their roles are defined by statute and within the Council's Constitution.
- 2.11 As a matter of general principle, members and officers will:

- Deal with one another without discrimination
  - Observe normal standards of courtesy in their dealings with one another
  - Not take unfair advantage of their position
  - Promote a culture of mutual respect
  - Communicate clearly and openly, avoiding ambiguity and opportunities for misunderstandings
  - Work together to convert the Councils core values and priorities into practical policies for implementation for the benefit of the District
  - Observe any advice relating to publicity during the pre-election period
  - Refer any observed instances of inappropriate behaviour as necessary
- 2.12 Members must not be personally abusive to, or derogatory of officers in any correspondence, or during any meeting or discussion, in particular when this takes place in public, whether or not that individual is in attendance. Officers will likewise treat members with respect at all times.
- 2.13 Members should not criticise or raise matters relating to alleged conduct or capability of an officer at meetings of the Council, Committee or any other public forum (including on Social Media). This is a long standing tradition in public service as an officer has no means of responding to criticisms in public.
- 2.14 Officers should not raise with a member matters relating to the conduct or capability of another officer or to the internal management of a department in a manner which is incompatible with the overall objectives of this Protocol.
- 2.15 Nothing in this Protocol shall prevent an officer making a protected disclosure under the Whistleblowing Policy.
- 2.16 If an officer feels that they have been treated improperly or disrespectfully by a member they should raise the matter with the relevant Director or the Chief Executive as appropriate. In these circumstances, the Chief Executive or Director will take appropriate action, including approaching the member concerned, and raise the issue with the Group Leader (if applicable) or referring the matter to the Monitoring Officer where there is a potential breach of the Code of Conduct.
- 2.17 When a member feels that they have been treated improperly by an officer, they should speak to the relevant line manager in the first instance. If the matter is not addressed, then it can be escalated upwards to the relevant Director and /or Chief Executive

### **3. Personal Relationships**

- 3.1 Guidance on personal relationships is contained within the Codes of Conduct.
- 3.2 Provided these guidelines are observed there is no reason why there should not be an informal atmosphere between Members and Officers outside formal meetings and events.
- 3.3 It is clearly important that there should be a close working relationship between Portfolio holders, Opposition Group Leaders and spokesmen, Committee Chairmen and the relevant Director and other senior officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the individual's ability to deal impartially with others.
- 3.4 Both members and officers will need to be aware of the potential for conflicts of interest and take steps to either avoid or mitigate the position. The Monitoring Officer should be consulted in these circumstances.
- 3.5 Political Group Leaders should promote a positive atmosphere of trust, respect and understanding between members and officers and must be prepared to deal with and resolve any reported incidents of breaches of this Protocol by their Group members. In the event of a complaint being made to them under this Protocol, a Political Group Leader will seek to actively consider the complaint and achieve a satisfactory outcome. The outcome must be reported to the Officer who notified them of the complaint

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

- 4.1 Collectively, members are the ultimate policy makers determining the core values of the Council and approving the policy framework, strategic plans and budget. Their role is complex, requiring them to act simultaneously in the following capacities:-
- 4.2 *As Council / Committee Members* – Members will provide leadership and take responsibility for the authority's decisions and activities. Members have responsibility for the performance, development, continuity and overall wellbeing of the organisation as well as overseeing governance.
- 4.3 *As Representatives* – Members are community leaders who interpret and express the wishes of the electorate and are accountable to the electorate for service priorities, allocation of resources and ultimate performance. The Member represents the interests of their Ward and is an advocate for their constituents.
- 4.4 *As Politicians* – Members may belong to a Political Group represented on the Council and, if so, may express political values and support the policies of the Group to which they belong.
- 4.5 Officers can expect members to:-

- Provide political leadership and direction.
- Initiate and develop policy to be put before Council or Committees.
- Work in partnership understanding and supporting their respective roles, workloads and pressures.
- Take corporate responsibility for policies and other decisions made by the Council.
- Prepare for formal meetings by considering all written material provided in advance of the meeting.
- Leave day to day managerial and operational issues to officers.
- Adopt a reasonable approach to awaiting officers' timely responses to calls and / or correspondence.
- Not send emails to multiple officers regarding the same issue, instead utilising one point of contact where possible.
- Use their position with officers appropriately and not seek to advance their personal interests or those of others to influence decisions improperly.
- Respect the dignity of officers and not engage in behaviour which could be reasonably regarded as bullying or harassing in nature.
- Have regard to the seniority and experience of officers and equally having regard to the potential vulnerability of officers at junior levels.

4.6 It is permissible and sensible for members to seek straightforward factual information from officers, and to seek the views of appropriately qualified officers as to technical or professional matters. However, if there is anything contentious or relates to a matter requiring a complex opinion or value judgement, this should be directed to the relevant Director or Chief Executive.

4.7 When serving on the Council's Development Committee members must observe the Planning Protocol.

4.8 Whilst members should always act in the public interest, there is nothing preventing them as politicians, from expressing the values and aspirations of the Political Group to which they belong.

4.9 As a matter of courtesy, it is expected that members involved in an issue in another member's ward will speak with the relevant ward member(s) to inform them of their involvement.

(Further information about specific roles is outlined at Chapter 11, Schedule 2 of the Constitution)

## **5. Role of Officers**

5.1 In broad terms officers have the following main roles:

- Set and implement strategies to deliver Council policy and further the Council's priorities.
- Day to day operational management of the organisation.
- Implement decisions of the Council which are lawful and which have been properly approved.
- Give members advice on issues and the business of the Council to enable them to fulfil their roles. In doing so, officers will take into account all relevant factors and demonstrate political sensitivity.
- Manage the services for which they have been given responsibility within the framework of responsibilities given to them under the Scheme of Delegation.
- Be accountable for the efficiency and effectiveness of the services in which they work and to demonstrate proper / professional practice in discharging their responsibilities.
- Provide advice on changes in government policy for which the Council is responsible.
- Provide professional advice on industry innovation, scientific development which may assist the council in delivering services.
- Provide professional advice on innovations by other councils which may be adopted by this council to improve service delivery.
- Be professional advisors to the Council, its political structures and members in respect of their service - as such, their professionalism should be respected.
- Initiate policy proposals in line with national government requirements or council agreed priorities as well as implementing the agreed policies of the Council.
- Ensure that the Council always acts in a lawful manner and does not engage in maladministration.
- Officers may only support members in their role within the Council and must not engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on some officers involvement in political activities.

## 5.2 Members can expect officers to:

- Undertake their role in line with their contractual and legal duty to be impartial.
- Exercise their professional judgement in giving advice and not be influenced by their own personal views.
- Have an appreciation of the political environment in which they work and demonstrate political sensitivity.
- Assist and advise all parts of the Council, officers must always act to the best of their abilities in the best interests of the authority and the residents of the district.

- Be alert to issues which are, or are likely to be, contentious or politically sensitive and to be aware of the implications for members, the media or other sections of the public.
- Maintain due confidentiality.
- Behave in a professional manner and comply with the Officer Code of Conduct.
- Be helpful and respectful to members.
- Respond in a timely manner to telephone calls, email correspondence etc.

5.3 In their dealings with the public, officers should be courteous and act with efficiency and timeliness.

5.4 In advising members of the Council, officers should be able to give honest and impartial advice without fear or favour from members. Officers must serve all members, not just those of any majority Political Group, and must ensure that the individual rights of all members are respected. The support provided by officers can take many forms, ranging from briefing an individual member on a particular issue to, on occasions, a presentation to the Council.

5.5 Subject to the Council's whistleblowing policy, officers should respect a member's request for confidentiality when dealing with any legitimately delicate matter and members should respect an officer's request that a matter be kept confidential. Where confidentiality is requested, any written reply to a member should not be copied to any other member without the original member's permission, ~~or in order~~ except to comply with an unavoidable legal or professional obligation.

## **6. The Council as Employer**

6.1 Officers are employed by the Council as a whole. Members roles are limited to the appointment of specified senior posts in accordance with the Staff Employment Procedure Rules and should not act outside these roles.

6.2 If participating in the appointment of officers, members should:

- Remember that the sole criteria is merit
- Never canvass support for a particular candidate
- Not take part where the candidate is a close friend or relative
- Not be influenced by personal knowledge of candidates
- Not favour a candidate by providing them with information not available to other candidates

## **7. Members' Constituency Role and Individual Employees**

7.1 A Member may be asked for advice and support by an employee who is one of their constituents. Employees are entitled to seek such assistance in the same way as any other member of the public. However, Members should be careful not to prejudice the Council's position in relation to disciplinary procedures or employment matters in respect of an employee. A Member approached for help in such circumstances should seek to direct employees to other sources of help, such as Human Resources, and not become directly involved. If a Member is unsure, the Democratic Services Team can offer advice on who to speak to.

## **8. Support Services to Members and Party Groups**

8.1 Members are provided with ICT (information and communication technology) equipment and support services (e.g., printing, photocopying etc.) to enable them to better perform their policy and constituency role as Councillors.

8.2 Members should not use – and Officers should not provide - such equipment and support services in connection with party political or campaigning activity or for purposes not related to Council business.

8.3 Except that

- limited private photocopying may be undertaken provided it is at no cost to the Council; and
- IT equipment may be used for non-commercial purposes provided it does not cause a conflict with, or risk to, Council systems, nor increase the support required from Officers.

## **9. Decisions**

9.1 Before any formal decisions are taken members will have regard to professional advice from officers. They are not obliged to follow that advice, simply to consider it before reaching a decision.

9.2 Officers taking decisions under delegated powers must consider whether the relevant Political Group Leader, Committee Chair or Ward Member should be consulted based on the issue and taking into account political or corporate sensitivities (see below on consultation with Ward Members).

- Where the matter falls under the responsibility of that Chair's committee
- Where the matter relates to that ward

9.3 Officers must also be prepared to justify how decisions taken under delegated powers contribute to the delivery of council policy and priorities when reasonably required to do so.

9.4 Where officers have delegated authority to take certain actions by a Committee in consultation with a member, it is the officer who takes the action and is responsible for it. A Political Group Leader or Chair has no legal power to take



decisions on behalf of the Council or a Committee neither should he / she apply inappropriate pressure on the officer.

## **10. Officers and Whole Council**

- 10.1 While the Constitution does not at present include provision for delegation of decisions to individual Portfolio Holders it may do so in the future. In any event the Constitution does show that there is a clear division between the decision making functions of the Cabinet and the Scrutiny Committee and other roles of Members.
- 10.2 However, Officers are required at all times to serve the whole Council and provide support regardless of political affiliation and will need to exercise judgement in fulfilling this obligation, whilst maintaining the distinction between executive and scrutiny. Members must recognise this obligation on Officers.

## **11. Officers and the Cabinet/Portfolio Holders**

- 11.1 Any decision by an individual Portfolio Holder (if the Council should so delegate in future) or collective decision by the Executive Committee should except in an emergency be supported by written advice from the appropriate Officer(s). An Officer's obligation to the whole Council requires that such advice is independent and Members must not seek to suppress or amend any aspect of such professional advice.
- 11.2 Reports to Committees will normally be produced by Officers but there may be occasions when a Portfolio Holder or other Member prepares a report. In either situation, the appropriate Officer shall place on record his/her professional advice to the Committee and ensure that advice is considered when a decision is taken.
- 11.3 Officers may be representing the decisions (internally and externally) of a single party Cabinet or an individual Portfolio Holder. Other Members will need to recognise that, in so doing, the Officer is representing an executive decision of the Council.

## **12. Officers and Political Party Groups**

- 12.1 There is statutory recognition for political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of consideration by the relevant Council body.
- 12.2 On the invitation of a Group Leader, a Director or his/her nominee may attend a Group meeting to give factual information about an issue which is currently being or will shortly be debated by a Council body, provided that:
- the meeting is held on Council premises;
  - notice of attendance is given to the appropriate Head of Service and made available on request to the other Group Leaders.

- 12.3 Officer support in these circumstances must not extend beyond providing information in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not expected to be present when matters of party business are discussed.
- 12.4 Group meetings, while they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings are not Council decisions and it is essential that they are not interpreted or acted upon as such.
- 12.5 Similarly where Officers provide information and advice to a Group in relation to a matter of Council business this cannot act as a substitute for the Officer providing all necessary information and advice to the relevant Council body when the matter is considered.
- 12.6 Officers will not normally attend and provide information to any political party group meeting which includes non-Council members. Exceptions to this may be approved by the Chief Executive who shall do so in writing and copy the correspondence to all the political Group Leaders.
- 12.7 In all dealings with Members, in particular when giving advice to political party groups, Officers must demonstrate political impartiality and must not suppress their professional advice in the face of political views.
- 12.8 Officers must respect the confidentiality of any political party group meeting at which they are present. They must not relay the content of any such discussion to another party group.
- 12.9 Any particular cases of difficulty or uncertainty in this area of Officer advice to political party groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

### **13. Officers and Individual Members**

- 13.1 Any Group Leader, Portfolio Holder, Group Spokesman or Committee Chairman may request a private and confidential briefing from a Corporate Director on matters of *policy* which have already been or may be discussed by the Council or within its decision-making or advisory process. All requests should be made to the appropriate Corporate Director/Head of Service who should invite the Monitoring Officer or his/her nominees to attend if this is thought appropriate. Briefings shall remain strictly confidential and are not to be shared with other Members of the Council unless so permitted by the relevant Member.
- 13.2 Except for the confidential *policy advice* referred to above, where possible *information* will be shared among political group representatives. In particular, Overview & Scrutiny is a cross-party process involving all political groups represented on the Council. *Information* supplied to Overview & Scrutiny

Chairmen will therefore be shared as a matter of course with each of the political groups.

- 13.3 Individual Members may request the Chief Executive (or Head of Service) to provide them with factual information. Such requests must be reasonable, and must recognise the need for Officers to maintain the distinction between the executive and scrutiny processes. The relevant Cabinet members, Committee or Overview & Scrutiny Committee Chairman and the Opposition Spokesmen will, unless it is of a minor nature, be advised that the information has been given and, on request, will be supplied with a copy.
- 13.4 If a /Head of Service considers the cost of providing the information requested - or the nature of the request - to be unreasonable, he/she shall seek guidance from the Monitoring Officer as to whether the information should be provided. Where necessary, the Leader in consultation with the other Group Leaders, will determine whether the information should be provided.
- 13.5 Confidential information relating, for instance, to casework should not normally be sought. If in exceptional circumstances Members wish to discuss confidential aspects of an individual case, then they shall first seek advice from the /Head of Service and follow appropriate guidance.
- 13.6 Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided (i.e. in connection with the proper performance of the Member's duties as a member of the Council). This point is emphasised in the Code of Conduct.

#### **14. Officers and Non-Council Elected Representatives**

- 14.1 Officers may be requested to meet with Councillors or Elected Representatives from other Councils or organisations to provide briefings and/or policy advice.
- 14.2 Any Officer requested to attend a meeting of this nature which is not held on a cross-political party basis must obtain the prior authorisation of the Chief Executive who shall inform all Group Leaders of the arrangements.

#### **15. Media Relations**

- 15.1 A primary intention of the Government in introducing executive arrangements was to raise the public and media profile of Portfolio Holders and to make the Cabinet directly accountable for decisions taken. It follows that media presentation and media support will reflect this. Advice to the Cabinet and Portfolio Holders in relation to the media will be provided on a confidential basis if requested.
- 15.2 Overview & Scrutiny Chairmen shall ensure that all media statements relating to the scrutiny function have the support of the relevant Overview & Scrutiny Committee. Any such statements must be consistent with the Council's intent that the scrutiny function shall help to achieve a culture of continuous improvement throughout the Council.

- 15.3 The Communications & PR Manager and other Officers will also assist non-Cabinet Members in their media relations (on a confidential basis if requested). Contact details for the Communications Manager and Communications Officers will be circulated annually to all members and shared at any other time on request
- 15.4 Any Officer assisting a Member with media relations must act at all times in the interests of the whole Council and in a politically impartial manner. Other than factual statements, Members should not seek assistance from an Officer with the preparation or issue of any media statement that will adversely affect the reputation of the Council.

## **16. Local Members / ward matters**

- 16.1 The Council via the relevant Officer(s), and / or Cabinet member, will keep local members fully informed about significant operational matters on which they may be required to make decisions or which affect their electoral wards.
- 16.2 Senior officers will ensure that all relevant staff are aware of the requirement to keep local members informed and that, subject to paragraph 3 below, the timing of such information allows local members to respond appropriately and contribute to relevant decisions.
- 16.3 Any notification under this protocol should include sufficient detail to enable the local member(s) to have a broad understanding of the issue including a summary of advantages and disadvantages of any proposal and any financial implications.
- 16.4 Where lawful and practicable, unless exceptional circumstances are present, communication of such information to local members will be made seven days before external publication by the council of that same information. During the period between being alerted about significant information affecting their ward which is to be published and the time/date of publication, ~~those seven days~~ the local member shall keep confidential the information imparted and not disclose or publicly comment on it further, either directly or via social media or external media without the agreement of the Chief Executive.
- 16.5 Local members must be informed by the relevant Council officers of the formative stages of policy development as it affects their ward. This includes any consideration of the matter by working parties, internal boards or committees of the Council. It should be noted that passing on of information to members in this way is not necessarily the responsibility of the Communications team and may come directly from officers in other departments. The Communication team's involvement will usually start when the Chief Executive or other relevant senior officer asks the Communications team to prepare external publication of a policy development/announcement.
- 16.6 Issues may affect a single electoral ward but others may have a wider impact in which case a wider number of members will need to be kept informed. The

Communications team will, under the direction of the Chief Executive, share all significant Council news releases which affect the wider District or a number of electoral wards with members when they are published externally.

- 16.7 Whenever a public meeting is organised by the Council to consider a local issue all the members representing the electoral wards affected should as a matter of course be invited to attend the meeting.
- 16.8 Whenever the Council undertakes any form of consultative exercise the local members must be included.
- 16.9 In dealing with Town or Parish Councils, officers should endeavour to copy ward members into correspondence. Likewise, officers may advise Town and Parish Councils to ensure that Ward members are provided with information relative to their role. This will need to be considered on a case by case basis to avoid creating an unnecessary administrative burden on officers.
- 16.10 Where a news release specifically relates to a significant issue affecting a particular ward or geographical area, the local Member(s) will be advised by email, or telephone as appropriate and sent a copy. when it is published on the Council's official news channels and/or shared with the local media.
- 16.11 The local member's name will where appropriate, be shared with media as a potential contact for comment and the Communications Team will offer advice and guidance in the usual way, seeking a quote from the local member in advance of the release if appropriate and providing advice for dealing with any retrospective approach for further comment from the media. Members are encouraged to take part in regular training on the use of social media.

## **17. Member Training**

- 17.1 Members are expected to embrace the principles of personal development and skill training and ensure they allocate time to participate in all the necessary training and personal development activities. This includes the necessary skills to take advantage of the ICT facilities made available to them.
- 17.2 Officers will work with individual members to produce a personal development plan, seek to ensure resources are available to fulfil the actions agreed in the plan and provide appropriate training to ensure that all members have the skills needed to fulfil their duties.

Other Codes, Protocols and Policies that should be referred to:

Member Code of Conduct  
Employee Code of Conduct  
Bullying & Harassment Policy  
Access to Information Procedure Rules (Chapter 10 of the Constitution)

Table 1.

<b>Elected Members</b>	<b>Officers</b>
Democratically elected (receive an allowance)	Employed by the Council (paid a salary)
Community leaders – with a focus on their ward	May have specialist role with a specific focus
Make decisions on behalf of the District, and for the whole Council	Work for the District and the whole council
Can bring a political dimension to the role	Impartial – must give unbiased advice and information to all members equally
Abide by a Member Code of Conduct	Bound by their employment contract and the employee code of conduct
Set policy & oversee service delivery	Implement policies & ensure delivery of services
Only involved in senior officer appointments	Day to day management of officers and service areas