

# 1. PROTOCOL ON COUNCILLOR / OFFICER RELATIONS

Approved by the Council on 12 September 2002 and updated following consultation with Group Leaders in November 2012. Job titles amended in June 2018, in line with the Council's revised staffing structure.

## 1. INTRODUCTION

- 1.1 The relationship between Councillors and officers is an essential component of the successful working of the organisation. This relationship within the authority is characterised by mutual respect, informality and trust. Councillors 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 Councillors and officers to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. The Protocol also gives guidance on what to do on the rare occasions when things go wrong. Responsibility for the operation of this Protocol lies with the Head of the Paid Service with issues of interpretation determined by the Monitoring Officer.
- 1.2 The Protocol must be read and operated subject to any relevant legislation and national and local Codes of Conduct and any procedure for confidential reporting.
- 1.3 Nothing in this Protocol shall be construed as being applicable to the relationship between a political research assistant appointed by the Council and councillors. Separate considerations apply to the relationship between political research assistants, as officers of the Council and councillors which are beyond the scope of this document.

## 2. ROLES OF COUNCILLORS AND OFFICERS

- 2.1 The respective roles of Councillors and officers can be summarised as follows: Councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and to the authority, and to carry out the authority's work under the direction and control of the Council, the Cabinet, and relevant committees, etc.

Mutual respect between Councillors and officers is essential to good local government

### 2.2 Councillors

Councillors have five main areas of responsibility:

- (a) determining the policy of the authority and giving it political leadership,
- (b) monitoring and reviewing the performance of the authority in implementing that policy and delivering services'
- (c) representing the authority externally,
- (d) acting as advocates on behalf of their constituents and
- (e) making decisions.

It is not the role of Councillors to involve themselves in the day to day management of the authority's services.

### **2.3 Members of the Executive/Cabinet, Chairs and Vice Chairs**

Members of the Executive/Cabinet and Chairs and Vice Chairs of Committees, Boards, Panels etc. have additional responsibilities. Because of those responsibilities, which are set out in the Council's Constitution, their relationships with employees may be different from, and more complex than those of Councillors without those responsibilities and this is recognised in the expectations they are entitled to have. However, such Councillors must still respect the impartiality of officers, must not ask them to undertake work of a party political nature, or to do anything which would put them in difficulty in the event of a change in the political composition of the authority.

### **2.4 Other Councillors**

As individual Councillors, all Councillors 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. However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the administration's legitimate expectations of officers, particularly those at a senior level in the organisation, will differ from that of other political groups.

### **2.5 Officers**

The role of officers is to give advice and information to Councillors and to implement the policies determined by the authority.

In giving such advice to Councillors, and in preparing and presenting reports, it is the responsibility of the officer to express his/her own professional views and recommendations. Whilst an officer may report the views of individual Councillors on an issue, if the Councillor wishes to express a contrary view he/she should not seek to pressure the officer to make a recommendation contrary to the officer's professional view.

Certain officers e.g. Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer) and the Statutory Chief Officers (the Education Director and Director for People) have responsibilities in law over and above their obligations to the authority and to individual Councillors, and Councillors must respect these obligations, must not obstruct officers in the proper discharge of these responsibilities, and must not victimise officers for properly discharging these responsibilities.

## **3. EXPECTATIONS**

### **3.1 Councillors 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 – as a minimum standard the Council's targets for public enquiries of acknowledgement within 5 working days and substantive reply within 20 days will apply.
- (e) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of officers
- (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. This will include the right for Councillors to make, and officers to respect, requests for confidential information and correspondence will not be copied by officers to any other Member unless it is considered, in the circumstances, that the officer is under a legal duty to do so. Where it is necessary to copy the correspondence to another Member, this will be made clear in the correspondence with the Councillor who initiated the correspondence.
- (k) Not to have personal issues or concerns raised with them or about them by officers other than via agreed procedures
- (l) That employees will not use their relationship with Councillors to advance their personal interests or to influence decisions improperly
- (m) That officers will at all times comply with the relevant Code of Conduct
- (n) Support for the role of Councillors as the local representatives of the authority, within any scheme of support for Councillors which may be approved by the authority, subject to the limitations outlined at 3.4 below.
- (o) Assistance by way of information and advice but only insofar as (i) the volume and frequency of request is within manageable bounds and (ii) the effect of providing such information and advice could not be detrimental to agreed Council policy or properly authorised decisions.

### **3.2 Officers can expect from Councillors:**

- (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. Councillors should have regard to the seniority of officers in determining what are reasonable requests, having regard to the fact that Councillors represent the employer and the potential vulnerability of officers, particularly at junior levels
- (g) That Councillors will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly
- (h) That Councillors will at all times comply with the relevant Code of Conduct
- (i) Not to be the subject of public personal comment by or criticism from Councillors and that concerns or comment will only be made or expressed in accordance with Section 5.
- (j) Recognition that officers work for the Council, not for individual Members, and it is for the Council and not the individual Member to set priorities when it comes to the allocation of Council resources subject to the statutory and common law rights of Councillors and the law.
- (k) To be allowed to progress approved Council policy subject to appropriate scrutiny.

### **3.3 Limitations upon Behaviour**

The distinct roles of Councillors and officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- (a) Close personal relationships between Councillors and officers can confuse these separate roles and get in the way of the proper discharge of the authority's functions, not least in creating the perception in others that a particular Councillor or officer may secure advantageous treatment.
- (b) The need to maintain the separate roles means that there are limits to the matters on which members may seek the advice of officers, both in relation to personal matters and party political issues.
- (c) Relationships with a particular individuals or party groups should not be such as to create public suspicion that an employee favours that Councillor or group above others. The issue of officer attendance and advice to political groups is specifically covered below.
- (d) To ensure that the distinct roles of Councillors and Officers are maintained and that the public perception is that of an appropriate professional relationship, it is advisable at meetings at which the public are present for Councillors and Officers to address each other by appropriate titles and surnames.

- 3.4 As employer, the Council has a duty to provide and maintain a working environment which is reasonably tolerable to all its employees and to protect them insofar as it is able to from unacceptable treatment and behaviour and unauthorised interference in work duties. All Councillors, as representatives of the employer, must ensure that they

discharge their duties as employer fairly and impartially and not do anything to undermine the relationship of mutual trust and confidence which must exist between the Council and its employees. It should be noted that the more influential position with the Council a Councillor holds, the more it is likely that his or her views or actions could be deemed to be those of the Council acting in his capacity as employer.

In seeking advice and support, Councillors should have due regard to the seniority of the officer with whom they are dealing and recognise that whilst these officers owe an overriding duty to the Council as a whole, such duties are first owed in practice to their respective line managers and the Chief Executive and not to any individual Member. For this reason, Members should not give direct instructions to staff unless they are duly authorised to do so by the Council's Constitution or the office which they hold. If so authorised, instructions should be given to the relevant Director and not to a more junior officer other than with the agreement of the Director concerned.

A number of broad propositions may be drawn from the above which are stated in Section 6 as broad statements of principle which will be used to aid interpretation of this document and other documents that concern the rights and obligations of Members and Officers towards each other.

#### **4. POLITICAL GROUPS**

4.1 The operation of political groups is now an integral feature of local government, and such political groups have an important part to play in the development of policy and the political management of the authority. It is in the interests of the authority to support effective operation of political groups, but their operation can pose particular dangers in terms of the impartiality of officers.

#### **4.2 Reports:**

- (a) Political groups may request the Chief Executive to prepare or arrange for the preparation of a written report on matters relating to the authority for consideration by the group. The Chief Executive will consider whether it is proper so to do.
- (b) Officer reports to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Reports will not deal with any political implications of the matter or any option, and officers will not make any recommendation to a political group.
- (c) Where a report is prepared for a political group, the Chief Executive will advise all other groups that the report has been prepared and will provide a copy of that report to any group upon request.

#### **4.3 Officer Attendance**

- (a) Any political group may request the Chief Executive to attend or arrange for another officer to attend a meeting of the group to advise on any particular matter relating to the authority.
- (b) The Chief Executive may arrange for the attendance of a representative in his/her stead, or may decline to attend or to provide a representative where he/she is of the

opinion that the particular issue is of such a political nature that it would be improper to attend

(c) Officers' advice to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Advice will not deal with any political implications of the matter or any option, and officers will not make any recommendation to a political group.

(d) Where an officer attends a political group, the Chief Executive will advise all other groups that the officer has attended and the subject upon which he/she has given information

(e) Officers will respect the confidentiality of any matter which they hear in the course of attending a political group meeting.

## **5. WHEN THINGS GO WRONG**

### **5.1 Procedure for officers**

An Officer should not raise matters relating to the conduct or capability of a Member other than in a confidential way. Where an Officer feels that she/he has not been properly treated with respect and courtesy by a Councillor, they should raise the matter with their Director or the Chief Executive as appropriate. As a normal rule, the Officer concerned should approach the Member in confidence first if they consider they are able to do so to explain their concerns. In the event either that this is unsuccessful, or the Officer concerned considers he/she cannot take this course of action, their line manager will consider what action should be taken and will involve the individual Member and/or their Group Leader in those discussions.

The aim of these discussions is to resolve the matter by conciliation and accommodation, rather than by more formal means. Nevertheless, it must be recognised that an Officer, like anybody else, is entitled to make an allegation of a breach of the Code of Local Conduct for Councillors to the Monitoring Officer. It should be noted that the Council's Grievance Procedure is inappropriate in these circumstances and the Council's Bullying and Harassment Policy provides that concerns about the conduct of elected Members should be referred to the Monitoring Officer.

### **5.2 Procedure for Councillors**

In the event that a Councillor is dissatisfied with the conduct, behaviour or performance of an officer, the matter should be raised with the appropriate officer's Director. Where the officer concerned is a Director the matter should be raised with the Chief Operating Officer and, when the officer is the Chief Operating Officer, with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with the Monitoring Officer who will discuss the issues raised with the Group Leaders. In all cases, the officer with whom the issue is raised will report back to the Councillor concerned, giving as much information as he/she can as to the conclusions he/she has reached.

The procedure for Councillors is only appropriate where the Councillor's concerns arise in his or her capacity as a Councillor, rather than as a service user or individual affected by the Council's decisions. If this is the case, then the Councillor's concerns as an

individual should be dealt with in the same way as any other individuals concerns by reference to the appropriate complaints procedure.

## **6. GENERAL PROPOSITIONS**

Set out below are some general propositions commended to the Council by the District Auditor. It must be clearly understood that these are no more than general propositions and that nothing that is stated in them in any way affects the overriding principle that a councillor has rights of access to information, meetings and so on under both statute and common law. This Protocol cannot, nor does it purport to, override those rights. What the general principles seek to do is set out an expectation of the “norm” as a benchmark against which requirements for assistance and information can be assessed. The law is clear that ultimately it will be a matter for the appropriate committee of the Council or the Council Executive (Cabinet) itself to determine whether or not a “need to know” arises albeit that such a decision will clearly be subject to the supervisory jurisdiction of the courts.

- 6.1 Members are generally entitled to receive the information they reasonably require for the purpose of their roles as Councillors, but there must be limits in terms of volume, time and so on. In the end, it is for the Council to decide what the priorities are for the use of its officers' time.
- 6.2 Officers work for the Council, not for individual Members, and their first and primary efforts must be devoted to carrying out the decisions of the Council.
- 6.3 It is necessary to recognise the difference between Members pursuing legitimate issues or concerns, eg relating to propriety, compliance with Council decision, the quality of Cabinet performance and so on, and unduly interfering with Management and Cabinet tasks.
- 6.4 Councils inevitably are engaged from time to time in transactions where confidentiality has to be maintained if the Council's interests are to be protected, and there needs to be confidence this is being honoured by Members and Officers, as required by the Council's Local Code of Conduct for Councillors and the Employee Code of Conduct.
- 6.5 There are inevitable ambiguities in a relationship between an individual Councillor and outside advisers for whom the Council is formally the client who usually work through named officers. For this reason, Councillors should not approach outside advisers directly and should channel enquiries or issues through the officer contact for that adviser.
- 6.6 There are particular characteristics of e-mail, notably its immediacy, which can create a greater sense of bombardment or harassment than traditional forms of correspondence which needs to be recognised and managed.
- 6.7 The Council has responsibility for staff requiring it to consider whether the behaviour of Councillors might be injurious to individual members of staff and, if so, to consider how such injury could be avoided or minimised.

## **7. MANAGEMENT OF THE MEMBER/OFFICER PROTOCOL**

- 7.1 The Chief Executive, as Head of Paid Service, is ultimately responsible for ensuring the legitimate approved policies of the Council are implemented, the proper management of the member/officer interface and that the Council discharges its duties as an employer towards its employees. It is therefore his or her responsibility to ensure that both the spirit and the letter of this Member Officer Protocol are observed and will fall to him/her, in consultation with the Monitoring Officer, to make judgements as to whether or not it is considered that the Member Officer Protocol has been breached; - for example, if demands of an individual Councillor are excessive or deflecting resources from agreed Council priorities and/or members of staff feel unduly harassed or bullied.
- 7.2 In the event that the Chief Executive considers this to be the case, he or she will review the matter with the Councillor concerned, together with their Group Leader. If this meeting does not reach an acceptable understanding, following further consultation with the Monitoring officer and the Group Leader, either or both the following actions may be initiated:-
- (i) The Councillor's access to officers may be restricted to a single individual who will have authority to arrange for their concerns and enquiries to be dealt with as appropriate. This may include leaving the matters to lie in the file until either resource of dealing with the matter can be released or deciding that no further action shall be taken. The Councillor concerned will, of course, have the right to request a review by the appropriate Council decision making body.
  - (ii) In the event that the matter cannot be informally resolved to the satisfaction of all concerned, the Chief Executive may consider that a complaint should be made to the Council's Standards Committee. This will be processed in accordance with the Standards Committee's agreed procedure.
- 7.3 Concerns raised by a Councillor about officer conduct will be dealt with in accordance with paragraph 5.2 above.