

C. Protocol on Member / Officer Relations

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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, rather, is 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, they should contact the Monitoring Officer for appropriate advice or guidance. If any officer is unsure about any matter, they should contact their line manager, Head of Service or Chief Officer.

2. Roles of Members and Officers

- 2.1 The respective roles of members and officers are 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 Cabinet and relevant committees, panels etc. Officers shall act in the best interests of the Council as a whole and shall 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: (1) determining the policy of the Council and giving it political leadership, (2) representing the Authority externally, and (3) acting as advocates on behalf of their constituents. 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 Cabinet, Chairs and Vice-Chairs

- 2.3 Members of the Cabinet and chairs and vice-chairs of committees and panels have additional responsibilities. Their relationships with officers may be different from, and 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 Finance 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:

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- (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) a 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 shall not use their relationship with members to advance their personal interests or to influence decisions improperly;
- (m) that employees shall at all times comply with the Officers' 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 shall not use their relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
- (h) that members shall 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 all officers and members. 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 their 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, Heads of Service 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 Head of Service or Chief Officer and not to a more junior officer.

- 4.4 Members shall also not pressurise any officer to change their 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, and does not seek to apportion blame

Appointments with Officers

- 4.7 Where possible, members shall 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 should 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. (See also paragraph 7 of this protocol (Members' enquiries)).
- 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. Members may also refer to the intranet to establish which officer they need to speak to.

5. Accountability of Members / Officers under Scrutiny Arrangements

A 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, a scrutiny and overview committee may require the Leader, lead cabinet member, Chief Officer or Head of Service to attend before it as provided in the Scrutiny and Overview Procedure Rules.

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 Chief Officer and Head of Service to ensure that all relevant staff are aware of the requirements to consult, as set out in the Scheme of Delegation (Part 3 of the Constitution), 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) shall 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 may, if appropriate, seek guidance from their Group Leader or member colleagues before seeking advice from officers.

7. Members' Enquiries

- 7.1 The relationship between members and officers should be characterised by partnership, empowerment and trust. In order to ensure delivery of the Council's priorities and provision of high-quality public services it is essential that members and officers work in a collaborative and mutually supportive

manner. Officers should recognise the need for members to receive information in a timely manner in order to carry out their constituency roles. Members should likewise be appreciative of the competing demands on officer time.

- 7.2 Heads of Service are responsible for ensuring that members' enquiries are dealt with promptly and satisfactorily within their service areas.
- 7.3 Officers shall aim to provide a substantive response to members' enquiries within 2 working days of receipt. If a substantive response cannot be provided within that timescale, officers shall contact the member to explain the reason why and shall liaise with them regarding the timescale within which the full response shall be sent.
- 7.4 An officer shall raise with their Head of Service any enquiry which would impose a disproportionate burden on their work and, if necessary, further discussion shall then take place with the member concerned with a view to agreement of the approach to managing the response to the enquiry
- 7.5 Members' enquiries which fall within the remit of constituents' complaints shall be handled under the Council's Complaints Procedure.
- 7.6 The process outlined in this paragraph supplements members' statutory and common law rights to information as detailed in paragraph 10.

8. Political Groups

- 8.1 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.
- 8.2 Officer support to political groups shall 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.
- 8.3 Officers shall respect the confidentiality of any political group discussions. Any breach of this part of the protocol shall be brought to the attention of the

Monitoring Officer for consideration. For the avoidance of doubt, it shall 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 shall not expect or encourage officers to give a political view on any matter.

8.4 When an officer is requested to attend a political group meeting:

- (a) the request to attend shall be made through, and approved by, the appropriate Chief Officer;
- (b) such a request shall only be made in relation to Council business; and officers shall:
 - (i) provide relevant factual advice and assistance;
 - (ii) leave during the deliberations of the political group on the issues;
 - (iii) respect the confidentiality of any party group decisions at which they are present;
 - (iv) not champion, defend, action a request or spend any resources of the Council, or be held responsible for actioning in any way whatsoever the decisions of the political group(s), unless and until such decisions have become the formal decisions of the Council; and
 - (v) inform the other political groups, offering them the right of the same information.

9. Ceremonial Events

- 9.1 The Chair of the District Council, or in their absence the Vice-Chair, shall be the appropriate person to lead District Council ceremonial events and to represent the Council by invitation at ceremonial events of other organisations.
- 9.2 Local members shall always be informed of, and where possible, invited to ceremonial events taking place within their own Wards.
- 9.3 Any member taking part in a ceremonial event shall 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.

- 9.4 Members should always dress appropriately for a particular occasion, mindful of their community leadership role. The Chair of the Council shall oversee this obligation.

10. Access to Information and Documentation

- 10.1 The Access to Information Procedure Rules set out the rights of access for members.
- 10.2 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 shall be made to the appropriate Chief Officer or Head of Service and shall be subject to the exigencies of the service. Briefings shall remain strictly confidential and are not to be shared with other members of the Council unless so permitted by the relevant member and officer.
- 10.3 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 shall be reasonable and shall also recognise the need for officers to maintain the distinction between the cabinet and scrutiny processes.
- 10.4 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”.
- 10.5 Sometimes a member’s “need to know” will be presumed. For example, a member is unlikely to be refused an 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 shall be required to satisfy the relevant Chief Officer or Head of Service about their “need to know”.
- 10.6 If a Chief Officer or Head of Service considers the cost of providing the information requested, or the nature of the request to be unreasonable they should seek guidance from the Monitoring Officer as to whether the information should be provided. Where necessary, the Monitoring Officer shall determine whether the information should be provided.
- 10.7 Confidential information relating to casework shall 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 Head of Service . If a member is already in possession of

confidential information regarding a constituent then it is acceptable to discuss this with the relevant officer in order to help bring about a satisfactory resolution to a situation.

- 10.8 Council information provided to a member shall 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). Where confidential, personal or otherwise sensitive information is obtained by a member, they shall deal with that information in accordance with the Members' Code of Conduct.

11. Correspondence

- 11.1 E-mail relating to the Council shall be treated in the same way as formal business correspondence and its distribution considered accordingly. Members should restrict the distribution of e-mail 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 e-mail can be used for documentary evidence in matters such as disciplinary proceedings and libel cases even after it has been deleted.
- 11.2 Official correspondence on behalf of the Council shall normally be sent in the name of the appropriate officer, rather than in the name of a member. However, there are circumstances in which it is 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 their name. Similarly, the Leader of the Council or a lead cabinet member may deal with correspondence concerning their area of responsibility in their 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 them to reply in their name. The Chair of Council shall respond to correspondence addressed to them 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 their 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 e-mail, texts, social media posts or other electronic means.

12. Support Services to Members and Party Groups

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 shall therefore only be used on Council business. They should never be used in connection with any party-political activity or self-promotion. Members are required to comply with the provisions of the Members' ICT User Agreement (inclusive of the Members' ICT and Information Security Policy) when accessing the Council's network and email systems and when using any ICT equipment provided by the Council.

13. Publicity and Media

Publicity

- 13.1 The Council wishes to encourage regular, open and two-way dialogue with its communities to ensure that the public are aware of the Council's activities, are informed about how to access services and are aware of opportunities for public participation in the democratic process.
- 13.2 The way information is publicised has changed significantly over time with online and social media being more prominent and instant. Messaging in publicity should be well considered as it is essential to ensure that local authority decisions on publicity are made in accordance with clear principles of good practice.
- 13.3 Officers and members of the Council shall, therefore, in making decisions on publicity, take account of the provisions of the national Code of Recommended Practice on Local Authority Publicity 2011. The Council's communications team can help to ensure publicity is timely, correct and targeted appropriately.
- 13.4 Particular care should be taken with Council publicity in the run-up to an election. Additional guidance is issued at these times to help members and officers. The guidance includes contacts in the Communications Team and Legal who can provide additional advice where necessary.

Media

- 13.5 Members wishing to publicise themselves or their political parties shall do so in an independent capacity without using Council resources.
- 13.6 When using Council email, or writing on behalf of the authority, correspondence should not include political comments or criticise Council

policy adopted by Full Council. If members wish to make political statements in correspondence, they shall not use Council communications channels or give the impression their views are those of the Council.

- 13.7 The Council's Communications Team provides a press office function on behalf of the Council. Press enquiries requesting information or a response on behalf of the Council should be referred to the Communications Team.

14. When Things Go Wrong

- 14.1 This protocol is designed to provide the framework within which members and officers work effectively together. However, the following process should be followed in the event of any difficulties arising.

Procedure for officers to follow when experiencing difficulties with members

- 14.2 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 shall have recourse to a procedure whereby the complaint or grievance shall be referred to the Council's Monitoring Officer. An informal meeting shall then be arranged between the relevant member and officer, the member's group leader and the Chief Executive. The Chair of the Civic Affairs Committee may also be invited to attend where appropriate.

Procedure for members to follow when experiencing difficulties with officers

- 14.3 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 they have not been treated with the proper mutual trust, respect or courtesy or have any concern about the conduct or capability of an officer, they should raise the matter, in private, with the relevant Head of Service. Any concerns with regard to a Head of Service or Chief Officer should be discussed in private with the Chief Executive. Where the officer concerned is the Chief Executive, the matter should be raised with the Chair 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.

Whistleblowing

14.4 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.

15. Interpretation

Questions of interpretation of this protocol shall be determined by the Monitoring Officer.