

## PROTOCOL FOR MEMBER / OFFICER WORKING ARRANGEMENTS

### 1. Introduction

- 1.1 This protocol reflects the provisions of the Local Government Act 2000 and Regulations made in respect of the Act. A Model Code of Conduct for all members has been adopted by the Council which reflects the Model Code of Local Government Conduct.
- 1.2 This protocol should be read and applied in conjunction with those Codes of Conduct. The principles and procedures set out in this protocol are already, to a large extent, established and form the basis of the Council's working arrangements. The purpose of this protocol is to provide guidance on member/officer working arrangements particularly in the case of doubt or difficulty.
- 1.3 In particular, this protocol aims to support the enhancement of local democracy by -
- facilitating the participation of members and officers in the Council's policy development and decision making processes;
  - assisting members and those officers who support them in their role as representatives of the community within the Council and externally; and
  - clarifying arrangements for the provision of the information and support for members and their Party Groups.
- 1.4 This protocol is intended to assist members and officers in maintaining the highest standards of integrity and propriety and ensuring that all they do is as seen by others to be done properly, fairly and where possible openly.
- 1.5 It is important therefore that any dealings with members and officers should observe reasonable standards of mutual courtesy and respect, and that neither should seek to take unfair advantage of their position in any circumstances.

### 2. Member/Officer Communication

- 2.1 Members should communicate with officers at the appropriate level. Routine service related enquiries should be initiated through normal departmental enquiry/contact points. Other matters will normally involve the appropriate Director or other Senior Manager.
- 2.2 In communicating with members, officers should have regard to the Council's Code of Conduct for employees, the requirements of this

protocol and any instructions issued by their departmental management.

### **3. Officer Advice to Party Groups**

- 3.1 There is no 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 Council or the relevant Committees. Officers may properly be called upon to support and contribute to such deliberations by Party Groups.
- 3.2 The support provided by officers can take many forms ranging from a brief meeting with a Portfolio Holder, Chair or spokesperson prior to a Council meeting, to a presentation to a full Party Group meeting. Whilst in practice such officer support is likely to be in most demand from whichever Party Group is for the time being in control of the Council, such support is available to all Party Groups.
- 3.3 Certain points must however be clearly understood by all those participating in this type of process, members and officers alike. In particular -
- (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of Party 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.
  - (b) 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 communicated (inside or outside the organisation), interpreted or acted upon as though they have that official status.
  - (c) Similarly, 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 Cabinet or relevant Committee when the matter in question is considered.
- 3.4 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 will not be bound by the Model Code of Conduct, in particular the provisions concerning the declaration of interest and confidentiality, and for this and other reasons officers may not be able to provide the

same level of information and advice as they would to a meeting of members only.

- 3.5 Officers must respect the confidentiality of any Party Group discussions at which they are present and should not, in particular, relay the content of any such discussion to another Party Group.
- 3.6 Any request for an officer to attend a meeting arranged by a Party or Party Group, for the purpose of presenting information to the meeting (in relation to an issue or proposal affecting or involving the Council) must be made to the relevant Director, who will consult with the Chief Executive, or to the Chief Executive. Where it is agreed that an officer will attend for this purpose the same facility will be offered or made available to the other Party Groups. Any officer who so attends will do so in his/her official capacity, will be politically neutral, and attendance will not signify support for any particular political view, proposal or response.
- 3.7 Attendance at any public meeting will generally be avoided during the period between the announcement and conclusion of any local or parliamentary election affecting the area involved, and will only occur during such a period if representatives of all parties supporting candidates in the election have been invited to take part in the meeting.
- 3.8 At any public meeting organised by any Party Group, or by any individual member (rather than by the Council) officers will attend only to provide information which is publicly available. **No such officer attendance will take place during the 'pre-election' period referred to in paragraph 3.7.**
- 3.9 Any particular difficulty or uncertainty concerning officer advice to Party Groups should be raised with the Chief Executive who will where appropriate discuss with the relevant Group Leaders.

#### **4. Support Services and Facilities for Members and Party Groups**

- 4.1 Secretarial and other support services and facilities (for example stationery, typing, printing etc) are provided for members to assist them in discharging their role as members of the Council. The Council also employs political assistants to the three main Party Groups. Such support services and facilities must only be used in accordance with specific guidance issued by the Council. They should never be used in connection with party political or campaigning activity or for private business purposes.
- 4.2 Support services for members will normally be provided by the Democratic Services.

## **5. Officer/Member/Chair Relationships**

- 5.1 It is clearly important that there should be a close working relationship between the Leader of the Council, Portfolio Holder and Chair of a Committee and the Director and other Senior Officers of any department which reports to that member or Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other members and other Party Groups, or with any other individual or organisation.
- 5.2 The Leader of the Council, Portfolio Holder or Chair will routinely be consulted as part of the process of drawing up an agenda for a forthcoming meeting. It must, however, be recognised that in some circumstances the proper conduct of business may require a particular matter to be included on the agenda and that the Leader/Member/Chair is not entitled to require the removal of such an item from the agenda. Directors will always be fully responsible for the content of any reports submitted in their name. Any issue concerning the inclusion of any item on an agenda and the submission of any particular report that cannot be agreed between the Leader, Cabinet member or Chair and a Director should be referred to the Chief Executive as Head of Paid Services, the Monitoring Officer, or the Chief Finance Officer (the statutory officers), who will review the issue and will be under a duty to submit a report of their findings to be considered by the relevant Committee or Cabinet..
- 5.3 In relation to any action under delegated powers, it is important to remember that the law allows for decisions relating to the discharge of any of the Council's functions which are not specifically reserved to the Council to be taken by the Cabinet. Normally, wherever the authority to make a decision is delegated to an officer it is on the basis that the officer will exercise that authority in consultation with the Cabinet member and/or other nominated members.
- 5.4 It must be remembered that officers within a department are accountable to their Director and that whilst officers should also seek to assist a Cabinet member or Chair (or indeed any member), they must not in so doing go beyond the bounds of whatever authority they have been given by their Director. It should also be noted that the Chief Executive has a statutory responsibility as Head of Paid Service for ensuring the proper organisation and management of the Council's staff, and has therefore an overall responsibility for the direction and management of all officers.

**6. Correspondence**

- 6.1 Correspondence between an individual member and an officer should not normally be copied (by the officer) to any other member except at the discretion of the Chief Executive or Director where necessary for the proper conduct of business. Where exceptionally it is necessary to copy the correspondence to another member, this should be made clear to the original member. In other words, 'blind' copies of such correspondence should not be circulated.
- 6.2 Official letters on behalf of the Council should normally be sent out in the name of the appropriate officer rather than in the name of a member. It may be appropriate in certain exceptional circumstances, for example representations to a Government Minister or correspondence with a Leader of another local authority, for a letter to be issued in the name of the Leader of the Council. Letters which for example create obligations, confirm or deny the acceptance of any liability, or give instructions on behalf of the Council, should always be sent out by the Chief Executive or the appropriate Director or other Senior Officer.

**7. Publicity and the Media**

- 7.1 Contact with the media on issues related to the Council or to Council business is handled through, or with advice/support from, the Communications Unit.
- 7.2 Any member who approaches the media on any item involving or affecting the Council without first approaching or consulting the Council (through the relevant Cabinet member/Chair, department or Communications Unit) will be responsible for such action. Any member who does so should make it clear that he/she is speaking on his/her own behalf and not representing or speaking for the Council.
- 7.3 See Code of Conduct.
- 7.4 Members and officers should be mindful of the prohibition on the publication by the Council of any information intending to promote or canvass support for any political party or candidate for elections. In case of doubt advice should first be obtained from the Monitoring Officer.

**8. Personal Relationships**

- 8.1 No member or officer should allow any personal connection or relationship with any other member or officer to affect the performance of his or her official responsibilities or the taking of any action or decision by or on behalf of the Council. This includes, for example, any family relationship, membership of the same household or any

business connection. Members and officers should always consider how such a relationship or connection would be likely to be regarded by anyone outside the Council, or by any other member or officer, and avoid creating any impression of bias or unfairness.

- 8.2 An officer who is personally connected or related to any member should notify his or her Director in writing.
- 8.3 Members should take into account any personal relationship or connection with any other member or officer, in considering the need to register or declare a personal or personal and prejudicial interest whenever appropriate.

## 9. Involvement of Area Committee/Ward Councillors

- 9.1 Ward Councillors and Divisional County Councillors will be notified of work proposed in or close to the area they represent prior to it being commenced. This will not include routine maintenance (although a schedule will be supplied to Councillors where requested), repairs to Council housing stock or emergency repairs. The advance notice will be sufficient to enable Councillors to comment on, influence or consult with their constituents about the issue if necessary. Where a Ward Councillor makes any suggestion or raises an objection, work will not begin for at least one month after the date of that suggestion or objection is received (or sooner if the matter is agreed to be resolved) in order to allow the concerns to be addressed.

## 10. Members Access to Information and to Council Documents

- 10.1 Members are free to request from the Council such information as they may reasonably need in order to assist them in discharging their role as members of the Council, having regard to any special responsibility, for example as Cabinet member or Committee Chair. Such request should normally be directed to the Director.
- 10.2 The legal rights of members to inspect Council documents arise partly from statute and partly from the common law (judicial decisions).
- 10.3 Members have a statutory right to inspect any document **which contains material relating to any business which is to be transacted at a Council meeting or Sub-Committee meeting**. This right applies in respect of whether the member is a member of the Cabinet, or of the Committee or Sub-Committee concerned, and it extends not only to reports that are to be submitted to the meeting but also to any relevant background papers. This right does not however apply to documents which are exempt from publication, unless the member is a member of the relevant Committee.
- 10.4 The common law right of members is much broader and based on the principle that any member has a prima facie right to inspect Council

documents, so far as his/her access to the document is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council. This principle is common and referred to as the 'Need to Know' principle.

- 10.5 Whether a member is in any particular case entitled to exercise this common law right depends therefore upon the member's 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 examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the 'Need to Know' for a purpose necessary to enable the member to carry out his or her public duties. In any case of doubt or difficulty, the members should refer to the Chief Executive or Executive Head of Strategy, People and Democracy.
- 10.6 In some circumstances, for example (a Committee member wishing to inspect documents relating to the functions of that Committee) a member's 'Need to Know' will normally be presumed. In other circumstances, for example (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.
- 10.7 The term "Council document" is very broad and includes for example any document produced by whatever means with Council resources. It is accepted by convention that a member of one Party Group will not have any 'Need to Know' and therefore no right to inspect a document which forms part of the internal working of another Party Group.
- 10.8 Further and more detailed advice regarding members' right to inspect Council documents may be obtained from the Executive Head of Strategy, People and Democracy.
- 10.9 Any Council information provided to a member must only be used by the member for the purpose for which it was provided; that is, only to enable the proper performance of the functions of the Council.

The point is emphasised in the new Model Code of Local Government Conduct in the following terms.

3. A member –
  - (a) must not disclose information given to him in confidence by anyone, without the consent of a person authorised to give it unless he is required by law to do so;
  - (b) must not prevent another person from gaining access to information to which that person is entitled by law.

**11. Further Guidance**

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