



## **COUNCIL, 26 APRIL 2007 - AGENDA ITEM 8D**

### **Member / Officer Relations Protocol**

April 2007

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## Member / Officer Relations Protocol

### 1. Introduction

- 1.1 The Nolan Committee's Report on Standards of Conduct in Local Government in 1997 recommended that every Council should adopt a formal protocol setting out guidance for appropriate relationships between officers and Members. The relationship between Members and officers is an essential ingredient that goes to the very heart of the successful working of the Council. This relationship should be characterised by mutual trust, respect and courtesy. These are essential for good local government and serve to enhance local democracy. Members and officers should feel free to speak to one another openly and honestly. Nothing in this Protocol is intended to change this relationship. The purpose of this Protocol is rather to help Members and officers to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. The Protocol aims to serve as a guide to dealing with those issues that most commonly arise or which cause concern.
- 1.2 This protocol seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and officers. It should be read and operated in the context of any relevant legislation, national and local Codes of Conduct and guidance on effective corporate governance, the Council's Constitution, and any other relevant Council policies. If a Member is unsure about any matter, he / she should contact the Monitoring Officer for appropriate advice or guidance. If any Officer is unsure about any matter he / she should contact their line manager, Corporate Manager or Chief Officer.

### 2. Roles of Members and Officers

- 2.1 The respective roles of Members and officers can be summarised as follows:

*Both Members and officers are servants of the public and they are indispensable to one another. Their individual responsibilities are, however, distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are employees of the Council and their job is to give advice to Members and the authority, and to carry out the Council's work under the direction and control of the Council, the Executive and relevant Committees, panels etc. Officers must act in the best interests of the Council as a whole and must not give partisan political advice.*

*Mutual respect between Members and officers is essential to good local government.*

#### **Members**

- 2.2 Members have three main areas of responsibility: determining the policy of the Council and giving it political Leadership (1), representing the Authority externally (2) and acting as advocates on behalf of their constituents (3). It is not the role of Members to involve themselves in the day-to-day management of the Council's services. Members should be careful to avoid involvement in internal office management, discipline and other employment related issues, as the actions of a Member may be held to be the actions of the Council as an "employer".

#### **Members of the Executive, Chairmen and Vice-Chairmen**

- 2.3 Members of the Executive and Chairmen and Vice-Chairmen of Committees and Panels have additional responsibilities. Their relationships with officers may be

different from and be more complex than those of Members without those responsibilities and this is recognised in the expectations they are entitled to have.

### ***Opposition Members***

- 2.4 As individual members of the Council, all Members have the same rights and obligations in their relationship with officers and should be treated equally. This principle is particularly important in the context of scrutiny and overview. Where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between officers (particularly those at a senior level in the Council) and the administration will differ from that with opposition groups. However, Members in opposition still have the same rights and obligations in their relationships with officers and should be treated equally.

### ***Officers***

- 2.5 The role of officers is to give advice and information to Members and to implement the policies determined by the Council.
- 2.6 Certain employees (i.e. the Head of Paid Service, Monitoring Officer and Section 151 Officer [Chief Financial Officer]) have responsibilities in law over and above their obligations to the Council and its Members that they must be allowed to discharge.

## **3. Expectations**

- 3.1 Members can expect from officers:

- (a) A commitment to the Authority as a whole, and not to any political group
- (b) A working partnership
- (c) An understanding of and support for respective roles, workloads and pressures
- (d) Timely response to enquiries and complaints
- (e) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of employees
- (f) Regular up-to-date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold
- (g) Awareness of and sensitivity to the political environment
- (h) Respect, dignity and courtesy
- (i) Training and development in order to carry out their role effectively
- (j) Integrity, mutual support and appropriate confidentiality
- (k) Not to have personal issues raised with them by employees outside the agreed procedures
- (l) That employees will not use their relationship with Members to advance their personal interests or to influence decisions improperly
- (m) That employees will at all times comply with the Officer Code of Conduct

- 3.2 Officers can expect from Members:

- (a) A working partnership
- (b) An understanding of and support for respective roles, workloads and pressures
- (c) Political Leadership and direction
- (d) Respect, dignity and courtesy
- (e) Integrity, mutual support and appropriate confidentiality
- (f) Not to be subject to bullying or to be put under undue pressure. Members should have regard to the seniority of officers in determining what are

reasonable requests, having regard to the power relationship between Members and officers, and the potential vulnerability of officers, particularly at junior levels

- (g) That Members will not use their relationship with officers to advance their personal interests or those of others or to influence decisions improperly
- (h) That Members will at all times comply with the local Code of Conduct

#### **4. Potential Issues**

##### ***Working Relationships***

- 4.1 It is clearly important that there should be close working relationships between Officers of all positions and political parties. However, such relationships should never be allowed to become so close or appear so close as to bring into question the individual's ability to deal impartially with others. Close personal familiarity between individual Members and Officers can damage professional relationships and can prove embarrassing to other Members and Officers. Situations should be avoided, therefore, that could give rise to suspicion and / or appearance of improper conduct or behaviour. This includes excessive socialising between Members and Officers, for example meeting on a social basis more than once per week. 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.
- 4.2 Any dealings between Members and Officers should be conducted with mutual trust, respect and courtesy and neither party should seek to take unfair advantage of his / her position. An employee who is one of their constituents may ask a Member for advice and support. 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 District Council's position in relation to disciplinary procedures or employment matters in respect of any employee. A Member approached for help in such circumstances should first seek advice from the Monitoring Officer.
- 4.3 In seeking advice and support, Members should have due regard to the seniority of the Officer with whom they are dealing and recognise that, whilst Officers owe an overriding duty to the Council as a whole, such duties are first owed to their respective line managers, Corporate Managers and Chief Officers and not to any individual Member. For this reason, Members should not give direct instructions to staff. In these circumstances, any requests should be given to the Corporate Manager or Chief Officer and not to a more junior Officer.
- 4.4 Members must also not pressurise any Officer to change his / her professional opinion on any Council business matter or do anything that compromises, or which is likely to compromise, the impartiality of Officers or those who work for, or on behalf of the Council.

##### ***Constructive Criticism***

- 4.5 It is an absolute requirement that councillors do not criticise officers personally or use, as councillors, intemperate language or conduct in public about reports or actions taken by officers. Officers are similarly constrained by their own code, by their employment provisions and by their requirement to maintain professional integrity. It is important that there should be mutual respect and courtesy between councillors and officers and that no councillor or officer should seek to take unfair advantage of their position
- 4.6 Councillors have the right to criticise reports or the actions taken by officers but they should always avoid personal attacks on officers and ensure that criticism is

constructive, well-founded and likely to lead to improved performance in future, rather than solely to apportion blame

### ***Appointments with Officers***

- 4.7 Where possible, Members should endeavour to make appointments to speak to all levels of officers so that workloads can be organised around such appointments. This also avoids encroaching on the officer's colleagues' time in dealing with queries they are not best placed to assist with in the absence of that officer. Equally, Members should try to ask questions via e-mail or telephone rather than face-to-face meetings where possible. Members must also appreciate that responses to such queries may not always be immediate depending on the particular officer's work priorities. There should be no expectation among Members that Member queries will always be given priority over an officer's other work commitments.
- 4.8 Members should ensure, where possible, that they speak to the correct level of officer for their query in the first instance and should avoid speaking to chief officers about issues that should be dealt with at a lower level. This is vital if chief officers are to be allowed the time to focus on their more strategic work. Members should speak to the contact centre in the first instance in order to be referred to the officer/service they need to speak to. Members should advise their residents to do the same, and only themselves get involved if there is a failure of service.

## **5. Accountability of Members / Officers under Scrutiny Arrangements**

- 5.1 The Scrutiny and Overview Committee may scrutinise and review decisions made by the Cabinet or actions taken by / or on behalf of the Cabinet. As well as reviewing documentation, in fulfilling the scrutiny role, it may require the Leader, Portfolio Holder, Chief Officer or Corporate Manager to attend before it to explain in relation to matters within their remit:

- any particular decision or series of decisions;
- the extent to which the actions taken implement Council policy; and / or
- their performance

and it is the duty of those persons to attend if so required. However, in exceptional circumstances, if the Member or Officer is unable to attend on the required date, then the Committee shall, in consultation with the Member or Officer arrange for an alternative date for attendance to take place within a reasonable period.

- 5.2 Where any Member or Officer is required to attend a Committee under the provisions of paragraph 5.1 above, the Chairman of the Committee will arrange for the Member or Officer to be informed in writing, giving notice of the nature of the item (with reasons) on which he / she is required to attend to give account and giving sufficient notice having regard to whether or not the production of any documentation or report is required.
- 5.3 A Committee may not scrutinise an action taken by a Chief Officer or Corporate Manager under delegated powers, which is in furtherance of day-to-day administration of the service for which the officer is responsible. Only key decisions taken by officers under delegated powers will be subject to call-in by the Scrutiny and Overview Committee.

## **6. Local Members**

- 6.1 Local Members have an important role to play in representing the District Council in the electoral wards, responding to the concerns of their constituents, in meetings with partners and serving on external bodies and organisations.

- 6.2 It is essential for the proper running of the Council that there should be full consultation with Local Ward Members before decisions are taken which affect their electoral wards. It is the duty of each Corporate Manager to ensure that all relevant staff are aware of the requirements to consult, as set out in the Delegation Rules<sup>1</sup>, and to keep local Members informed and that the timing of such information allows Members to contribute to those discussions. Local Members should also be fully consulted and kept informed about matters affecting their wards during the formative stages of policy development. Issues may affect a single electoral ward but others may have a wider impact in which case numerous Members will need to be consulted and kept informed.
- 6.3 Wherever a public meeting is organised by the Council to consider a local issue, all Members representing the electoral ward(s) affected should as a matter of course be invited to attend. Similarly, whenever the Council undertakes any form of consultation exercise, the local Member(s) should be notified at the outset of the exercise.
- 6.4 If a local Member is not sure how to handle a problem that has arisen in their ward they should where possible seek guidance from their Group Leader or Member colleagues before seeking advice from officers.

## 7. Political Groups

- 7.1 Political group meetings, whilst they form an important part in the preliminaries to Council decision-making, are not formal decision-making bodies of the District Council and as such are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions and it is essential that Members and Officers understand and interpret them accordingly.
- 7.2 Officer support to political groups must not extend beyond providing information and advice in relation to Council business (not party political business). It may be appropriate for Officers to participate in discussions within political group meetings in relation to the professional advice they give. However, it is good practice for party political discussions and debates to take place and conclusions to be reached in the absence of Officers, in order to avoid suspicion of impropriety or misunderstanding.
- 7.3 Officers must respect the confidentiality of any political group discussions. Any breach of this part of the protocol must be brought to the attention of the Monitoring Officer for consideration. For the avoidance of doubt, it must be recognised by all 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. Members shall, at all times, respect the political impartiality of Officers and must not expect or encourage Officers to give a political view on any matter.
- 7.4 When an officer is requested to attend a political group meeting:
- the request to attend must be made through and approved by the appropriate Chief Officer;
  - such a request can only be made in relation to Council business; and Officers will:
    - provide relevant factual advice and assistance
    - leave during the deliberations of the political group on the issues;
    - respect the confidentiality of any party group decisions at which they are present; and
    - not champion, defend, action a request or spend any resources of the Council, or be held responsible for actioning in any way whatsoever

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<sup>1</sup> Constitution Part 4, pages M-1 to M-5

- the decisions of the political group(s), unless and until such decisions have become the formal decisions of the Council.
- Inform the other political groups, offering them the right of the same information.

## **8. Ceremonial Events**

- 8.1 The Chairman of the District Council, or in his / her absence the Vice-Chairman, will be the appropriate person to lead District Council ceremonial events and to represent the Council by invitation at ceremonial events of other organisations.
- 8.2 Local members should always be informed of, and where possible, invited to ceremonial events taking place within their own wards.
- 8.3 Any Member taking part in a ceremonial event must not seek disproportionate personal publicity or use the occasion for party political advantage, bearing in mind that the Member is representing the Council as a whole.
- 8.4 Members should always dress appropriately for a particular occasion, mindful of their community leadership role. The Chairman of the Council will oversee this obligation.

## **9. Access to Information and Documentation**

- 9.1 Any Member may request a private and confidential briefing from a senior officer on matters of policy, which have already been or may be discussed by the Council within its decision-making or advisory process. All such requests should be made to the appropriate Chief Officer or Corporate Manager and shall be subject to the exigencies of the service. Briefings should remain strictly confidential and are not to be shared with other Members of the Council unless so permitted by the relevant Member and Officer.
- 9.2 Individual Members may request any Chief Officer (or another senior Officer) to provide them with factual information, which is necessary in pursuance of the proper performance of their duties. Such requests must be reasonable and must also recognise the need for Officers to maintain the distinction between the executive and scrutiny processes.
- 9.3 As regards the legal rights of Members to inspect Council documents, these are partly covered by statute and partly by common law. This is commonly known as the “need to know principle”.
- 9.4 Sometimes a Member’s “need to know” will be presumed. For example a Member is unlikely to be refused opportunity to inspect documents relating to the functions or activities of a member body on which they serve. At other times, for example when documents contain confidential information or personal information about a third party, the Member will need to satisfy the relevant Chief Officer or Corporate Manager about their “need to know”.
- 9.5 If a Chief Officer or Corporate Manager considers the cost of providing the information requested, or the nature of the request to be unreasonable he / she should seek guidance from the Principal Solicitor as to whether the information should be provided. Where necessary, the Principal Solicitor will determine whether the information should be provided.
- 9.6 Confidential information relating 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 appropriate Chief Officer or Corporate Manager.

- 9.7 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 District Council).

## **10. Correspondence**

- 10.1 Email relating to the Council must be treated in the same way as formal business correspondence and its distribution considered accordingly. Members should restrict the distribution of email correspondence to the intended recipients and refrain from using multi address distribution lists (for example e-mail replies copied to all Members) unless there is good reason so to do. It should be noted that email can be used for documentary evidence in matters such as disciplinary proceedings and libel cases even after it has been deleted.

- 10.2 Official correspondence on behalf of the Council would normally be sent in the name of the appropriate Officer, rather than in the name of a Member. However, there would be circumstances in which it would be appropriate for correspondence to appear in the name of a Member. For example, a local Member may deal with correspondence with a local constituent in relation to a local matter in his / her name. Similarly, the Leader of the Council or a Portfolio Holder may deal with correspondence concerning his / her area of responsibility in his / her name. Any Member who receives correspondence should consider whether it is appropriate in the circumstances for it to be passed to an Officer for a reply or for him / her to reply in his / her name. The Chairman of Council will respond to correspondence addressed to him/her in consultation with the relevant officers. Any such correspondence should always have regard to the Council's policies, practices and procedures and any mechanisms, if appropriate, for changing them. A Member is advised to seek advice, as necessary, from Officers before sending any correspondence in his / her own name. Correspondence which creates legal obligations or gives instructions on behalf of the Council should never be sent out in the name of a Member. Correspondence includes any communication by letter, fax or email.

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

- 11.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying and transport) to Members is to assist them in discharging their duties as a District Councillor. Such support services must therefore only be used on Council business. They should never be used in connection with any party political activity or self-promotion. Where the Council provides ICT equipment in the form of a PC or Laptop computer, the equipment can be used for constituency related tasks or other Council related use. The equipment may also be used for personal use, as long as such use complies with the provisions of section 6, General Use, as set out in the agreement for Members' use of the PC or Laptop computer.

## **12. Publicity and Media**

### ***Publicity***

- 12.1 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its policies and priorities to electors. In recent years, all local authorities have increasingly used

publicity to keep the public informed and to encourage public participation and see this as an essential part of providing services.

- 12.2 Publicity is, however, a sensitive matter in any political environment because of the impact it may have. Expenditure on publicity can be expensive. It is essential therefore to ensure that local authority decisions on publicity are made properly and in accordance with clear principles of good practice.
- 12.3 Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of the national Code of Recommended Practice on Local Authority Publicity and local Publicity Protocol and Media Guidelines (<http://scambsmoderngov.co.uk/mglIssueHistoryHome.asp?lId=16674>) If in doubt, Officers and / or Members should initially seek advice from the Council's Communications Team.
- 12.4 Particular care should be taken with Council publicity material in the run-up to an election. During the moratorium on publicity prior to elections, advice concerning any media engagement should be obtained from the Communications Team.

### **Media**

- 12.5 Members wishing to publicise themselves or their political parties must do so in an independent capacity without using Council resources, subject to the provisions of the User Agreement for the use of IT. When using council headed paper or e-mailing using a Council e-mail address the correspondence should not include political comments, nor include an overtly party political stance and should not criticise council policy adopted by full council. If Members wish to make political statements in correspondence they should not use Council headed notepaper.
- 12.6 Members should always bear in mind potential damage to the reputation of the Council before issuing any statement to the press and should check the content of such statements with the Communications Team and their Group Leader before speaking to the media. Members should also be careful not to make derogatory or inflammatory comments about the Council's partner organisations as such comments may affect the success of future partnership working.

## **13. When Things Go Wrong**

- 13.1 Whispering campaigns against Members or officers do not project a healthy environment for engendering mutual trust, respect or courtesy and should be avoided. The following procedures should be followed:

### ***Procedure for Officers to follow when experiencing difficulties with Members***

- 13.2 From time to time the relationship between Members and officers may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or member, officers will have recourse to a procedure whereby the complaint or grievance will be referred to the Council's Monitoring Officer. An informal meeting will then be arranged between the relevant member and officer, the member's group leader and the Chief Executive. The Chairman of the Standards Committee may also be invited to attend where appropriate. If the matter cannot be resolved internally, if it is a repeat occurrence of an earlier issue or if it concerns a serious breach of the Member Code of Conduct the Member may be referred to the Standards Board for England.

***Procedure for Members to follow when experiencing difficulties with Officers***

- 13.3 A Member should not raise matters relating to the conduct, behaviour or capability of an Officer in a manner that is incompatible with the objectives of this Protocol. An Officer has no means of responding to such criticism in public. If any Member feels that he / she has not been treated with the proper mutual trust, respect or courtesy or has any concern about the conduct or capability of an Officer, he / she should raise the matter, in private, with the relevant Officer and if necessary with their line manager. Any concerns with regard to a Corporate Manager or the Executive Director should be discussed in private with the Chief Executive. Where the officer concerned is the Chief Executive, the matter should be raised with the Chairman of Council, Leader of the Council or Monitoring Officer, as appropriate to the circumstances. If the matter cannot be resolved informally, it may be necessary to invoke the Council's Disciplinary Procedure.

***Whistle blowing***

- 13.4 Where an officer or councillor is concerned about potential unlawful conduct of an officer or councillor, the Council's whistle-blowing policy may also be relevant

**14. Interpretation**

- 14.1 Questions of interpretation of this Protocol will be determined by the Monitoring Officer.