

PART 5C – PROTOCOL FOR MEMBER/OFFICER RELATIONS

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1. **Introduction**

- 1.1 The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another. Given the variety and complexity of such relations it is not intended to be prescriptive or exhaustive but seeks to offer guidance on some of the issues which commonly arise. The protocol should be read in conjunction with the Code of Members' Conduct, the Employee Rules and the Access to Information guidelines as set out in the Council's Constitution and also with the Customer Relations Framework.

2. **General Principles**

- 2.1 Members and Officers are servants of the public and they are indispensable to one another but their responsibilities are distinct. Members are responsible to the electorate and they serve only as long as their term of office lasts. Officers are responsible to the Council. Their role is to give advice to Members and to the Council and to carry out the Council's work under the direction and control of the Council, Cabinet and Committees.

- 2.2 The principles that underline Member and Officers relations and this protocol are: -

Selflessness – Members and Officers should only serve the public interest and should never improperly confer any advantage or disadvantage on each other or any person.

Honesty and Integrity – Members and Officers should not place themselves in situations where their honesty or integrity may be questioned. They should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity – Members and Officers should make decisions on merit including making appointments, awarding contracts or recommending individuals for rewards or benefits.

Accountability – Members and Officers should be accountable to the public for their actions and the manner in which they carry out their responsibilities

and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness – Members and Officers should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.

Respect for others – Members and Officers should treat each other and the public with respect by promoting equality by not discriminating unlawfully against any person and by treating people with respect regardless of their race, age, religion, gender, sexual orientation or disability. Members should respect the impartiality and integrity of the Council's statutory officers and other employees.

Duty to uphold the law – Members and Officers should uphold the law and on all occasions act in accordance with the trust that the public is entitled to place in them.

Stewardship – Members and Officers should do whatever they are able to do to ensure that their Authority uses its resources prudently and in accordance with the law.

Leadership – Members and Officers should promote and support these principles by leadership and by example and should act in a way that secures or preserves public confidence.

3. **Role of Members**

3.1 Members are elected and are required to act in accordance with the Code of Members' Conduct.

3.2 Officers can expect from Members:

- Leadership within the political sphere and direction
- Respect, dignity and courtesy
- An understanding of and support for respective roles, workload and pressures
- Not to be subjected to bullying or undue pressure, including through written and verbal communications
- Not to use their position or relationship with Officers to advance their personal interests or those of others or to improperly influence decisions
- Compliance with the Code of Members' Conduct

4. **Role of Officers**

4.1 Officers are employed by the Council as a corporate body. The Employment Rules ([Part 4F](#) of the Constitution) deal with the appointment, conduct, disciplining and dismissal of Officers. In general terms Members shall not be involved in such matters other than in respect of Chief Officers, Deputy Chief Officers, Statutory Officers and Political Assistants.

4.2 Members can expect Officers to:

- Maintain confidentiality where necessary and lawful
- Perform their duties effectively, efficiently and with political neutrality
- Behave in a professional and courteous manner
- Be helpful to members and respect their role

- Avoid close personal familiarity with Members and not use their relationship with Members to advance their personal interests or to influence decisions improperly
- Report to an Assistant Director or Strategic Director any time that a Member asks or pressurises the Officer to deal with a matter outside of Council procedure or policy
- Demonstrate an understanding of and support for respective roles, workloads and pressures
- Comply with any relevant Code of Conduct

5. Correspondence between Members and Officers

- 5.1 As far as possible, Members should seek to communicate with Strategic Directors, Assistant Directors and Service Managers. It is permissible and sensible for members to seek straightforward factual information from junior officers, and to enquire as to technical or professional matters of appropriately qualified officers whose duties include advising members. However, anything contentious, or any matter requiring a complex opinion, a value, or a judgement, should be directed to the Strategic Directors, Assistant Directors or the relevant Service Manager.
- 5.2 Correspondence between an individual Member and an Officer should not normally be copied by the Officer to any other Member, unless the Member has himself or herself sent copies to other Members; in this case copies will normally be sent to those Members as well. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member.
- 5.4 Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. in respect of executive matters or representations to a Government minister) for a letter to appear in the name of a Member, but this should be the exception rather than the norm. Letters which create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

6. Relationship between the Leader and Officers

- 6.1 The Leader will be at the centre of the Cabinet and will need the close working support of a number of officers, including, perhaps, a political assistant. The relationship between the Leader and those officers must never be, or give the appearance of being, so close as to bring into question the officers' ability to deal impartially with other members, especially those belonging to other party political groups.
- 6.2 If the Cabinet chooses to appoint a political assistant, that officer will be, and will remain, an employee of the Council, not of the Cabinet, and will be subject to the same corporate obligations and conditions of service as all other Council employees, except where variations are specifically provided in the conditions of contract reflecting the particular nature of the post.

7. Relationships between Members of the Cabinet and Chairmen/Vice Chairmen of Committees and Officers

- 7.1 It is important that there should be a close working relationship between members of the Cabinet (whether or not they exercise personal executive powers) or Chairmen/vice Chairmen of other Committees and the Strategic Directors, Assistant Directors, Service Managers and other senior Officers who support them in their respective roles. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party political groups.
- 7.2 Where a Strategic Director, Assistant Director, Service Manager or a senior Officer submits a report to the Cabinet or any Committee, that Officer will always be fully responsible for any part of its contents submitted in their name.
- 7.3 Whilst Officers should always seek to assist members of the Cabinet, a Chairman or, indeed, any Member, they must not in so doing go beyond the limits of the authority they have been given.

8. **Partnerships**

- 8.1 The increasing involvement of the Council in various forms of partnerships with other bodies creates situations where Members and Officers are drawn into new non-traditional working relationships. These could pose difficulties if Members and Officers lose sight of the fundamental principles which define their different roles.

9. **Officer Relations with Party Political Groups**

- 9.1 Party Political Groups are a recognised part of the local government structure and their role is recognised and facilitated by statute. Officers may properly be called upon to support and contribute to deliberations by party political groups of matters likely to come before the Council, the Cabinet or Committees. They must do so in ways which do not compromise their political neutrality.
- 9.2 The support provided by officers can take many forms, ranging from a briefing meeting with a Cabinet member or a Chairman to a presentation to a full political group meeting. Whilst in practice such Officer support is likely to be most in demand from whichever party group forms the administration of the Council, such support is available to all political groups.
- 9.3 Any request for an officer to attend a political group meeting should be made through the Chief Executive or the appropriate Assistant Director.
- 9.4 The following matters must be understood by all those participating in political group meetings, Members and Officers alike -
- (a) Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of political party or political group business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of political group business are to be discussed;

- (b) Political group meetings, whilst they may 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 cannot bind the Council in any way;
 - (c) Where Officers provide information to a political group meeting in relation to a matter of Council business, this cannot act as a substitute for the obligation to provide all necessary information and advice to the Cabinet, Committee or Council meeting when the matter in question is considered;
 - (d) Any strategy or policy which may emerge from the political group meeting is that of the political group alone;
 - (e) Special care needs to be exercised whenever officers are involved in providing information and advice to a political group meeting which includes persons who are not members of the Council. Such persons will not be bound by the Code of Conduct and the statutory and other provisions concerning the declaration of interests and confidentiality, and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Member only meeting.
- 9.5 Officers must respect the confidentiality of any political group meeting at which they are present in the sense that they should not relay the content of any such discussion to another party. Officers should not be requested to answer questions on such matters by Overview & Scrutiny Committees.
- 9.6 Any particular cases of difficulty or uncertainty in this area should be raised with the Chief Executive and/or the Monitoring Officer who will discuss them with the relevant political group leader.
- 10. Public Meetings called by Individual Councillors or Party Political Groups**
- 10.1 If an individual Member or a political group convenes a public meeting, publicity for the meeting must clearly state the basis on which it is being held and should not state or imply that it is a Council meeting.
- 10.2 Any request for an Officer to attend such a meeting must be made through the Chief Executive or the appropriate Assistant Director. It must be made clear to those attending such a meeting that any officer is there in his or her official capacity, is politically neutral and that his or her presence does not signify support for a particular political proposal or initiative. This is essential because of the need for Officers to act, and to be seen to act, impartially and to comply with any political restrictions under which they operate.
- 11. Ward Member Roles and Officers**
- 11.1 Whenever a public meeting is organised by the Council to consider a local issue, all of the Members representing the ward or wards affected should as a matter of course, be invited to attend the meeting.

11.2 When dealing with a constituent's enquiry Members can seek information directly from the Officer dealing with the enquiry. Members must not place any Officer under pressure to deal with the matter in a particular way and a Member must deal with the matter in accordance with the principles of this protocol.

12. **Support Services to Members and Party Political Groups**

12.1 The Council can only provide support services (e.g. stationery, typing, printing, photo-copying, I.T., transport, etc.) to Members to assist them in discharging their role as members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

13. **Members' Access to Information and to Council Documents**

13.1 Members are free to approach any service area with a request to provide them with such information, explanation and advice, especially about the functions of the service division concerned, as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of a service area's activities to a request for specific information on behalf of a constituent. Such approaches should only be made to the relevant Service Manager or Assistant Director or, at their direction, to another Officer.

13.2 Members have the right to inspect Council documents partly by virtue of statute and partly by virtue of the common law. Members also have the same rights as any member of the public to access to information under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

13.3 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Cabinet or Committee meeting. These rights are summarised in the Access to Information Procedure Rules ([Part 4E](#)) and extend not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not however apply to documents relating to certain items which may appear as exempt items on the agenda (pink papers), to the advice of any political advisor or to documents which are in rough draft or evolution and have not been finalised.

13.4 The common law right of members is broader; it is based on the principle that any member has a prima facie right to inspect Council documents so far as access to the documents is reasonably necessary to enable the Member properly to perform his or her duties as a member of the Council. This principle is commonly referred to as the "need to know" principle.

13.5 The exercise of this common law right depends therefore upon the Member's ability to demonstrate their "need to know". In this respect a member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must initially be determined by the Assistant Director holding the document in question, with advice, if necessary, from the Borough Solicitor.

- 13.6 In some circumstances (e.g. a Committee member wishing to inspect documents relating to the functions of that Committee or a member of an Overview and Scrutiny Committee wanting to be informed about a matter within the remit of that Committee) a Member's "need to know" will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms. It is unlikely that a member will ever have a "need to know" in respect of personal details about individual Officers.
- 13.7 Whilst the term "Council document" is broad and includes for example, any document produced with Council resources, it is accepted by convention that a member of one political group will not have a "need to know", and therefore a right to inspect, a document which forms part of the internal workings of another political group.
- 13.8 A Member is not entitled to inspect any document, or have access to any information (save to the extent which that document is publicly available as set out in paragraphs 13.2 and 13.3 above), about a matter in which he or she has a prejudicial interest or is acting in a professional capacity, for example, on behalf of a client negotiating with the Council or involved in litigation against the Council.
- 13.9 A Service Manager or Assistant Director may refuse a Member access to a document for these or other good reasons such as the request being frivolous, vexatious or where a reasonable amount of information has already been provided. The Member must be informed in writing of the actual reason for refusal to provide the information.
- 13.10 If a Member is not satisfied with a decision by a Service Manager or Assistant Director, that Member may refer the matter to a Strategic Director, who having sought such advice as they consider appropriate, shall determine finally whether or not the Member should be given the access requested. If the original request had been made to the Chief Executive and a Member is not satisfied with his decision, the matter shall be referred to the Borough Solicitor for determination.
- 13.11 Further and more detailed advice regarding members' rights to inspect Council documents may be obtained from the Borough Solicitor.

14. **Complaints**

- 14.1 Should a Member have cause to complain about the actions or failings of any Officer of the Council below Assistant Director level, he or she should lodge their complaint in writing with the Assistant Director responsible for that Officer. If the complaint is against an Assistant Director, the complaint must be lodged in writing with the Chief Executive or a Strategic Director. If the complaint is against a Strategic Director, the complaint must be lodged in writing with the Chief Executive. If the complaint is against the Chief Executive personally the complaint must be lodged in writing with the Borough Solicitor. If the complaint is against the Borough Solicitor personally the complaint must be lodged in writing with the Chief Executive.
- 14.2 An Officer having cause to complain about the actions or failings of any member should lodge his or her complaint in writing with the Chief Executive.

At a minor level a complaint may be dealt with informally by referring the matter to the leader of the relevant political group. Where the complaint appears to involve an allegation of a breach of the Code of Members' Conduct, the Chief Executive will consult the Monitoring Officer.

- 14.3 Complaints should not be raised or referred to during Council, Committee or Cabinet meetings, except for those expressly called for that purpose.

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