

5.2: PROTOCOL ON MEMBER/OFFICER RELATIONS

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5.2 PROTOCOL ON MEMBER/OFFICER RELATIONS

1. INTRODUCTION

- 1.1** The purpose of this document is to provide a guide to good working relationships between officers and members of the Council.

2. THE RESPECTIVE ROLES OF MEMBERS AND OFFICERS

- 2.1** Members are elected to make decisions in the interests of the District and to represent their constituents. Under the Council's executive arrangements, members perform roles on the Cabinet, the Policy Development Group and on other committees and sub-committees in addition to sitting as members of the Council. Each member of the Cabinet is a portfolio holder, responsible for particular areas of activity. Some members represent the Council on outside bodies.
- 2.2** Officers are employed by and serve the whole Council. They advise the Council, its Committees and Sub-committees and the Cabinet. They implement decisions of the Council, the Cabinet and decision making groups. Officers also make decisions under powers delegated to them.
- 2.3** Officers are responsible to their line manager and, ultimately their Team Manager/Head of Service. Heads of Service, the Director of Housing and the Director of Services are accountable to the Chief Executive. The Chief Executive is accountable to the whole Council. Some senior officers have specific statutory responsibilities, including the Chief Executive, as the Head of Paid Service. Other officers also hold statutory posts such as Section 151 Officer under the Local Government Act 1972 for financial legality and the Monitoring Officer who is responsible for overseeing the conduct of councillors and the legality of decisions made by the Cabinet.
- 2.4** The Director of Services, Director of Housing, Heads of Service and Team Managers have responsibility for delivering their respective services in accordance with the Council's Policies and the provisions of the Council's Constitution.

3. OFFICERS' ADVICE AND POLITICAL NEUTRALITY

- 3.1** Officer advice and support will be provided to:

Council Meetings;

Meetings of the Cabinet and any Committee or Sub-committee established by the Council or Cabinet;

Cabinet members (portfolio holders);

Meetings of the Policy Development Group, Audit and Governance Committee and other Committees/Sub-committees;
Task Groups/Working Parties, etc;

Groups;

Members of Council on Council business.

- 3.2** Officers will also provide advice and assistance to individual members in respect of Council Business, including issues raised by constituents, where appropriate.
- 3.3** Members should not discuss matters relating to staffing, establishment or the organisational structure of the Council or its operational services, with officers other than Team Managers, Heads of Service, the Director of Services, the Director of Housing or the Chief Executive. Officers must not discuss with or advise members on such matters without the prior agreement of their Team Manager, Director or the Chief Executive.
- 3.4** Officers must not be requested to advise upon matters of party business or private matters.
- 3.5** All officers must treat political Groups and individual members in a fair and even-handed manner. Officers must maintain political neutrality and members must respect this.
- 3.6** Team Managers, Heads of Service, the Director of Housing and the Director of Services may be invited to attend political Group meetings. Where such an invitation is accepted, the same opportunity will be afforded to all other political groups.
- 3.7** Political Group meetings fall outside the Council's decision making process. Conclusions reached at such meetings are not formal Council decisions and so should not be relied upon as such. The Code of Conduct for Councillors applies to members attending Political Group meetings with respect to Council related matters.

4. OFFICERS' ADVICE ON DECLARATIONS OF INTEREST

- 4.1** All members are required to abide by the Code of Conduct, which sets out standards governing their conduct. The Monitoring Officer will provide advice and information to members on declarations of interest. It is the member's responsibility to decide whether any interest should be declared. Members are normally expected to seek advice prior to a meeting. Raising such issues for the first time at a Council or public meeting can place officers in a difficult position, and does not reflect well on the Council. Officers must, when requested to do so, respect members' confidentiality when providing advice

on declarations of interest but may otherwise draw to a member's attention the need to declare a known interest.

5. PERSONAL RELATIONSHIPS

- 5.1** Close personal familiarity between individual members and officers can damage working relationships and prove embarrassing to other members and officers. There is the danger of favouritism being shown to a particular member or officer. There may be a risk that confidential information will be passed to a member.
- 5.2** For these reasons, such personal familiarity is discouraged. Nevertheless, it is recognised that there may be occasions where it is unavoidable, particularly where family relationships or common interests (e.g. a club) arise.

A member must declare to the Chief Executive and his/her respective Group Leader any relationship with an officer that might be seen as influencing his/her work as a member. This includes a family or close personal relationship. Similarly, the officer concerned should notify his/her Team Manager and the Director of Housing/Director of Services/Chief Executive as appropriate, or, in the case of the Director of Services/Director of Housing, the Chief Executive, then all Group Leaders should be notified.

6. APPOINTMENT OF OFFICERS

- 6.1** The Constitution contains rules of procedure for the appointment of staff. Members cannot appoint staff below Team Manager level. Where members are involved in making appointments, they must not take any part in the appointment of anyone to whom they are:

Married;

A partner;

Otherwise related;

A close friend;

A business associate.

- 6.2** Members may be involved in interviewing internal candidates who will be well known to them. On such occasions, members must not allow that knowledge to influence their judgement one way or the other.

7. UNDUE PRESSURE

- 7.1** A member should not apply pressure on an officer to do anything that he/she is not empowered to do, or which is against the officer's professional judgement, or to undertake work outside normal duties or normal hours.
- 7.2** Similarly, an officer must not seek to influence an individual member to make a decision in his/her favour, nor raise personal matters to do with his/her job, nor make claims or allegations about other employees except in accordance with law. Members who receive any such approach from an officer should advise the Chief Executive and/or the Director immediately. The Council has formal procedures for consultation, grievance and discipline, etc. dealing with these matters.
- 7.3** Members may contact officers for information/advice about matters relating to officers' responsibilities. Members are expected to exercise caution when approaching junior staff who may feel intimidated by such approaches. Heads of Service (Team Managers) are responsible for organising their staff's workloads and priorities. Members should not ask individual members of staff below Team Manager level to carry out work or research of a particular nature, which might involve staff spending time on matters that may not necessarily form part of the priorities of that particular service. In addition, members must not request individual members of staff to attend meetings or visit particular sites. All such requests must be made to the relevant Team Manager who will decide whether or not the work should be carried out.
- 7.4** Whilst senior officers endeavour to see members without prior appointment this can cause difficulties. Generally speaking, members should make appointments to speak to officers. It can be disruptive to walk in unannounced, and this should be avoided wherever possible. Members should not turn up unannounced with members of the public and must not use their position to secure priority treatment for someone.

8. OFFICERS' REPORTS AND ADVICE

- 8.1** The Team Manager named in a report to the Council or any part of its formal decision making structure will always be fully responsible for the contents of it. Under scrutiny arrangements, an officer can be held responsible for the contents of his/her reports or advice and be required to answer for the advice given. However, reports will often have been researched and written by other staff who may also be named as 'contact officers' at the end of the report.

9. OFFICER DECISIONS MADE UNDER DELEGATED POWERS

- 9.1** Officers may make decisions under powers delegated to them pursuant to the Scheme of Delegation or by specific authority from the Council or the Cabinet. This may be in consultation with specified members but it is the officer, and not any member, who makes the decision or takes the action and it is the

officer who is accountable for it. Officers will not take decisions they believe to be wrong or unlawful.

- 9.2** Officers will at all times exercise delegated powers in accordance with the principles of the scheme of delegation. In particular, they will comply with the requirement to consult relevant members, and will keep ward members informed, where appropriate, of decisions affecting their wards in accordance with any agreement /arrangements for doing so.

10. THE OFFICER RELATIONSHIP WITH THE LEADER AND OTHER CABINET MEMBERS

- 10.1** The working relationship between Management Team, Heads of Service and the Leader/Cabinet members will be particularly close. Cabinet members will have broad-ranging portfolio responsibilities. Officers may provide briefing notes, advice and information to the Cabinet/portfolio members in respect of reports or questions at formal Meetings. This relationship, however, must not:

Compromise officers' duties to all members of the Council;

Be so close as to give the appearance of partiality on the part of the officer;

Undermine the confidentiality of any discussions with the Management Team or between senior officers and other members;

Compromise officers' professional responsibility to advise members that a particular course of action should/should not be pursued;

Abrogate officer responsibility for action taken under Delegated Powers.

11. CONSTRUCTIVE CRITICISM/COMPLAINTS

- 11.1** It is important that there should be mutual courtesy between members and officers. It is important that there are reasonable standards of courtesy and no member or officer should seek to take unfair advantage of their position.
- 11.2** Members and officers should not undermine respect for the other at Council meetings or any other meetings they attend in their capacity as a councillor or Council employee. A personal attack by a councillor on a member of staff, or on staff generally, at a formal meeting will never be acceptable.
- 11.3** Members should not raise matters relating to the conduct or capability of an individual Council officer or officers collectively at any meeting where members of the public are present, including private meeting with a member of the public.
- 11.4** If a member believes that he/she has not been treated with proper courtesy or has a concern about the conduct or capability of an officer he/she should raise

the matter with the relevant Team Manager. If he/she is not satisfied with the action that has been taken in response to this, he/she may raise the matter with the Director of Services/Director of Housing or Chief Executive who will look into the matter afresh. If the Director believes that there is a case to answer, he/she may determine the action to be taken which might include the Council's formal disciplinary procedures. If the officer concerned is the Chief Executive, then the member should raise the matter with their Group Leader, who should initially discuss the issue with the Chief Executive. A special procedure, which is set out in the Constitution, applies in relation to action against the Chief Executive, the Director of Services, the Director of Housing the Section 151 Officer and the Monitoring Officer.

- 11.5** If an officer feels that he/she has not been treated with respect or is concerned about any action or statement relating to him/herself or a colleague by a member, or conduct of a member, he/she should raise the matter with his/her Team Manager or Head of Services. If he/she is not satisfied with any action that has been taken as a result, he/she should raise the matter with the Director of Services/Director of Housing or Chief Executive. If there is a serious case to answer, the Director of Services/Director of Housing, with the agreement of the Chief Executive, will raise the matter in the first instance with the appropriate Group Leader.
- 11.6** Where an officer or member is concerned about potential unlawful conduct of an officer or member, the Council's Whistle Blowing Policy may also be relevant.

12. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

- 12.1** Each member has the right to inspect and have copies of the reports, minutes and background papers relating to the public part of any agenda of the Council, Cabinet, Board or Committee/Sub-committee meetings of the Council. However, members do not have an automatic right of access to all documents relating to confidential ("Exempt") items on the agenda. These might include, for instance, information relating to employees, occupiers of Council property, applications for grants contracts, industrial relations negotiations, legal advice and criminal investigations.
- 12.2** In respect of such confidential information, members will normally receive, or have access to all papers unless they are of particular sensitivity. A member may have access to such sensitive documentation insofar as it is reasonably necessary to enable him/her to properly perform his/her duties as a member of the Council. The relevant question to be asked is whether he/she needs to know the information to perform such duties. This would normally include matters relating to particular wards.
- 12.3** A member of the Cabinet, or a Board or Council Committee/Sub-committee will have a "need to know" of the documentation relating to that body. In other circumstances, a member will normally be expected to justify the request in

specific terms and the motive for requesting the information of a confidential nature will be relevant. The question as to access to such documentation will be determined by the Chief Executive.

- 12.4** Where a member has an interest in a matter, the member will only be entitled to the same rights of access to documentation as would apply to the public generally, although the member would continue to receive the same documentation as is sent to other members of the body concerned.
- 12.5** Any Council information provided to a member must only be used by the member in connection with the proper performance of the member's duties as member of the Council. Confidential information should not be disclosed, discussed with or released to any other persons. Such disclosure would be a betrayal of trust. In particular, members should never disclose or use confidential information for the personal advantage of themselves or of anyone known to them, or to the disadvantage or the discredit of the Council or anyone else.
- 12.6** Any confidential information provided to members should be clearly marked as such prior to its provision.
- 12.7** A member has no general entitlement to inspect draft documents, correspondence or working papers.
- 12.8** Further advice regarding members' rights to inspect Council documents may be obtained from the Democratic and Support Services Team Manager or the Monitoring Officer.

13. PUBLIC RELATIONS AND PRESS RELEASES

- 13.1** By law the Council is prohibited from publishing material which appears to be designed to affect public support for a political party. Press releases are written by officers, but they may contain quotations from a member. Such news 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. The aim will be for the new releases to be objective, factual and informative. All press releases and media interviews should be conducted in accordance with the Council's Press Release Protocol. All press releases will be issued by the Council's Communications Team.
- 13.2** The Council will abide by the National Code of Recommended Practice on Local Authority Publicity.

14. MEMBER SUPPORT SERVICES

- 14.1** The Council provides a range of support services, including stationery, typing and postage to enable members to carry out their duties. These may only be used for Council business. They may not be used for party political work of

any kind. Members should not ask officers to type, photocopy or otherwise process party political material.

- 14.2** Members will be provided with access to personal computers to enable them to carry out their official duties and to receive e-mails and obtain access to Council documents. Members must abide strictly with the Council's Policy and Protocol regarding the use of Council computers.

15. CORRESPONDENCE

- 15.1** Unless a member or officer requests confidentiality, it may be assumed that correspondence (including e-mail) between a member and an officer is not confidential and may be shown to others. Where confidentiality is not requested, members and officers will exercise discretion in determining whether it is appropriate to disclose correspondence to others. The originator of the correspondence must accept that it may be disclosed to others unless confidentiality has been requested. However, both officers and members have a personal responsibility to maintain confidentiality in any matter which appears to be of a personal or confidential nature, whether or not this has been specifically stated. If, in an officer's view, correspondence on a non-confidential matter between an individual member and an officer is of interest to other members, to keep them fully informed, the original member should be informed when copies are provided to other members.
- 15.2** Where issues are raised by, or with, individual members relating to a matter of general interest in a Council ward, copies of correspondence may be sent to all members for the particular area and the appropriate Cabinet member/Committee/Board Chairman at the discretion of the relevant Team Manager. An exception will be made where the member specifically requests that correspondence is not copied to other members, or there is a political, or other reason, why this is not appropriate.
- 15.3** Officer 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 (e.g. representations to a Government Minister) for a letter to be signed by a member, such as the Leader of the Council/Chairman of the Cabinet, but this should be the exception rather than the norm.
- 15.4** Members should ensure that any letters they send out in their own name, for example as individual ward members to members of the public, do not purport to be or give the impression that they are 'official' letters setting out the Council's position. Nor should members say anything which appears to commit the Council to a course of action or a position without authority to do so.

16. UNRESOLVED ISSUES AND AMENDMENTS TO THE PROTOCOL

- 16.1** If there are any issues of concern, which are not dealt with by this protocol, then the relevant member or officer may discuss the matter with the Chief Executive, Directors, Monitoring Officer or the Human Resources Team Manager, as appropriate, with a view to advice being provided.
- 16.2** This protocol will be reviewed periodically by the Audit and Governance Committee, who will make recommendations to the Council on proposed amendments.

17. CONTRAVENTION OF THE PROTOCOL

- 17.1** Any contravention of this protocol shall be reported to the Monitoring Officer. If appropriate, the Monitoring Officer may refer the matter in the first instance to the relevant Group Leader. If the contravention cannot be resolved at this stage, and relates to a potential breach of the Code of Conduct, the Monitoring Officer may deal with the matter via the arrangements adopted by the Council for local filtration of complaints about members.