

Part 5G

PROTOCOL ON MEMBER/OFFICER RELATIONS

1. Principles

- 1.1 The Council has adopted formal codes of conduct for both Members and Officers. They lay down the rules for Members and Officers on the proper conduct of their respective roles. Such is the importance of maintaining the integrity of the Council that penalties may be imposed for breaches of the codes – censure, suspension or disqualification in the case of Members; disciplinary action in the case of Officers. The purposes of this Protocol are to aid interpretation and to supplement the Codes and to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council. It was adopted by the Council on 7th June 2006.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.
- 1.3 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.
- 1.4 Members and Officers must at all times observe this Protocol and respect the roles and duties of each other.
- 1.5 The Protocol has been approved by the Council's Standards Committee which monitors its operation and also by its Personnel Committee.
- 1.6 The Protocol seeks to maintain and enhance the integrity (real and perceived) of local government which demands very high standards of personal conduct.
- 1.7 It is important at all times that mutual respect is shown between Members and Officers in any dealings, that reasonable standards of courtesy are observed, and that neither party should seek to take unfair advantage of their position.



1.8 Whilst Members and Officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to Members (individually and collectively) and to carry out the Council's work under the direction of the Council.

2. Roles of Members

2.1 Members have a number of roles.

2.2 Collectively they are the ultimate policymakers. They are elected by the people of the District, represent the interests of their wards and of individual constituents and act as advocates for their communities.

2.3 In addition, some Members have particular roles as Members of the Cabinet, the Scrutiny and Overview Committee or other Committees and Sub-Committees of the Council.

2.4 Members of the Cabinet have individual delegated powers; they may determine matters within their portfolios but implementation of decisions is the responsibility of Officers.

2.5 Members who serve on Committees and Sub-Committees collectively have delegated responsibilities. In such circumstances they may determine matters within the bodies' terms of reference but implementation of decisions is the responsibility of Officers.

2.6 Members are not authorised to instruct Officers other than through the formal decision-making process. In particular, the management of staff is a matter for senior officers and not of Members.

2.7 Members are not authorised to initiate or certify financial transactions, or to enter into contracts on behalf of the Council.

2.8 Under their Code of Members' Conduct, Members have a duty to promote equality by not discriminating unlawfully against any person, and an obligation to treat others with respect.

2.9 Furthermore, Members in their capacity as Councillors or in any other capacity must not bring the Council or their position as Members into disrepute; and they must not use their position improperly to gain an advantage or disadvantage for themselves or any other person.



3. Roles of Officers

- 3.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles.
- 3.2 Under the direction and control of the Council (including, as appropriate, the Cabinet, Committees and Sub-Committees), Officers manage and provide the Council's services within the framework of responsibilities delegated to them, which include the effective management of employees and operational issues.
- 3.3 Officers have a duty to implement decisions of the Council, the Cabinet, Committees and Sub-Committees which are lawful, and which have been properly approved and documented in accordance the requirements of statute and of the Council's Constitution.

4. Relationship between Members and Officers: General

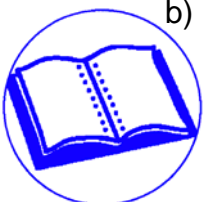
- 4.1 There are two key elements: mutual respect, and a recognition of each others' roles and responsibilities.
- 4.2 it is important that Members and Officers conduct their Council business in a proper and professional way calculated to inspire public confidence and trust. Personal, family or business connections may compromise or may be regarded as influencing that objective. Relationships giving rise to interests must be declared in the usual manner and managed in accordance with the Members' and Employees' respective Codes of Conduct.
- 4.3 Members and Officers should at all times avoid any appearance of improper conduct.
- 4.4 Officers serve the Council as a whole. Heads of Service have a duty to implement the properly authorised decisions of the Council, the Cabinet, Committees and Sub-Committees.
- 4.5 Other Officers work to the instructions of their senior Officers, not individual Members. It follows that, whilst such Officers will always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given by their manager. Members should approach the appropriate Head of Service in the first instance with respect to controversial or corporate issues.
- 4.6 Officers should not have unreasonable requests placed on them through the Council, its Committees or the Cabinet. Officers' work priorities are set and managed by their managers. Members must not disrupt Officers' work by imposing their own priorities on Officers.



- 4.7 Officers have a contractual and legal duty to be impartial in their working relationships with Members. Members must not do anything which compromises or is likely to compromise the impartiality of Officers.
- 4.8 When reaching decisions, Members have a duty under the Code of Members' Conduct to have regard to any relevant advice of the Monitoring Officer or Chief Finance Officer.
- 4.9 Where an Officer feels that he or she has not been properly treated with respect and courtesy by a Member, he or she should raise the matter with his or her Head of Service as appropriate, especially if he or she does not feel able to discuss it directly with the Member concerned. In these circumstances the Head of Service will take appropriate action either by approaching the individual Member and/or group leader or by referring the matter to the Monitoring Officer.
- 4.10 In formal meetings of the Council and other bodies when the Press and/or the public are present, members should be addressed, in the case of the chairman as "Chairman" or, in the case of other Members by name, e.g. "Councillor John Smith", or by position, e.g. "the Cabinet Member for Community Partnerships and Housing Services". On such occasions officers should be addressed either by their title, e.g. "the Chief Executive", or by name, e.g. "Mr. Tom Crowley".

5. Leader and Members of Cabinet and Officers

- 5.1 The Leader and Cabinet Members will take decisions in accordance with the Constitution and will not otherwise direct staff. Heads of Service and other senior staff, as appropriate, will be responsible for instructing staff to implement the Cabinet's decisions.
- 5.2 Heads of Service, the Monitoring Officer and Chief Finance Officer have the right to submit papers to the Cabinet or individual Cabinet Members for consideration.
- 5.3 The Leader and Cabinet Members will seek appropriate professional advice before taking any formal decisions and will not direct Officers in the framing of that advice. Without exception, the Chief Finance Officer and Monitoring Officer must always be consulted.
- 5.4 The Leader and Cabinet Members will consult the Chief Finance Officer and appropriate Head of Service before taking any formal decisions with a financial implication for the Council. This is to ensure that those Officers who are budget holders:
- a) are aware of the proposed decision
 - b) have the opportunity to offer appropriate advice; and



- c) are subsequently able properly to authorise the financial transactions needed to implement decisions.

Failure to observe this requirement will be regarded as a serious breach of this Protocol.

- 5.5 The Leader and Cabinet Members will consult the Monitoring Officer before taking any formal decisions with a legal or probity implication for the Council.
- 5.6 The Cabinet Members when making decisions (whether collectively or individually) must state the reasons for those decisions. The written record of the decisions must include the reasons.

6. Officer Support: Scrutiny and Overview

- 6.1 Scrutiny and Overview is an important constituent part of effective democracy and the Council's constitutional arrangements. The Council, the Cabinet, the Scrutiny and Overview Committee and individual Members have a leading role in making it work effectively. In particular, the Scrutiny and Overview Committee agrees its work programme and Members lead reviews. Equally Officers have a leading and significant role in making Scrutiny and Overview effective. It is integral to Officers' functions and not an add-on.
- 6.2 Scrutiny and Overview should not act in a disciplinary capacity or as a "court of appeal" against decisions or to pursue complaints by individuals (Members, Officers or members of the public) as other procedures exist for this. These are internal, e.g. the Corporate Complaints Procedure, and external / statutory, e.g. Local Government Ombudsman or appeal to the Courts.
- 6.3 Personal criticism of Members or Officers should always be avoided.

7. Chairmen and Members of other Committees and Officers

- 7.1 Briefing meetings for the Chairmen (and Vice Chairmen) of other Committees and Sub-Committees will be arranged at a time that is mutually convenient for the Chairmen and Officers.
- 7.2 Members of a Committee or Sub-Committee will take decisions within the remit of the relevant Committee or Sub-committee and will not otherwise instruct staff to act.



7.3 At some Committee or Sub-Committee meetings, a resolution may be passed which authorises named Officers to take action between meetings in consultation with the Chairman. In these circumstances, it is the Officer, not the Chairman, who takes the action and is responsible for it.

8. Officers' relationships with party groups

8.1 Senior Officers may properly be called upon to contribute to deliberations of matters of Council business by party groups, subject always to the prior approval of the Monitoring Officer.

8.2 Whenever an invitation from one party group to speak on a matter is accepted in accordance with paragraph 8.1, an Officer should offer to speak on that matter to the other party groups. There is no obligation on the other party groups to accept such an offer.

8.3 In attending party group meetings the following must be observed:

- a) Officer support must not extend beyond providing factual information and advice in relation to matters of Council or Cabinet business. Officers must not be involved in advising on matters of party business, and therefore they should not be expected to be present at meetings or parts of meetings when matters of party business are to be discussed;
- b) Party group meetings are not empowered to make decisions on behalf of the Council or the Cabinet and therefore conclusions reached at such meetings do not rank as formal decisions; it is essential that they are not interpreted or acted upon as such simply because an Officer was present;
- c) Where Officers provide factual information and advice to a party group meeting in relation to a matter of formal Council or Cabinet business, this cannot act as a substitute for providing all necessary information and advice to the relevant body or Cabinet member when the matter in question is formally considered;
- d) Officers may not be invited to attend party group meetings where all members of the group present are not Members of the Council;
- e) Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.
- f) In their dealings with party groups, Officers must treat them in a fair and even-handed manner.
- g) Members must not do anything which compromises or is likely to compromise the Officers' impartiality.



- 8.4 Officers are not permitted to provide services or to arrange training for party groups or for one party group.
- 8.5 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Monitoring Officer who will discuss with the relevant group leader(s).

9. Members in their ward role and Officers

- 9.1 To enable them to carry out their local representation role effectively Members need to be informed fully about matters affecting their wards. Senior Officers must ensure that all staff are aware of the requirement to keep Local Members informed.
- 9.2 The requirement to keep Local Members informed is particularly important:
- a) when options for likely decisions are being considered;
 - b) in relation to significant or sensitive operational matters;
 - c) whenever any form of public consultation exercise is undertaken;
- 9.3 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the ward or wards affected should be invited to attend. Similarly whenever the Council undertakes any form of consultation exercise on a local issue, the Local Members should be notified at the outset of the exercise.
- 9.4 If a public meeting is organised by a Local Member in relation to a function or business of the Council, the Member concerned should inform the appropriate Head of Service, but Officers are under no obligation to attend and cannot be required to do so.

10. Members' access to documents and information

- 10.1 The Council's policy on sharing or giving information to Members is to be as open as possible. Members may request a Head of Service to provide them with such information, explanation and advice about that service's functions as they may reasonably need to assist them in discharging their role as Members. This may range from a request for general information about some aspect of a service's activities to a request for specific information on behalf of a constituent. Where such information is requested on behalf of a third party, it shall only be requested if it is capable of being in the public domain: i.e. it is not confidential, data protected or subject to exemptions from disclosure under the Local Government Act 1972 Part 5A (access to information) and equivalent legislation, the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.



- 10.2 Subject to paragraphs 10.3 and 10.4 below (which set out the strict legal position), any document in the possession or control of the Council which contains material relating to business to be transacted at a public meeting shall be made available for inspection by any Member. In addition, any document containing material relating to any business transacted at a private meeting, or a decision made by an individual Member of the Cabinet, or a key decision made by an Officer, shall be available for inspection by any Member immediately after the decision has been made.
- 10.3 The rights to inspect documents under paragraph 10.2 above shall not apply to any document (whether a report, background paper or other material) which contains confidential information as defined in s 100A(2) of the Local Government Act 1972 or exempt information defined by reference to s 100A(4) of the Local Government Act 1972, or the disclosure of which would breach an undertaking of confidentiality.
- 10.4 A Member of an Scrutiny and Overview committee may see documents containing exempt or confidential information where that information is relevant to an action or decision that he or she is reviewing or scrutinising or which is relevant to any review contained in any programme of work of the Scrutiny and Overview committee. He or she is not entitled to see papers relating to a decision made by an individual Cabinet Member or a key decision made by an Officer until after the decision has been made.
- 10.5 In addition to all of the above, a Member has a common law right to inspect Council documents so far as his or her access to a document is reasonably necessary to enable the Member properly to perform his or her duty as a Member of the Council. This is commonly known as the “need to know” principle. The exercise of this right depends on a Member being able to demonstrate his or her need to know.
- 10.6 Disputes as to the validity of a Member’s request to see a document on a need to know basis will be determined by the Monitoring Officer.
- 10.7 Members and Officers must not disclose information given to them in confidence without the consent of a person authorised to give it or unless required by law to do so.
- 10.8 Members and Officers must not prevent another person from gaining access to information to which that person is entitled by law.
- 10.9 When requested to do so, Officers will keep confidential from other Members advice requested by a Member.
- 10.10 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 Council. Therefore, for example, early drafts of Committee reports / briefing



papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied.

11. Media relations

- 11.1 Press releases and statements made by Officers must promote or give information on Council policy or services. They must be factual and consistent with Council policy. They may not be used to promote a political party group. Publicity dealing with controversial issues in the run up to an election must be avoided. The full rules are set out in Government guidance.
- 11.2 Officers will keep Members informed of press matters relating to their areas of responsibility. In particular, Officers should contact the appropriate Cabinet Member or committee Chairman if they have been contacted by the media on a high profile issue. The Leader should also be informed on all issues of a high profile or strategic nature.
- 11.3 Before responding to enquiries from the media, Officers must ensure they are authorised to do so. If in doubt, Officers must confirm their authorisation with their senior manager.
- 11.4 The media's first point of contact will often be the Communications Manager. Officers should keep the Communications Manager informed of issues which are likely to be of media interest, and when they are contacted by the media on high profile or strategic issues.
- 11.5 If a Member contacts or is contacted by the media on an issue, he or she should:
 - a) indicate in what capacity he or she is speaking (e.g. in a personal capacity, as a Local Member, as a Cabinet Member, as a chairman, on behalf of the Council or on behalf of a party political group),
 - b) be sure of the facts of the matter,
 - c) if necessary, and in any event whenever he or she wishes a press release to be issued, seek assistance from the Communications Manager and/or the appropriate Officer(s), but not in relation to a statement which is party political in nature,
 - d) consider the likely consequences for the Council of his or her statement (e.g. commitment to a particular course of action, allegations of jumping to conclusions, image), and
 - e) not speak on behalf of the *Council* unless authorised to do so.



12. Support Services to Members and Party Groups

- 12.1 Some basic administrative services are provided to Councillors by the Democratic Services and Business Services Departments. Such support can only be provided to assist them in discharging their role as Members of the Council and therefore must only be used on Council business. It should never be used in connection with party political or campaigning activity or for private purposes.

13 Correspondence

- 13.1 Correspondence between an individual Member and an Officer, particularly when it has been initiated by the Member, should only be copied to other Members when appropriate and necessary and in such cases it should be made explicit that the correspondence has been copied to others. Members and Officers are required to comply with the Council's e-mail policy and in particular with the best practice it espouses:

They should:

- a) If offended by the content or tone of an incoming message get a second opinion to check out their interpretation and make sure the response is objective.
- b) Comply, not only with the policies stated in the policy but with the rules of common courtesy and the law when using e-mail.
- c) Always use appropriate language, remembering that misunderstandings frequently arise through the use of e-mail which offend others without intending to.
- d) Always respect the privacy of others, remembering that e-mail can be just as intrusive as unsolicited 'phone calls or letters.
- e) Respect the confidentiality of information encountered inadvertently in e-mail or other records.
- f) Use personal and professional courtesy and considerations in e-mail.
- g) Check with the sender if there is any doubt about the authenticity of a message.

They should not;

- h) Send unnecessary e-mails, remembering someone else will have to read and respond.
- i) Include anything in an e-mail that would not be put in a letter.
- j) Use code or jargon which might be misunderstood or unknown to the receiver.
- k) Use e-mail which breaches codes of common courtesy or decency (such as harassment, copyright violations, unsolicited e-mails or other material).
- l) Seek out, use, or disclose personal or confidential information unless specifically authorised to do so.



- m) Knowingly restrict or interfere with others' access to and use of e-mail.
- n) Send "Junk e-mail" or chain messages.
- o) Use e-mail to give the impression that you represent the HDC (unless authorised to do so).

- 13.2 Official letters sent out on behalf of the Council should normally be sent out under the name of the appropriate Officer or Cabinet Member (subject to the matter being within his or her portfolio). Even in relation to matters within the responsibilities of Cabinet Members, most letters will be in the name of an Officer because it is Officers who provide advice, implement decisions, and deal with day-to-day operations.
- 13.3 It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for letters to appear under the name of the Leader.
- 13.4 Letters which create obligations or give instructions on behalf of the Council should never be sent out under the name of a Member.

14. Complaints

- 14.1 In a situation where a Member identifies that an Officer may have committed a breach of the Council's disciplinary rules and procedures, he or she shall draw the issue to the attention of the Chief Executive (Head of Paid Service).
- 14.2 In respect of a situation where there is an alleged breach of the Council's Code of Members' Conduct by a Member, the Code places an obligation on other Members to draw such breaches to the attention of the Standards Committee. Members are, however, also requested to advise the Monitoring Officer that they have taken this action.
- 14.3 In respect of an Officer who believes a Member has breached the Code of Members' Conduct, he or she should:
- a) not offer any opinion or judgment upon that conduct to the Member;
 - b) he or she must advise his or her Head of Service and the Monitoring Officer immediately of the circumstances, facts, his or her belief and the rationale behind it, including supplying all and any documents; and
 - c) he or she should not comment further on the issue to any other Officer or Member without the prior consent of the Monitoring Officer.



14.4 These provisions are to protect both the Member and Officer, avoid Officers from becoming unduly involved in allegations of Member misconduct at an inappropriate level and to ensure that any investigation that may need to be carried out by the Monitoring Officer or other agency, is not in any way fettered or damaged.

15. Interpretation

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



Appendix to Part 5G

Guidelines for Communications with Local Members

- 1 The Council has approved a Protocol on Member/Officer Relations which includes provisions about communications between Officers and Local Members. The Cabinet has also approved a procedure about communications between Cabinet Members and Local Members. Communication is of course two way.
- 2 To enable them to carry out their local representation role effectively Members need to be informed fully about matters affecting their wards. Senior Officers must ensure that all staff are aware of the requirement to keep Local Members informed.
- 3 The requirement to keep Local Members informed is particularly important:
 - a. when options for likely decisions are being considered;
 - b. where there is a significant impact on services affecting a particular ward;
 - c. in relation to significant or sensitive operational matters;
 - d. whenever any form of public consultation exercise is undertaken.
- 4 Where a new initiative or project is associated with a specific locality the Local Members should be informed at an early stage.
- 5 Whenever a public meeting is organised by the Council to consider a local issue, *all* the Members representing the ward or wards affected should be invited to attend.
- 6 If a public meeting is organised by a Local Member in relation to a function or business of the Council, the Member concerned should inform the appropriate Head of Service but Officers are under no obligation to attend and cannot be required to do so.
- 7 Whenever the Council undertakes any form of consultation exercise on a local issue, in addition to any Council-wide notification the Local Members should be notified at the outset of the exercise.
- 8 Where press releases or media article relating to specific locations are prepared on behalf of the Council, the Communications Manager should provide a copy to the Local Members and where appropriate or relevant he should consult them before release.



- 9 Where complaints of a significant nature are received by an Officer from members of the public, the response or remedial action taken should be notified to the Local Members. However, investigations by the Local Government Ombudsman, the Standards Board for England or the Monitoring Officer in the exercise of his statutory powers have to be conducted in private and cannot be disclosed.
- 10 Reports to Council, the Cabinet, Committee or to Cabinet Members or Heads of Service requesting the exercise of delegated authority should indicate whether the Local Members have been consulted or informed.
- 11 Where parish councils or neighbourhood councils are informed of significant local issues Local Members should be informed at the same time.
- 12 The rules in the Protocol on Member/Officer Relations on communications generally and correspondence in particular apply to communications between Officers, Cabinet Members and Local Members.

