

Part Four, Section C

Councillor and Officer Protocol

INTRODUCTION

The purpose of this protocol is to guide Councillors and officers of the Council in their relationship with one another.

This protocol seeks to provide guidance on some of the issues that most commonly arise.

It seeks to reflect the principles underlying the respective rules of conduct that apply to Councillors and officers. Its purpose, therefore, is to enhance and maintain the integrity (real and perceived) of the Council by demanding very high standards of personal conduct.

The relationship between elected **Councillors** and **officers** is fundamental to the successful working of the Council. This relationship is based on honesty, mutual respect and trust, and this protocol is intended to support that relationship by giving guidance on roles and relationships to build a common understanding and set of expectations.

The protocol also sets out what should happen on the rare occasions when things go wrong. All **Councillors** and **officers** should abide by this protocol. Political **group leaders** in respect of Councillors, and the **Chief Executive** and **Monitoring Officer** in respect of **officers**, are responsible for ensuring the protocol is upheld.

This protocol should be read and understood alongside relevant legislation and the respective Codes of Conduct. This would include the **Code of Conduct for Councillors**, the **Code of Conduct for Officers**, Social media policy etc. If any questions arise from this protocol, advice should be sought from the **Chief Executive** or **Monitoring Officer**.

The Council operates a zero tolerance policy to bullying and harassment.

1. ROLE OF COUNCILLORS AND OFFICERS

The respective roles of **Councillors** and **officers** can be summarised as follows:

- a. Both Councillors and officers are servants of the public and are indispensable to one another, but their responsibilities are distinct from one another
- b. Councillors are democratically elected, operate politically, are accountable directly to the public and serve as long as their term of office lasts
- c. Officers are politically impartial and are responsible to the Council as their employer. Their role is to give advice to members and the authority and carry out the work of the authority under the direction and control of the **Full Council, Cabinet** and their committees. Officers are accountable to the **Chief Executive** as Head of Paid Service

2. ROLE OF COUNCILLORS

Councillors undertake many different roles:

- a. provide political leadership, expressing political values and supporting the policies of the political party to which they belong (if any);
- b. represent their ward and are advocates for the residents who live in the area;
- c. represent the Council externally, including being involved in active partnerships with other organisations, as community leaders;
- d. contribute to the decisions taken in Full Council and in various bodies on which they serve, as well as committees, outside bodies and organisations to which they are nominated by the Council;
- e. determine and review policy and strategy; and
- f. are involved in quasi-judicial work through their membership of regulatory committees. Councillors are not authorised to give assurances or promises to people or businesses save to the extent that they are informing such people or businesses of formally agreed Council decisions.

It is not the responsibility of **Councillors** to involve themselves in the day-to-day management of the Council, its **officers** or its services. They should not seek to give instructions outside their areas of responsibility or terms of reference of their respective Committee.

All Councillors, including members of the Opposition or of Scrutiny Committees or Panels, have the same rights and obligations as individual Councillors in their relationships with officers and should be treated equally.

Members of the Cabinet, Chairmen and Vice Chairmen

Members of the Cabinet, Chairmen and Vice Chairmen have additional responsibilities, entailing different relationships and more regular contact with officers. They still must respect the impartiality of officers, and must not ask them to undertake work of a party political nature or that could prejudice their impartiality.

In order for the Cabinet and Cabinet Leads to discharge their responsibilities they will be briefed by the Executive Heads of Service on service issues, proposals and policy development. Other officers may be nominated to attend such briefings. Committee chairs may also be briefed on matters within the remit of their committee. These briefings may be a one off or on a regular basis in accordance with the requirement of the Councillor.

3. ROLE OF OFFICERS

Officers have the following main roles:

- a. managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services;
- b. providing advice to the Council and its various bodies and to individual Councillors in respect of the services provided;
- c. initiating policy proposals; and
- d. implementing agreed policy, whilst ensuring that the Council always acts in a lawful manner.

Some officers are authorised to initiate, certify or negotiate financial transactions or commercial arrangements, subject in certain cases to the need to obtain formal member approval. Certain **officers** have responsibilities in law over and above their obligations to the authority and members. These are known as statutory officers and include the **Chief Executive/Head of Paid Service, Monitoring Officer** and **Chief Finance Officer (s151 officer)**. Councillors must respect these responsibilities and not obstruct or victimise officers in the discharge of them.

4 EXPECTATIONS

Councillors and **officers** can expect the following from each other:

- a. A working partnership
- b. An understanding of and support for respective roles, workloads and pressures;
- c. Respect, dignity and courtesy;
- d. Integrity, mutual support and appropriate confidentiality;

Councillors can expect from **officers**:

- a. A commitment to the authority as a whole, and not to any political group;
- b. Timely response to enquiries and complaints in accordance with agreed procedures;
- c. Professional, accurate, honest and impartial advice, not influenced by political views or preference;
- d. 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;
- e. Awareness of and sensitivity to the political environment;

- f. Training and development from officers in order to carry out their roles effectively;
- g. Not to have personal issues raised with them by officers outside of the Council's agreed policies and procedures;
- h. That officers will at all times comply with the relevant Code of Conduct;
- i. Support for the role of Councillors as the local representatives of the authority.

Officers can expect from **Councillors**:

- a. Political leadership and direction through Full Council and the Cabinet;
- b. Not to be subject to bullying or harassment. Councillors should have regard to the seniority and experience of officers in determining what are reasonable requests, having regard to the powerful relationship between members and officers, and the potential vulnerability of officers, particularly at junior levels;
- c. 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;
- d. That Councillors will not publicly name officers or make detrimental remarks about officers during public meetings. Where Councillors are chairing or otherwise in a position of authority on committees they will do their best to ensure that meetings are conducted in such a way that officers are not subjected to bullying or harassment by members of the public attending meetings;
- e. That Councillors will not draw officers into political or group discussions;
- f. That Councillors will at all times comply with the relevant Code of Conduct.

5. **RESPECT AND COURTESY**

For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Councillors and officers. This plays a very important part in the Council's reputation and how it is seen in public. It is very important that both Councillors and officers remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of other Councillors or other officers, in public places.

A Councillor who is unhappy about the actions taken by, or conduct of, an officer should:

- a. avoid personal attacks on, or abuse of, the officer at all times;
- b. ensure that any criticism is well founded and constructive;

- c. never make a criticism in public, and
- d. take up the concern with the relevant Executive Head of Service to whom the officer ultimately reports or with the Chief Executive where it involves an Executive Head of Service.

6. FAMILIARITY

Close personal familiarity between individual Councillors and officers can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.

Such familiarity could also cause embarrassment to other Councillors and/or other officers and even give rise to suspicions of favouritism.

For these reasons close personal familiarity must be avoided..

7. UNDUE PRESSURE

It is important in any dealings between Councillors and officers that neither should seek to take unfair advantage of their position.

Councillors should not apply undue pressure on an officer either to do anything that they are not empowered to do or to undertake work outside normal duties or outside normal hours. Neither should a Councillor lobby an officer. Particular care needs to be taken in connection with the use of Council property and services.

Similarly, an officer must neither seek to use undue influence on an individual Councillor to make a decision in their favour or in favour of the service within which they work, nor raise personal matters to do with their job, nor make claims or allegations about other officers.

8. PROVISION OF ADVICE AND INFORMATION

Councillors are free to approach any member of Leadership Group to provide them with such information, explanation and advice (about the relevant service area's functions) as they may reasonably need in order to assist them in discharging their role as Councillors. This can 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 resident/business. Such approaches should normally be directed to the Executive Head of Service or Senior Manager concerned.

Information requested will be provided, subject to any legal constraints (e.g. confidentiality relating to individuals) or unless an Executive Head of Service believes it would involve excessive resources to provide it, in which case they will seek guidance from the relevant Group Leader.

Councillors have legal rights to inspect Council documents containing material relating to business to be transacted at Council, Cabinet and Committee or subcommittee meetings. This right applies irrespective of whether the Councillor is a member of the Cabinet, Committee or Sub-Committee concerned and includes any relevant background papers. This

right does not, however, apply to documents relating to certain items which may appear in Part II (exempt) of the Agenda for meetings but in the spirit of openness, such documents are made available to all Councillors.

Further details are contained in the Access to Information Rules at Part 3 of the Constitution.

Councillors also have common law rights to inspect documents. This right is much broader and is based on the principle that any Councillor has a prima facie right to inspect Council documents so far as their access to the documents is reasonably necessary to enable the Councillor to properly conduct their duties as a Councillor. This principle is commonly referred to as the “need to know” principle. The exercise of this right depends on the Councillors ability to demonstrate that they have the necessary “need to know. In this respect a Councillor 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 be determined by the particular Executive Head of Service or Senior Manager who has the document in question (with advice from the Monitoring Officer).

Council information provided to Councillors should only be used for the purpose it is given, i.e. to help the Councillors to discharge their duties as a Councillor.

The Code of Conduct restricts the disclosure of confidential information provided to Councillors.

Any Councillor encountering difficulty or uncertainty about access to documents should contact the Monitoring Officer.

For completeness, Councillors do, of course, have the same right as any other member of the public to make requests for information under the Freedom of Information Act 2000.

9. POLITICAL ACTIVITY

Officers are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their relevant Executive Head of Service and not to individual Councillors whatever office they might hold. It is important that the political neutrality of officers is preserved.

The importance of political neutrality is particularly the case with regard to officers who occupy posts that are designated as “politically restricted” under the terms of the Local Government and Housing Act 1989.

There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to provide information to party groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.

The support provided by officers can take many forms, ranging from a briefing meeting with the Leader or Chair/Vice-Chair prior to a Cabinet or Committee 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 party group is for the time being in control of the Council, such support is available to all party groups.

Certain points must, however, be clearly understood by all those participating in this type of process, Councillors and officers alike. In particular:

- a. Officer support must not extend beyond providing information and advice in relation to matters of Council business.
- b. Officers must not be involved in advising on matters of party 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 business are to be discussed;
- c. Party 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 interpreted or acted upon as such; and
- d. Similarly, where officers provide information and advice to a party group in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Cabinet, relevant Committee or Sub-Committee when the matter in question is considered.
- e. Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Members' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality). For this and other reasons officers may not attend and give information and advice as they would to a Councillor only meeting.
- f. Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relate the content of any such discussion to another party group.

10. CORRESPONDENCE

Correspondence between an individual Councillor and an officer, particularly when it has been initiated by the Councillor, should not normally be copied (by the officer) to any other Councillor. However, it is acknowledged that if the Councillor who originated the correspondence included other Councillors in that correspondence, the reply will be sent to all included. Where exceptionally it is necessary to copy the correspondence to another Councillor, this should be made clear to the original Member. In other words, a system of "silent copies" should not be employed.

Official letters on behalf of the Council should normally be sent in the name of the appropriate officer, rather than in the name of a Councillor. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Councillor, but this should be the exception rather than the norm. Letters which, for example,

create obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor.

11. USE OF COUNCIL RESOURCES

The Council provides a number of resources for Councillors within the Members' Room, for example, IT facilities, telephone, and photocopying. The only basis on which the Council can provide these services is to assist Councillors in discharging their role as Members of the Council.

12 COMMUNICATIONS

The Council's Communications team are able to support the **Cabinet** and Chairmen of Committees – including Audit and Scrutiny– when they act as spokespeople for the Council. There are specific statutory restrictions on the use of public resources for the Council's communications, which are followed by officers and must be respected by Councillors.

Contact with the media on issues related to the Council, or to Council business is handled through the Council's Communication team.

Any Councillor who approaches the media purporting to speak on behalf of the Council on any item involving or affecting the Council should only do so having first consulted the Council's Communication team.

Councillors and Officers should note that particular restrictions apply about publicity issued during election periods and should contact the Council's Communication team. if in doubt.

13 WHEN THINGS GO WRONG – Breach of Protocol

Rarely, the relationship between **Councillors** and **officers** will fall short of expectations. In such instances, it would always be preferable to deal with matters at an early stage and informally through conciliation through an Executive Head of Service or political **group leaders** or **whips**. This may not always be possible, in which case the following procedures should be followed.

Procedure for officers

If an officer considers that a Councillor has contravened the protocol they should consult their relevant Executive Head. If conciliation via an Executive Head of Service not possible, officers can have recourse to the **Chief Executive**, as appropriate to the circumstances. **Officers** also have recourse to the Council's Whistleblowing Procedure or can refer the matter under the arrangements for complaints under the **Code of Conduct for Councillors**.

In certain circumstances breach of the Protocol may also constitute a breach of the Councillors' Code of Conduct and the matter can be referred to the Monitoring Officer.

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 Executive Head of Service.

Where the officer concerned is an Executive Head of Service the matter should be raised with the **Chief Executive**. Where the employee concerned is the Chief Executive the matter should be raised with the **Monitoring Officer**. If a Councillor is unsure how to proceed, or would wish to discuss the conduct of another Councillor toward officers, they should discuss this with their **group leader**.

Where the officer concerned is an Executive Head of Service the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive the matter should be raised with the Monitoring Officer. If a Councillor is unsure how to proceed or would wish to discuss the conduct of another Councillor toward officers, they should discuss this with their group leader.