

Protocol of Member/Officer Relations

PRINCIPLES TO BE OBSERVED

1. The Protocol can be neither prescriptive nor comprehensive to all the circumstances facing Members and Officers. Therefore it is founded on the following principles :-
 - advice to political groups must be given in such a way as to avoid compromising an Officer's political neutrality;
 - advice must be confined to Council business not party business;
 - relationships with a particular Political Group should not be such as to create public suspicion that an Officer favours that Group above others;
 - information communicated to an Officer by a Political Group in confidence should not be communicated to other Political Groups;
 - Officers' overriding responsibilities are to the Council; and
 - Officers' political restrictions must be respected at all times.

GUIDELINES

2. The Roles of Members and Officers

- (a) The role of Members is to represent their constituents within the context of any political manifesto or group to which they may subscribe.
- (b) The role of Officers is to advise on and implement decisions of the Council or to make delegated decisions within the policy set by the Council.
- (c) All decisions of the Council which are not delegated to Officers will be made by the Council, Cabinet or another Committee.
- (d) Other than as described below, individual Members should not seek to instruct or influence Officers in the carrying out of their duties, although they may represent the views of their constituents.

3. Advice to Political Groups/Independent Members

- (a) It is practice for Political Groups and Independent Members (if any) to give preliminary consideration to items of business in advance of the Cabinet, Committees or the Council. Officers may be called upon to support such deliberations.

- (b) This support is normally by way of a briefing meeting with the leading Members prior to a Committee or Cabinet meeting. In practice such Officer support is likely to be in demand from the majority Group, but can be available to all Political Groups or Independent Members (if any) within reason.

In these circumstances :-

- (i) 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. To observe this distinction Officers will not be present at meetings, or parts of meetings, when matters of Party business are to be discussed;
 - (ii) Political Group meetings, or similarly with individual Members, whilst they may form part of the preliminaries to Council decision-making, cannot make decisions on behalf of the Council. Conclusions reached at such meetings do not rank as Council decisions. It is essential that they are not interpreted or acted upon as such; and
 - (iii) where Officers may provide information and advice to a Political Group meeting in relation to a matter of Council business, this is not a substitute for providing all necessary information and advice to the relevant body when the matter is considered.
- (c) Officers will not attend Political Group meetings where there are persons present who are not Members or Officers of the Authority. Attendance at Political Group meetings will be subject to the prior approval of the Chief Executive or a Chief Officer.
- (d) Officers will not normally advise as to policies which a minority Party or Independent Members should pursue.
- (e) Officers must respect the confidentiality of any Political Group or individual Member discussion at which they are present. They should not relay the content of any such discussion to another Political Group or individual Members.
- (f) Any cases of difficulty or uncertainty should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s) or individual Members.

Support Services to Members and Political Groups

4. The Council provides support services to Members to assist them in discharging their role as Members. They should never be used in connection with party political or campaigning activity or for private purposes.

5. Members' Access to Information and to Council Documents

- (a) Members may approach any Department to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Department's activities to a request for specific information on behalf of a constituent.
- (b) Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Committee or Cabinet meeting. This right applies irrespective of whether the Member is a Member of the body 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 which may appear on the confidential agenda for meetings. The items in question are those which contain exempt information 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. Members should not themselves or require Officers to infringe the Data Protection Act.
- (c) Additionally, Members have a 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.
- (d) The 'need to know' must be demonstrated. A Member has no right to 'a roving commission' to examine documents of the Council. Curiosity is not sufficient. The crucial question is the determination of the 'need to know'. This question must initially be determined by the particular Chief Officer whose Department holds the document in question (with advice from the Borough Solicitor). In the event of dispute, the Chief Officer is entitled to consult with the Chief Executive whose decision will be final.
- (e) If meeting a request involves committing an unreasonable level of resource, the Chief Officer will consult with the appropriate Group Leader and the Chief Officer's decision will be final.
- (f) Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided i.e. in connection with the proper performance of the Member's duties as a Member of the Council.

6. Officer/Leader/Cabinet/Chair and Vice-Chair Relationships

- (a) There will be a close working relationship between the Chief Executive, Leader, Cabinet Members and the Chair and Vice-Chair of a Committee and similarly the Chief Officer and other Senior Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other Political Groups.

- (b) Whilst the Leader, Chair and Vice-Chair of a Committee will routinely be consulted as part of the process of drawing up the agenda for a meeting, in some situations a Chief Officer will be under a duty to submit a report on a particular matter. A Chief Officer will always be responsible for the contents of any report submitted in his/her name. Any issues arising should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council for matters relating to the Cabinet and relevant Chairs for non-Executive and Scrutiny matters.
- (c) Most decisions (relating to the discharge of any of the Council's functions) will be taken by the Cabinet, a Committee or an Officer under delegated powers. Action between meetings can only be taken by an Officer in accordance with the Scheme of Delegation.
- (d) Officers are accountable to their Chief Officer and whilst Officers should always seek to assist the Leader, Cabinet Members, Chairs or Vice-Chairs (or indeed any Member) they must not go beyond the bounds of whatever authority they have been given by their Chief Officer.
- (e) The following guidelines apply to the Chief Executive in particular :-
 - (i) The Chief Executive is the employee of the Council as a whole and his/her overriding responsibility is to the Council and not to any Political Group or individual Members.
 - (ii) The Chief Executive is expected to work closely with the Leader and to give information, assistance and advice. Subject to maintaining his/her position of political neutrality, he/she may develop a special relationship with the Leader and Cabinet Members and will not, without consent, disclose information on any matters discussed with that leadership to the minority political groups or independent Members.
 - (iii) The political neutrality of the Chief Executive should be respected by everyone.
 - (iv) All Members of the Council have a right of access to the Chief Executive.
 - (v) It is proper for the Chief Executive to develop a working relationship with the Minority Political Groups and Independent Members (if any) on the Council, but will not advise as to policy which any Minority Party or Independent Member should pursue. The Chief Executive will not reveal to other Political Groups or any Independent Member the content of confidential discussions with any Group or Independent Member, unless consent has been specifically given by the Leader of the Group or the Independent Member concerned.
 - (vi) As an employee of the whole Council, the Chief Executive will inform the Leader of any case where he consider that the Minority Parties or Independent Members should be given information or be consulted.

(vii) An Officer will refer to the Chief Executive any request from a Member for a copy of a confidential paper and the Chief Executive will decide whether or not the paper will be made available to the Member. The Chief Executive will inform the Leader of the decision.

(f) Insofar as they are applicable, the above guidelines also apply to the Directors.

7. Correspondence

(a) Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member, except where this is part of the Council's routine procedure for a particular type of correspondence. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear.

(b) 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 (e.g. representations to a Government Minister) for a letter to appear over the name of 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 over the name of a Member.

8. Involvement of Ward Councillors

(a) Members are elected to represent their constituents. The intention is that Members appropriately engage fully with their constituents and obtain their views with the intention of feeding this into the Council's activities.

Information may be sought of Officers, but Members should not lobby for a particular outcome with Officers.

(b) Whenever a consultation 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 involved.

9. Press Releases

(a) Press releases are made on behalf of the Council and will be made by the Communications Unit after consulting, where practicable, with the Leader, an appropriate Member of the Cabinet or relevant Committee Chair.

(b) Other than as set out above, press releases will not be made at the instigation of individual Members.

10. Standards Committee

The independent members on the Standards Committee will have the same right to information and assistance from Officers as all other ordinary Members of the Standards Committee.

11. Complaint Procedure

Under the Code of Conduct

- (a) Where an officer is concerned about the conduct of a Member they should approach their line manager in the first instance to raise the issue directly with the Member. Where the line manager is unable to reach a resolution the complaint can be escalated to the Director and eventually to the Chief Executive. At any stage officers can call upon the support of the Monitoring Officer in interpreting the Code of Conduct and providing advice on the process. The purpose of the process will be to resolve the complaint to the satisfaction of both parties. Informal attempts at resolution may include the involvement of the relevant group leader. This process cannot impose sanctions on a Member or determine that there is no foundation in the complaint. An officer will continue to be entitled to pursue the complaint with the Standards Committee under the Procedure for Dealing with Complaints Against Members.
- (b) Where an officer raises a concern about the conduct of a Member with the Monitoring Officer or the Standards Committee, before referring the complaint to the Initial Assessment Sub-Committee the Monitoring Officer should discuss with the officer informal resolution of the complaint. In the first instance the officer should use the procedure set out above. The Monitoring Officer may indicate that the Standards Committee prefer to see this type of complaint dealt with under that procedure in the first instance. Where however the officer has concern about the alternative process or a concern about bullying or intimidation then the complaint can be referred directly to the Committee.

Complaints Against Members for breaches of the Protocol and Procedure Rules

- (c) Any Complaints should be dealt with under the procedure set out above. The Monitoring Officer can provide advice as to whether the complaint is a complaint under the Code of Conduct or under the Protocol. Any complaint can be referred to the Standards Committee will decide whether or not it is capable of being a breach of the Code of Conduct. If the complaint is not covered by the Code of Conduct the procedure and penalties will not be available for the complaint.

Complaints Against Officers for breaches of the Protocol and Procedure Rules

- (d) A complaint against an officer should be raised with the officer themselves in the first instance, but if this is not appropriate can be raised with their line manager. If the Member continues to be dissatisfied a complaint can be made to the relevant Director who will appoint an officer to investigate the complaint. The findings will be provided in a written response in relation to the specific concerns raised by the Member. If resolution is not possible at this stage the matter will be referred finally to the Chief Executive.
- (e) If a Member complains about a Director an attempt should be made to resolve the matter with the Director in the first instance and if that is unable to resolve the issue a complaint can be made to the Chief Executive.

- (f) If the complaint concerns a complaint that the Chief Executive has failed to follow the Protocol or a Procedure Rule, the Monitoring Officer will investigate and produce a report to the Chief Executive recommending any action in relation to the complaint.