

PROTOCOL FOR MEMBER/OFFICER RELATIONS

1. INTRODUCTION

- 1.1 The purpose of this protocol is 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 and foster good working relationships for the benefit of the community.
- 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 that it adopts to these issues will serve as a guide to dealing with other issues.
- 1.3 This protocol is to a large extent no more than a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the protocol is followed it should also ensure that Members receive objective and impartial advice and guidance, and that officers are protected from accusations of bias and any undue influence from Members.
- 1.4 This protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and they, therefore, demand very high standards of personal conduct.
- 1.5 In line with the Code of Conduct's reference to treating others with respect, it is important that any dealings between Members and officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.
- 1.6 Members should not raise matters relating to the conduct or capability of a Council employee or of employees collectively at meetings held in public. This is a long standing tradition in public service. Employees have no means of responding to criticisms like this in public. If Members feel they have not been treated with proper respect, courtesy or have any concern about the conduct or capability of a Council employee they should raise the matter with the Executive Director of the department concerned. Any concern about a Director should be raised privately with the Chief Executive.

The Executive Director will look into the facts and report back to the Member. If the Member continues to feel concerned the Member should then report to the Chief Executive who will look into the matter afresh. Any action taken against an officer in respect of a complaint will be in accordance with the provisions of the Council's disciplinary rules and procedures.

- 1.7 Where an officer feels that he or she has not been properly treated with respect and courtesy or is concerned about any action or statement relating to him/herself or a colleague by a Member they should raise the matter with their Line Manager, Executive Director or Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Executive Director or Chief Executive will take appropriate action either by approaching the individual Member and/or Group Leader.

2. OFFICER SUPPORT TO MEMBERS: GENERAL POINTS

- 2.1 Officers are responsible for day-to-day managerial and operational decisions within the Council and Members should avoid inappropriate involvement in such matters. The respective roles and responsibilities of Members and Officers in relation to employment issues are set out in the Officer Employment Procedure Rules. Officers will provide support to both the Executive and all Members in their respective roles.
- 2.2 Certain statutory officers – the Chief Executive as Head of Paid Service, Borough Solicitor as the Monitoring Officer and the Borough Treasurer as the Section 151 officer – have specific roles. These are addressed in the Constitution. The roles need to be understood and respected by all Members.
- 2.3 The following key principles reflect the way in which Officers generally relate to Members:
- all Officers are employed by, and accountable to the Council as a whole;
 - support from Officers is needed for all the Council's functions including Full Council, Scrutiny Committees, the Cabinet, Regulatory Committees, individual Members representing their communities etc;
 - day-to-day managerial and operational decisions remain the responsibility of the Chief Executive and other officers;
 - Officers will be provided with training and development to help them support the various Member roles effectively and to understand the structures.
- 2.4 On occasion, a decision may be reached which authorises named Officers to take action following consultation with a Member or Members. The Member or Members may offer his/her views or advice to the Officer who must take them into account, but the decision remains the responsibility of the Officer him/herself. It must be recognised that it is the Officer, rather than the Member or Members, who takes the action and it is the Officer who is accountable for it.

- 2.5 Finally, it must be remembered that Officers within a Department are accountable to their Executive Director and that whilst Officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Executive Director. Where appropriate, Officers should make a Member aware of the limits of the Officer's authority and explain that the matter would have to be referred to the Executive Director .

3. OFFICER SUPPORT TO CABINET MEMBERS AND COMMITTEE CHAIRMEN

- 3.1 It is clearly important that there should be a close working relationship between a Cabinet Member or Chairman, the Executive Director and other senior officers of relevant departments. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question an officer's ability to deal with other Members and other party groups.
- 3.2 Whilst a Cabinet Member or Chairman will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations a Executive Director will be under a duty to submit a report on a particular matter. Similarly, a Executive Director Executive Director or senior officer will always be fully responsible for the contents of any report submitted by his/her Department. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. Any issues arising between a Cabinet Member or Chairman and a Executive Director in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.
- 3.3 The Cabinet and its Members have wide ranging leadership roles. They will:
- lead the community planning process and the search for Best Value, with input and advice from Scrutiny Committees, Area Forums and any other persons as appropriate;
 - lead the preparation of the Council's policies and budget;
 - take decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Full Council; and
 - be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 3.4 A Executive Director will seek to ensure that the relevant Cabinet Member or Committee chairman is fully briefed about business within that Member's portfolio area.

- 3.5 Where functions which are the responsibility of the Cabinet are delegated to Officers or other structures outside the Cabinet, the Cabinet will nevertheless remain accountable to the Council for the discharge of those functions. That is to say, the Cabinet will be held to account for both its decision to delegate a function and the way that the function is being carried out. A Scrutiny Committee may call in and review the decisions of the Cabinet and key decisions of Officers acting under delegated authority and report the outcome of its review to Council, the Cabinet and Officers as appropriate.
- 3.6 Officers work for and serve the Council as a whole. Nevertheless, as the majority of functions are the responsibility of the Cabinet, it is likely that in practice many Officers will be working to the Cabinet for most of their time. The Cabinet must respect the political neutrality of Officers. Officers must ensure that, even when they are predominantly providing advice and assistance to the Executive, their political neutrality is not compromised.
- 3.7 Members and Officers need to be aware of additional Codes and Protocols which may refer to their specific area, such as the Local Government Association protocol 'Probity in Planning' for Councillors responsible for determining Planning applications.

4. OFFICER SUPPORT TO SCRUTINY COMMITTEES

- 4.1 Scrutiny Committees have both a scrutiny role and a policy development and review role. Provisions relating to the attendance of Officers at a Scrutiny Committee are set out at Paragraph 14 of the Scrutiny Procedure Rules.
- 4.2 Cabinet Members and senior officers may be required to attend meetings of Scrutiny Committees to respond to questions from Committee Members. Questions to officers should be confined to questions of fact and explanation relating to policies and decisions. Officers should not be requested to, or expected to, be drawn into the discussion of the merits of alternative policies where this is politically contentious. Any comment by officers on the Council or cabinet's policies and actions should always be consistent with the requirement for officers to be politically impartial.
- 4.3 Officers required to attend a Scrutiny Committee should be given adequate notice of the meeting and the nature of the item on which he or she is required to give account and whether any written report is necessary.
- 4.4 It is not a Scrutiny Committee's role to act as a disciplinary tribunal in relation to the actions of Members or Officers. Neither is it the role of Officers to become involved in what would amount to disciplinary investigations on behalf of a Scrutiny Committee. This is the Chief Executive's function alone in relation to Officers and the Monitoring

Officers and the Standards Committee's functions as regards the conduct of Members. Scrutiny Board's questioning should be directed towards establishing the facts about what occurred in the making of decisions or implementing Council policies, and not towards the allocation of criticism or blame.

5. OFFICER SUPPORT TO MEMBERS AND PARTY GROUPS

- 5.1 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 exclusively any political group, combination of groups or any individual Member of the Council.
- 5.2 There is now statutory recognition for party groups and 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 relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by 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.
- 5.3 The support provided by officers can take many forms, ranging from a briefing with the relevant Cabinet Member prior to a 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.
- 5.4 In supporting and advising political groups, certain points must, however, be clearly understood by all those participating in this type of process, Members and officers alike. In particular: -
 1. Requests for Officers to attend any party group meeting must be made through the appropriate Executive Director. The Executive Director will advise the Chief Executive of any requests made.
 2. Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. This distinction will be assisted if Officers are not present at meetings or parts of meetings, when matters of party business are to be discussed. If Officers are requested to attend Group meetings, their role will be limited to giving a presentation or briefing to Members and responding to questions on the content of the presentation or briefing.

3. 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.
 4. Any request for advice, together with the advice given to a political group or Member will be treated with strict confidentiality by the officers concerned and will not be accessible to any other political group. It is acknowledged, however, that factual information upon which any advice is based will, if requested, be available to all political groups.
 5. It must not be assumed by any political group or Member that any officer is supportive of any policy or strategy developed because of that officer's assistance in the formulation of that policy or strategy.
 6. 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.
 7. Where officers provide information and advice to a party 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 relevant meeting when the matter in question is considered.
 8. Officers involved in providing information and advice to party group meetings at which non-elected members are present should be mindful that although such persons may be bound by the political group's own Standing Orders, persons who are not Councillors or co-opted members are not bound by the Code of Conduct. In particular, they cannot be bound by the provisions concerning declaration of interests and confidentiality which are contained in the National Code of Conduct.
- 5.5 Any particular cases of difficulty or uncertainty in this area of officer advice to party groups must be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).
- 5.6 In relation to budget proposals:
- (a) the controlling political group shall be entitled to confidential discussions with Officers regarding options and proposals. These will remain confidential until determined by the group or until published in advance of Committee/Council meetings, whichever is the earlier; and

- (b) the opposition groups shall also be entitled to confidential discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee/Council meetings, whichever is the earlier.

6. SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS

- 6.1 The only basis on which the Council can lawfully provide support services (eg stationery, typing, printing, photocopying, transport etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business including surgery and casework. They should never be used in connection with campaigning activity for a political party or for private purposes.
- 6.2 In particular photocopying and postal services should only be used by Members for circulating correspondence and literature specifically to Council business including Group correspondence directly relating to Council business.

7. CORRESPONDENCE

- 7.1 Correspondence between an individual Member and an officer will not, as a matter of course, be copied (by the officer) to any other Member. Where correspondence is copied to another Member, the original Member will be informed. In other words, a system of "blind copies" should not be employed. Members will, of course, bear in mind that officers will brief Cabinet members and Chairmen as outlined in paragraph 3.4 above.
- 7.2 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 circumstances (eg representations to a Government Minister) for a letter to be signed by a Member, 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 Member.
- 7.3 Officers will respond to Member's correspondence in accordance with the Council's Customer Contact Standards.

8. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

- 8.1 The following paragraphs identify arrangements for Members' access to information and documents. It is important to note that such access only applies where Members are undertaking Council business. Where a Member has a declarable interest under the Code of Conduct in a

particular matter, the Member will only be entitled to the same access to documents as would be the case for a private individual. In these circumstances, the Member must make it clear to the employee that he/she is acting on his/her own behalf and not acting as a Councillor.

- 8.2 Members are free to approach any Council Department to provide them with such information, explanation and advice (about that Department's functions) as they may reasonably need in order to assist them in discharging their role as Members of the Council or any particular role eg representative on an outside body to which they have been appointed by the Council. This can range from a request for general information or research about some aspect of a Department's activities to a request for specific information on behalf of a constituent. Such approaches should normally be made to the Executive Director or other appropriate senior Officer of the Department concerned. In cases of doubt, the appropriate Executive Director, Monitoring Officer or Head of Legal Services should be asked for assistance.
- 8.3 With regards to the legal rights of Members to inspect Council documents, these are covered partly by statute and partly the common law.
- 8.4 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a meeting of the Council. This right applies irrespective of whether the Member is a Member of the Cabinet or Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items including background papers which may appear on the private agenda for meetings (i.e. green papers). Members do not have a statutory right to inspect exempt information eg that relating to employees, occupiers of Council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from Counsel and criminal investigations. As indicated in paragraph 2.1 above, any member who would have a declarable interest in a matter if it were reported to a committee of which he/she was a member will only be entitled to the same access to documents as would be the case for a private individual.
- 8.5 The Data Protection Act 1998 regulates the holding and processing of personal information relating to individuals. This includes the disclosure of personal information and in many circumstances is not permitted without the express consent of the individuals concerned. Where it is unclear whether consent has been granted Members may be required to demonstrate that consent has been given. This may include obtaining the written consent of the individual(s) concerned, eg, by completing the generic data protection consent form.

- 8.6 The common law right of Members to inspect documents is much broader and is based on the principle that any Member has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the 'need to know' principle.
- 8.7 The exercise of this common law right depends therefore, upon the Members' ability to demonstrate that he/she has the necessary 'need to know'. In this respect a Member has no right to a 'roving commission' to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the 'need to know'.
- 8.8 This question must initially be determined by the particular Executive Director whose Department holds the document in question (with advice from the Monitoring Officer, Head of Democratic Services or Head of Legal Services).
- 8.9 In some circumstances (eg a Committee Member wishing to inspect documents relating to the business of that Committee) a Member's 'need to know' will normally be presumed. In other circumstances (eg a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms. Furthermore, there will be a range of documents which, because of their nature are either not accessible by Members or are accessible only by the political group forming the administration and not by the other political groups. An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft reports, the premature disclosure of which might be against the Council's and the public interest.
- 8.10 Whilst the term 'Council document' is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a 'need to know' and, therefore, a right to inspect, a document which forms part of the internal workings of another party group.
- 8.11 Members do not have the right of access to information or documents in circumstances where the role they are undertaking may conflict with the authority's interests eg as a school governor.
- 8.12 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer, Head of Democratic Services or Head of Legal Services.
- 8.13 Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, ie in connection with the proper performance of the Member's duties as a Member of the Council. Confidential information provided to Members

should not be discussed with, or released to, any other persons without appropriate consent. This point is emphasised in the Code of Conduct in the following terms -

A Member must not –

- (a) disclose information given to him in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so.

9. INVOLVEMENT OF WARD COUNCILLORS

- 9.1 Whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be informed or involved, as appropriate, not later than at the outset of the exercise. Similarly whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting.
- 9.2 Officers agreeing to meet with a group of residents to discuss an issue of local concern should consider the need to raise with the organiser of the meeting (either Elected Member or resident) whether it would be appropriate for Ward Members to be invited to the meeting also. Officers should also consider the need to brief Ward Members about the purpose and outcome of the meeting whether or not Members were invited. This is to ensure that Ward Members are fully apprised about issues affecting their area. Similarly, officers attending residents/community group meetings on a regular basis should arrange to keep local Ward Members briefed on issues raised.
- 9.3 Where officers regularly attend residents/community group meetings they should consider what action is necessary to keep Ward Members apprised of support being provided to the organisation by the Council.
- 9.4 Members invited to meetings which relate to issues which will be considered at a future meeting of a committee of the Council (particularly those undertaking quasi-judicial functions) of which they are a Member should consider carefully whether it is appropriate for them to attend to avoid the appearance of partiality.
- 9.5 Requests for officers to attend public meetings will be dealt with in accordance with the guidance set out in Appendix 1.
- 9.6 Nothing within this Section precludes an officer from arranging a site visit with an individual Ward Member.

10. CEREMONIAL EVENTS

- 10.1 The Mayor or in his/her absence the Deputy Mayor will be the appropriate person to lead ceremonial events at which the Council is represented which are of particular significance or are not specifically associated with a particular portfolio. Similarly, the Mayor or in his/her absence the Deputy Mayor will be in the appropriate person to represent the Council at ceremonial events of other organisations which are not specifically associated with a particular portfolio.
- 10.2 Subject to paragraph 9.1, Majority Group Officers or Cabinet Members are the appropriate representatives for ceremonial events within the scope of their portfolio. Where neither the Majority Group Officers or relevant Cabinet Member are available then any other Member may be nominated by Majority Group Officers.
- 10.3 Local Members should always be informed of, and, where possible, invited to ceremonial events taking place within their own wards.
- 10.4 Any Member taking part in a ceremonial event must not seek disproportionate personal publicity or use the occasions for party political advantage bearing in mind that the Member is representing the Council as a whole.

11. PUBLIC RELATIONS AND PRESS RELEASES

- 11.1 The Council's Media Section serve the Council as a whole and must operate within the limits of the Local Government Act 1986 and Code of Recommended Practice on Local Authority Publicity which prohibit the Council from publishing material which appears to be designed to affect public support for a political party.
- 11.2 Council press releases are drafted by officers and will often contain quotes (within the limits of the Local Government Act 1986) from the Leader and/or Deputy Leader of the Council, a Cabinet Member or the Chairman of the committee whose service is involved and from the Mayor about ceremonial events. Such press releases are issued on behalf of the Council and it would not, therefore, be appropriate when repeating quotations from Members to indicate their party political affiliation.
- 11.3 Special rules apply to local authority publicity during an election period. These rules are contained in the Code of Recommended Practice on Local Authority Publicity. The key provisions relate to the period from the Notice of Election and the election day itself. The Code requires that proactive publicity of candidates and others directly involved in the election should be avoided. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way as to identify them with individual Members or groups of Members.
- 11.4 The Code recognises, however, that the work of the Council must continue during the election period, and that it is acceptable for the Council to respond to issues as they arise, provided that the publicity is

balanced and not construed as party political. In exceptional circumstances, Members holding key positions and who are seeking re-election should be able to make public comments provided that any such comments are associated with their special responsibilities. Such comments must not be used or perceived to be used as part of their candidature. For this reason, the Code stresses that proactive events arranged during the election period should not involve Members seeking re-election. From the last working day before the publication of the Notice of Election, any meetings which might be regarded as contentious should be avoided. Meetings operating to fixed cycles can continue and Members standing for re-election are free to attend provided that they are not perceived as using such meetings as an opportunity to advance their own campaign.

12. PERSONAL RELATIONSHIPS

- 12.1 The Council recognises that there may be close social or personal relationships between Members and officers which commenced before, or after a councillor is elected to the Council or before, or after, a person becomes employed by the Council. However in those circumstances the councillor should disclose this relationship to his/her Group Leader and the Monitoring Officer and the employee to his/her Executive Director. In order to maintain the integrity of the individuals concerned and the Council such relationships should never be hidden. To do so can lead to suspicion and mistrust. The Group Leaders and Executive Directors will endeavour to ensure that neither the councillor nor the employee are placed in a position where such relationship between the councillor and the employee will be seen to conflict with the remaining provisions of this protocol.

13. BREACHES OF THE PROTOCOL

- 13.1 Allegations of breaches of this Protocol by Members may be referred to the Monitoring Officer for investigation and if appropriate referral to the Standards Committee, or to the relevant Group Leader and/or Chief Whip of the political group. However, in certain circumstances a breach of this protocol might constitute a breach of the Members' Code of Conduct, in which case a written complaint would be referred to the Standards Board for England.
- 13.2 Allegations of breaches by Officers are to be referred to the relevant Executive Director for consideration of appropriate action including disciplinary investigation under the Council's Disciplinary Rules.

ATTENDANCE AT PUBLIC MEETINGS

- 1 There exists some uncertainty in the minds of some officers and Members about the circumstances in which employees are expected to attend public meetings which are not hosted or organised by the Council. This is a particular problem for officers who, on the one hand, recognise their responsibilities to Members but, on the other, are hesitant to be drawn into issues which might be more appropriately settled in the political arena. Understandably, Officers are particularly reluctant to become involved in such meetings immediately prior to an election.
- 2 Members have expressed the view that they should be able to rely upon the support of Officers in dealing with matters of concern within their wards. Members are often called upon to explain Council decisions about which they have no detailed or technical knowledge and which, in some cases, they do not personally support. In these cases, Members consider that the attendance of Officers at meetings with the public is essential.
- 3 Members must be able to count on the support of Officers to explain particular proposals and schemes in detail [but not to deal with general issues affecting an area or a ward] at public meetings in the wards subject to the following conditions being met:
 - [a] the appropriate Executive Director agrees that it would be appropriate for an Officer to attend the meeting in his/her professional capacity and that this is an appropriate use of the relevant Officer's time in all the circumstances;
 - [b] the venue for the meeting is not in the ownership of, or occupied by, a particular political group;
 - [c] notices inviting attendance at the meeting do not refer to any political group;
 - [d] costs involved in meetings called by ward members are not to be met by the Council;
 - [e] the Executive Director is satisfied that notices inviting attendance at the public meeting have been widely distributed in the area concerned;
 - [f] all Councillors for the ward[s] affected, together with the Chair and Opposition Spokespersons of the committee[s] concerned, are invited to attend the meeting;

- [g] Officers must not be required to attend public meetings during the period preceding European, parliamentary or municipal elections from the notice of election to the day of the poll.