

CHAPTER 4 – 6 - PROTOCOL ON OFFICER/MEMBER RELATIONS

To achieve the high standards that are expected each Council is required to adopt its own framework of standards for Members and officers. This is to set out the general principles and rules of conduct which are considered to be necessary to ensure that both Members and officers' personal conduct in the discharge of their respective duties conforms to the general principles and that they act in the wider public interest.

The purpose of this Protocol is therefore to guide Members and officers of the Council in their relations with one another.

1.0 Introduction

1.1 Good member/officer relations, based on mutual respect and understanding, are essential to the effective operation of the Council. Both members and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. At the heart of the Members' and Officers' Codes of Conduct and this protocol, is the importance of mutual respect.

Member/officer relationships are to be conducted in a positive and constructive way to achieve the best possible outcomes for the Borough in accordance with the Council's Strategic Objectives.

1.2 This protocol should be read and applied in conjunction with those codes of conduct. The principles and procedures set out in this protocol are already, to a large extent, established and form the basis of the Council's working arrangements. The purpose of this protocol is to provide guidance on member/officer working arrangements particularly in the case of doubt or difficulty.

1.3 In particular, this protocol aims to support the enhancement of local democracy by:

- facilitating the participation of members and officers in the Council's policy
- development and decision making processes;
- assisting members and those officers who support them in their role as
- representatives of the community within the Council and externally; and
- clarifying arrangements for the provision of the information and support for
- members and their political groups.

1.4 This protocol is intended to assist members and officers in maintaining the highest standards of integrity and propriety and ensuring that all they do is as seen by others to be done properly, fairly and where possible openly.

1.5 It is important therefore that any dealings with members and officers should observe reasonable standards of mutual courtesy and respect, and that neither should seek to take unfair advantage of their position in any circumstances.

2.0 **Role of Members**

2.1 Members are responsible to the electorate and serve only so long as their term of office lasts. The Constitution sets out detailed job profiles reflecting the many and varied roles and responsibilities which members may take on at various times whilst they sit on the Council.

In undertaking those roles and responsibilities, elected members are required to operate within the law, the Constitution and within local and national codes and protocols. Members must always act in the public interest.

Ultimately however, members are accountable to the electorate through the ballot box.

2.2 Employees can reasonably expect the Borough Councillors:

- To accept that the Councils employees are managed by the Council and not by any individual Member
- To be helpful, respectful and courteous;
- Not to ask employees to breach Council policy or procedure or to act unlawfully
- Not exert, influence or pressure or to request special treatment
- Not to raise concerns about an employee in a public setting and to raise such concerns in an appropriate manner in accordance with Council policy
- To respect that employees have a right to a private life and be sensible about making contact at potentially inconvenient times unless in an emergency or otherwise agreed.
- To raise policy issues with the lead cabinet member in the first instance
- To communicate with officers at the appropriate level.

3.0 **Role of Officers**

3.1 Officers are paid employees of the Council (not of elected members). Officers are also required to operate within the law, the Constitution, local and national codes and protocols and must always act to achieve the objectives of the Council. Ultimately, as employees, officers are accountable under their contracts of employment. Some employees are in politically restricted posts and cannot stand for election, nor hold certain posts in political parties.

3.2 Officers have a duty to provide information, advice and recommendations to elected members. Such information etc. can be given both formally and informally, but where significant or potentially controversial issues are at stake, should be given formally and in writing.

3.3 It must be recognised by all officers and members that in discharging their duties and responsibilities, officers serve the Council as a whole and not any political group, combination of groups or any individual member of the Council.

3.4 Proper, open dialogue between elected members and members of staff of all grades and seniority is essential to good governance. In order to ensure that dialogue is mutually respectful, productive and contributes to the effective running of the Council, certain principles should be followed.

3.5 It is reasonable for a Borough Councillor to expect the Council employees:

- To do their job effectively and efficiently
- To behave in a manner which does not bring the Council in to disrepute
- To be helpful, respectful and courteous
- To provide assistance to Members in carrying out their role
- To deal with Members' enquiries fairly and efficiently
- To be open and honest with Members
- To work with all Members equally and fairly
- To keep confidentiality where it is proper to do so
- To be sensible about contacting Members at potentially inconvenient times unless in an emergency or otherwise agreed
- To remember that they are employed by the whole Council and not by any individual Member.

4.0 **Member Decision Making**

- 4.1 Officers should never lobby members or otherwise improperly seek to influence their decision making, nor should they seek to act for personal rather than professional motives.
- 4.2 The principal focus of member decision making is to determine policy and strategic objectives. Members will only exceptionally be involved in operational or managerial decisions designed to deliver those policies and strategic objectives. One exception to this principle is that members sitting in a regulatory capacity will take decisions which affect the rights of individuals, for example in relation to planning and licensing matters, to which specific codes of practice or statutory principles apply.
- 4.3 Member decision making is always formal, public and auditable on the basis of written reports and advice from relevant officers.
- 4.4 Accordingly, members should not purport to give instructions directly to officers on an informal basis, except to the small number of officers employed specifically to provide support services to elected members.
- 4.5 Members need to be aware that some, particularly more junior members of staff, can feel intimidated by direct approaches by members, and, in particular should avoid being in a position where they could be seen as asking an officer to act against Council policy, against the officer's professional judgement or otherwise under pressure from the member.

5.0 **Member / Officer Communication**

- 5.1 Members should communicate with officers at the appropriate level. Routine service-related enquiries should be initiated with reference to the Member Enquiry Protocol through normal departmental enquiry/contact points as set out in the Protocol. Other matters will normally involve the appropriate Portfolio Holder, Director or other Senior Manager.
- 5.2 In communicating with members, officers should have regard to the Council's Code of Conduct for employees, the requirements of this protocol and any instructions issued by their departmental management.

6.0 **Officer Advice to Political Groups**

- 6.1 Advice by officers must be confined to Council business and must be sought and given, in a manner which will avoid compromising the political neutrality required of employees.
- 6.2 It is common practice for political groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the Council or the relevant committees. Officers may properly be called upon by political groups to support and contribute to such deliberations.
- 6.3 The support provided by officers can take many forms ranging from a brief meeting with a Portfolio Holder, Chair or spokesperson prior to a Council meeting, to a presentation to a full Party Group meeting. Whilst in practice such officer support is likely to be in most demand from whichever political group is for the time being in control of the Council, such support is available to all political groups.
- 6.4 Certain points must however be clearly understood by all those participating in this type of process, members and officers alike. In particular:
 - 6.4.1 Officer support in these circumstances 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 party political 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 party political business are to be discussed.
 - 6.4.2 Political group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not communicated (inside or outside the organisation), interpreted or acted upon as though they have that official status.
 - 6.4.3 Similarly, where officers provide information and advice to a political group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Cabinet or relevant committee when the matter in question is considered.
- 6.5 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 Member Code of Conduct, in particular the provisions concerning the declaration of interest 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 meeting of members only.
- 6.6 Officers must respect the confidentiality of any political group discussions at which they are present and should not, in particular, relay the content of any such discussion to another political group.

- 6.7 Any request for an officer to attend a meeting arranged by a political group, for the purpose of presenting information to the meeting (in relation to an issue or proposal affecting or involving the Council) must be made to the relevant Director, who will consult with the Chief Executive, or to the Chief Executive. Where it is agreed that an officer will attend for this purpose, the same facility will be made available to other political groups.

Any officer who so attends will do so in their official capacity, will be politically neutral, and attendance will not signify support for any particular political view, proposal or response.

- 6.8 Attendance at any public meeting will generally be avoided during the period between the announcement and conclusion of any local or parliamentary election affecting the area involved and will only occur during such a period if representatives of all parties supporting candidates in the election have been invited to take part in the meeting.
- 6.9 At any public meeting organised by any political group, or by any individual member (rather than by the Council), officers will attend only to provide information which is publicly available. No such officer attendance will take place during the 'pre-election' period referred to above.
- 6.10 Any particular difficulty or uncertainty concerning officer advice to political groups should be raised with the Chief Executive who will, where appropriate, discuss with the relevant political group leaders.

7.0 Officer/Member/Chair Relationships

- 7.1 It is clearly important that there should be a close working relationship between the Leader of the Council, Cabinet member, chair of a committee and the Director and other senior officers of any department which reports to that member or committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other members and other political groups, or with any other individual or organisation.
- 7.2 The Leader of the Council, Cabinet member or chair will routinely be consulted as part of the process of drawing up an agenda for a forthcoming meeting. It must, however, be recognised that in some circumstances the proper conduct of business may require a particular matter to be included on the agenda and that the Leader/member/chair is not entitled to require the removal of such an item from the agenda.

Directors will always be fully responsible for the content of any reports submitted in their name.

- 7.3 Any issue concerning the inclusion of any item on an agenda and the submission of any particular report that cannot be agreed between the Leader, Cabinet member, chair and a Director, should be referred to the Chief Executive, the Monitoring Officer or the Chief Finance Officer (the statutory officers), who will review the issue and submit a report of their findings to be considered by the relevant committee or Cabinet.

- 7.4 In relation to any action under delegated powers, it is important to remember that the law allows for decisions relating to the discharge of any of the Council's functions that are not specifically reserved to the Council to be taken by the Cabinet. Normally, wherever the authority to make a decision is delegated to an officer it is on the basis that the officer will exercise that authority in consultation with the Cabinet member and/or other nominated members.
- 7.5 It must be remembered that officers within a department are accountable to their Director and that whilst officers should also seek to assist a Cabinet member or chair (or indeed any member), they must not in so doing go beyond the bounds of whatever authority they have been given by their Director.

It should also be noted that the Chief Executive has a statutory responsibility as Head of Paid Service for ensuring the proper organisation and management of the Council's staff and has, therefore, an overall responsibility for the direction and management of all officers.

- 7.6 Chairs and Vice Chairs of the Borough Council have additional responsibilities. Because of those responsibilities, their relationships with officers may differ from, and be more complex than those of Councillors without those responsibilities, and this is recognised in the expectations they are entitled to have.

However, such members 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 composition of the authority.

8.0 **Complaints and Criticism**

- 8.1 Neither officers nor members should pass comment about officers in a way which could be taken as personally critical of, or as undermining that officer. Similarly, it is never the role of an officer to criticise or undermine a member.
- 8.2 A member should not raise matters relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this protocol. This is a longstanding tradition in public service. An officer has no means of responding to such criticisms in public.

Complaints about officers should be made to their Director or the Chief Executive. Such complaints will be dealt with by appropriate disciplinary, capability or other established procedure where appropriate. In some circumstances it will be appropriate for issues to be resolved informally through discussion with the appropriate line manager.

- 8.3 Complaints about elected members should be made to the Monitoring Officer. A breach of this protocol may be evidence of a breach of the Member Code of Conduct.
- 8.4 Except as part of an appointment or appeals panel, members are prevented by law from becoming involved in matters relating to individual employees. These matters are reserved for Human Resources in consultation with the relevant line

manager, Director and/or Head of Paid Service. Information about disciplinary, capability or other employment processes are one of the exceptions to the rights of members to access information. As such, the outcome from any complaint about an officer will remain confidential.

9.0 Correspondence

- 9.1 Correspondence between an individual member and an officer should not normally be copied (by the officer) to any other member except at the discretion of the Chief Executive or Director where necessary for the proper conduct of business.

Where it is considered necessary and appropriate to copy the correspondence to another member, care should be taken, and it should be made clear to the original member. In other words, 'blind' copies of such correspondence should not be circulated.

- 9.2 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 exceptional circumstances, for example representations to a government minister or correspondence with a Leader of another local authority, for a letter to be issued in the name of the Leader of the Council.

Letters which, for example, create obligations, confirm or deny the acceptance of any liability, or give instructions on behalf of the Council, should always be sent out by the Chief Executive, the appropriate Director or other senior officer.

10.0 Publicity and the Media

- 10.1 Contact with the media on issues related to the Council or to Council business is handled through, or with advice/support from, the Communications Team.

- 10.2 Any member who approaches the media on any item involving or affecting the Council without first approaching or consulting the Council (through the relevant Cabinet member/chair, department or Communications Team) will be personally responsible for such action.

Any member who does so should make it clear that they are speaking on their own behalf and not representing or speaking for the Council.

- 10.3 Members and officers should be mindful of the prohibition on the publication by the Council of any information intending to promote or canvass support for any political party or candidate for elections. In case of doubt advice should first be obtained from the Monitoring Officer.

11.0 Personal Relationships

- 11.1 No member or officer should allow any personal connection or relationship with any other member or officer to affect the performance of their official responsibilities or the taking of any action or decision by or on behalf of the Council. This includes, for example, any family relationship, membership of the same household or any business connection. Members and officers should always consider how such a relationship or connection would be likely to be regarded by

anyone outside the Council, or by any other member or officer, and avoid creating any impression of bias or unfairness.

11.2 An officer who is personally connected or related to any member should notify the Monitoring Officer by completing an Employee Declaration.

11.3 Members should take into account any personal relationship or connection with any other member or officer, in considering the need to register or declare a personal or disclosable pecuniary interest whenever appropriate.

12.0 Involvement of Ward Councillors

12.1 Ward Councillors will be notified of work proposed in or close to the area they represent prior to it being commenced. This will not include routine maintenance (although a schedule will be supplied to Councillors where requested), repairs to Council housing stock or emergency repairs. The advance notice will be sufficient to enable Councillors to comment on, influence or consult with their constituents about the issue if necessary.

Wherever possible, all suggestions and/or objections will be considered before works commence. If this, or a resolution, is not possible due to timescales for works then the Ward Member(s) will be notified as soon as is practicably possible.

13.0 Further Guidance

13.1 Any member of the Council who needs further guidance on any of the matters referred to in the code or on any similar or related issue is advised to contact the Chief Executive or Monitoring Officer. Any officer needing such guidance should refer initially to their manager who will consult senior management and obtain advice as necessary.