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**PROTOCOL OF MEMBER/OFFICER RELATIONS**

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**Responsible Cabinet Member - Councillor Chris McEwan  
Efficiency and Resources Portfolio**

**Responsible Director - Paul Wildsmith, Director of Corporate Services**

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**SUMMARY REPORT**

**Purpose of the Report**

1. The purpose of this report is to seek approval for changes to the Protocol of Member/Officer Relations to deal with complaints between officers and members.

**Summary**

2. The Protocol of Member /Officer Relations as it currently stands does not deal with how a complaint from a Member or Officer about a breach of the Protocol itself or any other breach of the requirements set out in the Rules and Protocols ought to be dealt with.
3. The proposal is that complaints from both Officers and Members about the conduct of each other should be set out in the Protocol. This should be a first step before any other procedure is used. In particular this process should be exhausted before a complaint is made to the Standards Committee about Member Conduct. This is not intended to prevent an Officer from making a complaint to the Standards Committee.
4. The proposed changes have been discussed with group leaders at their joint meeting with the Chair of the Standards Committee. The Standards Committee has also considered the draft changes at its meeting in November 2009 and recommends the changes to Council for approval.
5. The Protocol of Member/Officer Relations with a new paragraph 11 is attached at **Appendix 1**. If approved the revised protocol will be included within the Council's Constitution.

**Recommendation**

6. Members are requested to approve the revised protocol.

**Reason**

7. This will help in giving greater clarity and more flexibility in the way that complaints made by Officers or Members are dealt with.

**Catherine Whitehead**  
**Borough Solicitor and Monitoring Officer**

**Background Papers**

No background papers were used in the preparation of this report.

C. Whitehead: Extension 2306

S17 Crime and Disorder	There are no issues in relation to Crime and Disorder.
Health and Well Being	There are no issues in relation to Health and Wellbeing.
Sustainability	There are no issues in relation to Sustainability
Diversity	There are no issues relating to Diversity which this report needs to address
Wards Affected	This report affects all wards equally.
Groups Affected	There is no impact on any particular group.
Budget and Policy Framework	This report does not recommend any change to the Budget or Policy Framework.
Key Decision	This is not a key decision
Urgent Decision	This is not an urgent decision
One Darlington: Perfectly Placed	This report does not adversely impact on the Strategy
Efficiency	This report does not have any direct impact on efficiency.

## MAIN REPORT

### Current Position

8. The Council has a Corporate Complaints Procedure which enables members of the public to complain about the services they receive from the Council. The Corporate Complaints Procedure is not open to Members of the Council. The Local Government Ombudsman does not deal with complaints by Members against their own Council. The procedure is also not open to officers to complain about colleagues or the conduct of the Council. Officers and Members who have received a service from the Council as a member of the public are entitled to complain using the procedure, although in the first instance it is recommended that such complaints be raised informally with the members of staff involved or relevant line managers.
9. The Council also has a Procedure for handling Complaints Against Members. The majority of these complaints come from members of the public, but any person can complain using the procedure including a member of staff or another member. Although the Council cannot prevent anyone using this procedure, it is appropriate to offer a more informal procedure to help resolve any complaint in the first instance.

### Proposed Amendments

10. It is proposed that the Protocol for Member Officer relations includes a procedure for resolving disputes about the operation of the protocol itself and the wider Constitution. This proposal will enable Members to complain that officers have not dealt with matters in accordance with the Constitution and will enable officers to raise complaints against members informally without the need to use the statutory Standards Committee Assessment local assessment process.

### Complaints Under the Protocol

11. The Protocol of Member /Officer Relations is designed to set out the way that officers and elected Members of the authority should work together. It deals with issues such as political groups, Member briefings, confidentiality and rights of access to information. It does not however provide for any process of complaint if either an officer or Member feels that the matters set out in the Protocol have not been followed. Most local authorities have a Member Officer Protocol and many have a process for dealing with breaches of the Protocol within the Protocol itself.

### Complaints About Members

12. In relation to complaints to the Standards Committee, the Standards for England have recognised the value of such a Protocol and in an Adjudication Panel hearing locally, the complainant officer was criticised for not making use of the Protocol and procedures within it before resorting to a complaint to the (then) Standards Board for England. A recent complaint by an officer about a Member in this authority which has resulted in a resolution through mediation by the Standards Committee, has highlighted a need for a 'first steps' procedure which allows for a form of mediation before resorting to the formal complaints process.

13. An Officer can still make a complaint to the Standards Committee, but there will be circumstances when this may not be the most appropriate form of action. There will be other factors that are relevant including the working relationship between the Officer and the Member concerned and there may be circumstances when other forms of dispute resolution may be more appropriate than the complaint proceeding via the Standards Committee process which might be more appropriate such as use of the Grievance Procedure or the Confidential Reporting Policy. Although there is no specific process for the involvement of Group Leaders, informal attempts at resolution may include the involvement of the relevant group leader.

### **Complaints about officers**

14. The Protocol as currently drafted sets out a range of expectations on officers and a complaint from a Member that any aspect of the Protocol or any other procedure rule set out in the Constitution has been broken could be raised. A complaint about service delivery to a Member should be raised in the usual way, a complaint about any other form of conduct eg delay in replying or lack of courteousness should be dealt with directly with the officer or with their line manager. A specific complaint that a procedure rule has not been followed by an officer, in relation to their treatment of an individual member, may require a more formal approach.
15. Where a complaint is made about the way a matter has been handled the complaint (as with complaints from the public) is about the Council. Where a complaint is upheld consideration is given by the line manager of a relevant staff member whether or not there is any need for the Council's capability or disciplinary procedure to be used. This decision rests with the line manager and does not form part of the complaints process.

### **Process**

16. The emphasis of the process should be on resolution and to that end should require discussion with the member and individual complained of or their line manager in the first instance as a method of resolution.
17. In each case the resolution of a complaint under the proposed revised procedure rests with the Chief Executive. Where the Chief Executive is complained of the resolution is through the Monitoring Officer who has overall responsibility for handling complaints across the authority including acting as the liaison officer for the Ombudsman. The proposed procedure for dealing with complaints is set out in paragraph 11 of **Appendix 1**.

### **Consultation**

18. The proposed changes have been discussed with group leaders at their joint meeting with the Chair of the Standards Committee. The Standards Committee has also considered the draft changes at its meeting in November 2009 and recommends the changes to Council for approval.