

PROTOCOL ON MEMBER/EMPLOYEE RELATIONS

1. Introduction

- 1.1 Government guidance for the preparation of local authority constitutions refers to the perceived requirement for a protocol to underpin member/officer relations. This accords with the recommendations of the Nolan Committee's Report on Standards of Conduct in Local Government that every local authority should have its own written statement or protocol governing relations between members and officers.
- 1.2 The guidance suggests that protocols should be developed locally to reflect local political arrangements and approaches but gives an indication of those areas that are expected to be covered in each protocol. In adopting this protocol, the Council has had regard to broad headings proposed in the guidance.
- 1.3 The purpose of this protocol is to guide members and employees of the Council in their relationships with one another. It is not intended to be prescriptive or comprehensive and seeks simply to offer guidance on some of the issues that most commonly arise.

2. Principles Underlying Member/Employee Relations

- 2.1 The Nolan Report suggests that 'No local authority can function properly without a good relationship between its councillors and its officers. Where the relationship breaks down, an atmosphere of suspicion or dislike can make it very difficult to devise and implement policies in any consistent way.' The general principles which govern the conduct of members (selflessness, honesty and integrity, objectivity, accountability, openness, personal judgement, respect for others, duty to uphold the law, stewardship and leadership) which are embodied in The Relevant Authorities (General Principles) Order 2001 require members to respect the impartiality and integrity of an authority's statutory officers and other employees. Those principles are equally appropriate for employees in their dealings with members.
- 2.2 This protocol should also be read in conjunction with the Members Code of Conduct and Employees Code of Conduct which are designed to ensure high standards of conduct and probity within the Council. Together they contribute to the effective and efficient transaction of Council business and ensuring that the Council is not brought into disrepute. Public confidence in the integrity and honesty of both members and employees is critical to the Council's community leadership role and compliance with the Codes and this Protocol will serve to enhance local democracy.

3. The Roles of Members and Employees

- 3.1 The roles of members and employees have changed with the Local Government Act 2000 and the introduction of executive decision-making – on occasions by individual members as opposed to collectively in committee. The greater impact upon the time of individual members brought about by the new system, together with the introduction of pensionable allowances, have tended to blur the

traditional distinction between the roles of members and employees. Nevertheless members and employees do have separate roles which should be readily distinguishable. These are defined more specifically in the Council's constitution.

- 3.2 Members are democratically elected and are accountable to the electorate for their actions. An important feature of each member's role is to represent the interests of his/her constituents, irrespective of how they may have voted in an election. The expectation is that members will be more aware of the views of their constituents on major policy developments before decisions are taken collectively at full Council meetings. The Leader and other executive councillors are responsible for the delivery of those policies. Members who sit on overview and scrutiny have an important role in both holding the executive to account and in contributing to policy development. Members of regulatory panels make decisions on applications by the public for permissions and licences of varying types.
- 3.3 Employees are responsible for day-to-day managerial and operational decisions within the Council and should provide support to both the executive and all members in their several roles. They are employed by and accountable to the Council as a whole. The Cabinet system can create tensions and conflicts of interest for employees servicing both the executive and overview and scrutiny and the executive and the Council. Members should recognise the potential difficulties that this can present and should respect the obligation placed on employees to serve the Council as a whole.
- 3.4 In this protocol, any reference to a senior officer is a reference to the Chief Executive, Chief Officers and Heads of Service as defined in the Council's constitution.
- 3.5 Certain employees, commonly referred to as "statutory officers", derive some duties and responsibilities directly from legislation. The Council's statutory officers are –
 - ◆ the Chief Executive, who as Head of the Paid Service is the Council's principal adviser on matters of general policy;
 - ◆ the Executive Director of Central Services, who as the Council's Monitoring Officer is required to report on any proposals, decisions or omissions which in his view are likely to result in a contravention of the law or which fail to comply with legal duties, are unjust or fail to take account of an applicable code of practice; and
 - ◆ the Corporate Director, Commerce and Technology, who as the Council's Chief Financial Adviser is required to report on any proposal, decision or course of action which would involve incurring unlawful expenditure, or is unlawful or is likely to cause a loss or deficiency or if the Council was proposing to enter an item of account unlawfully.
- 3.6 There may be occasions when a Statutory Officer's responsibilities may conflict or not wholly correspond with a strategy, policy, decision or course of action proposed/taken by the Council or a member. In those circumstances members should acknowledge the primacy of the statutory responsibilities and treat the Statutory Officer with the same

courtesy and respect shown to them and to other employees in all other dealings.

4. Employer/Employee Issues

- 4.1 Any dealings between members and employees should be conducted with mutual respect, trust and courtesy. Members should recognise and have due regard to their role as an employer in their dealings with employees and be conscious that inappropriate conduct or behaviour on their part could lead to a case being brought to an employment tribunal by an aggrieved employee. It is proper for a member to make written or oral representations about a matter affecting a constituent who also happens to be an employee but he/she should avoid taking a proactive part or represent or act as an advocate on behalf of the employee in any disciplinary or grievance procedures brought against the Council by the employee.
- 4.2 Members should not place inappropriate pressure on employees and must ensure that all communication between them (including written communication) does not bring the Council into disrepute, cause any embarrassment to them, or lead to a breakdown of mutual trust, respect and courtesy in member/employee relations.
- 4.3 In seeking advice and support, members should recognise that, whilst those employees owe an overriding duty to the Council as a whole, such duties are first expressed to their respective line managers and the Chief Executive and not to an individual member. For this reason, members should not give direct instructions to employees, unless they are authorised to do so by the Council's constitutional arrangements. If so authorised, instructions should, under normal circumstances, still be given to a senior officer and not to a more junior employee.
- 4.4 In particular, members and employees should promote equality by not discriminating unlawfully or otherwise against any person. They should treat people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. Such principles will apply equally to the implementation of personnel and other policies, recruitment and promotion as they apply to day to day dealings with members of the public.

5. Personal Relationships

- 5.1 Guidance on personal relationships is contained in the Codes of Conduct. Provided these are observed, more informal exchanges may be appropriate between members and employees outside business meetings and formal events.
- 5.2 It is important that there should be a close working relationship between executive councillors, chairmen and leaders of political parties with the Chief Executive, chief officers and 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 issue of impartiality into doubt.

6. Relationships between Cabinet and Employees

- 6.1 Any decision by an executive councillor or collectively by the cabinet must be supported by a written report by the appropriate employee. An employee's obligation to the whole Council requires the advice to be tendered professionally and impartially and executive councillors should not seek to suppress or amend any aspect of such professional advice.
- 6.2 Reports to the Cabinet will normally be produced by employees but there may be occasions when an executive councillor prepares a report. In either situation, the appropriate employee shall place on record his/her professional advice to the Cabinet and ensure that advice is considered when a decision is taken.
- 6.3 As part of their duties, employees will represent (both internally and externally) the decisions of the Cabinet or an individual executive councillor. Other members should recognise that, in doing so, an employee is representing an executive decision of the Council.

7. Relationships between Overview and Scrutiny and Employees

- 7.1 Overview and scrutiny plays an important role within the Council in holding the executive to account and in the formulation of policy. The Council has not established posts exclusively to support the overview and scrutiny process but the Panels may seek the advice of the Monitoring Officer and the Chief Finance Officer where they consider there is doubt about the legality or financial probity of any decisions or prospective decisions of the executive or where these may be contrary to the Council's policy and financial framework.
- 7.2 When requiring employees to give evidence to an Overview and Scrutiny Panel, the Panel and its Chairman shall not, without the consent of a chief officer or a senior officer, request the attendance of a junior employee. When employees are required to give evidence before an Overview and Scrutiny Panel, questions should be confined, so far as is possible, to questions of fact and explanation of any professional opinion relating to policies and decisions. Employees must respond to questions from members in an open, constructive and helpful manner. Employees must not be misleading or economical with the truth in their answers. The Chairman of an Overview and Scrutiny Panel shall ensure that executive councillors and employees are not questioned (whether through the nature, tone or language used) in such a manner as could be considered by a reasonable person to be hostile, offensive, derogatory, harassing, bullying, discriminatory or otherwise unacceptable or inappropriate.
- 7.3 Where they consider it appropriate, the Chairmen of the Overview and Scrutiny Panels may ask the Chief Executive, chief officers and senior officers to explain any advice given to executive councillors and explain any decision(s) that they may have taken under the Council's scheme of delegation. Any private or confidential matter must be dealt with in a private or confidential manner.

8. Relationships between Other Panels and Employees

- 8.1 Decisions made by other Panels, Committees etc. must be taken collectively, normally following the receipt and consideration of a report by the appropriate employee. Such advice will be independent and professional. Because of the nature of the business conducted by the Development Control Panel, a separate Code of Conduct for Planning has been approved by the Council.

9. Relationships between Political Groups and Employees

- 9.1 Political groups comprising members of an individual political party are a recognised feature of local government and it is common practice for such groups to give preliminary consideration to matters of business in advance of their consideration by a relevant Council body.
- 9.2 Employees will not attend political party group meetings, irrespective of whether these include members of the Council only or other persons of that party.
- 9.3 Employee support to members of political groups must not extend beyond providing information in relation to matters of Council business. When giving advice in such circumstances, employees must demonstrate political impartiality and must not suppress their professional advice in the face of political views. Employees must not champion, defend, action or spend any resources of the Council on, or be held responsible for actioning in any way whatsoever, the decisions of a political group, unless and until such decisions have become the formal decisions of the Council and any consequential provision has been made in the Council's Medium Term Plans and/or Revenue Budget.

10. Relationships between Individual Members and Employees

- 10.1 The Leader, Deputy Leader, executive councillor, panel/committee chairman, group leader or such other members nominated by a Group Leader may request a briefing from the Chief Executive, a chief officer or senior officer on matters of policy which have already been or may be discussed by the Council or within its decision-making or advisory processes. All such requests should be addressed to the Chief Executive, appropriate chief officer or senior officer.
- 10.2 Local members have an important role to play in representing the Council in their constituencies, responding to the concerns of their constituents, in meetings with partners and when serving on outside organisations. It is essential for the efficient functioning of the Council that members should be fully informed about matters on which they may be required to make decisions or which affect their wards. Chief officers should ensure that all relevant staff are aware of the requirement to keep local members informed and that, as far as practicable, the timing of such information allows members to contribute to those decisions. Local members shall also be kept informed about matters affecting their wards during the formative stages of policy development. Whenever a public meeting is organised by the Council to consider a local issue, all of the members representing the ward(s) affected should as a matter of course be invited to the meeting.

- 10.3 Members will be asked by their constituents, from time to time, to pursue matters on their behalf. Where such matters affect the Council, a member may request information or advice from the appropriate employee and such a request should only be refused if a member cannot demonstrate a 'need to know' – see paragraph 11.2 post. Such action is without prejudice to the right of a member to raise an item at any meeting of the Cabinet or another panel and particularly an Overview and Scrutiny Panel.

11. Access to Documents and Information

- 11.1 A member's right to access to documents and information is described in the Access to Information Procedure Rules in the Council's constitution.
- 11.2 In addition, a member has a right to inspect Council documents *so far as his/her access to the documents is reasonable 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. It applies equally to the leaders of political party groups who, although they may be able more readily to substantiate a requirement for information, still have to demonstrate that their request is proper and reasonable and give adequate reasons for requiring the information. Access to such information will vary from member to member and will arise at different times. As such, a member's 'need to know' will be considered on a case by case basis and will not last indefinitely.
- 11.3 The right of access to information is subject to an additional safeguard and if the motive of the member in requesting to see documents is indirect, improper or ulterior, a request to inspect documents will be refused. Furthermore the law does not entitle a member to go on a 'roving or fishing expedition' or to receive every working document that employees have access to or may have had access to in the past.
- 11.4 A member is only entitled to see those documents that are relevant background papers mentioned in any report to a meeting or which are to be taken into consideration in the making of an executive decision by an executive councillor or a key decision by an employee or where information would be available under the Freedom of Information Act 2000. However, an overview and scrutiny panel may request information that is exempt or confidential if it relates to a matter that they are scrutinising.
- 11.5 Confidential information that is obtained by a member must not be disclosed to another person. Any such breach of confidence may result in a complaint to the Standards Board for England or, if sufficiently serious, to a civil action against the member and/or the Council for damages.

12. Relations with the Media

- 12.1 The Council's current structure is designed to raise the public and media profile of executive councillors and to make the members of the Cabinet both collectively and individually directly accountable for the decisions taken. Media support and presentation by employees will

reflect this principle and advice to executive councillors in relation to the media will be provided if required.

- 12.2 The Chairmen of Overview and Scrutiny Panels shall ensure that all media statements relating to that function have the support of the relevant Panel. Any such statements must be consistent with the Council's intent that the overview and scrutiny function shall help to achieve a culture of continuous improvement throughout the Council.
- 12.3 The Council's Communications and Information Officer and other employees will assist other non-Cabinet members in their relations with the media. Any employee assisting a member with media relations must act at all times in the interests of the whole Council and in a politically impartial manner. Other than factual statements, members should not seek assistance from an employee with the preparation or issue of any media statement that will adversely affect the reputation of the Council.
- 12.4 Members are also reminded of the need to comply with the Code of Recommended Practice on Local Authority Publicity issued by the Secretary of State, a copy of which is available on request and on the intranet.

13. Other Support

- 13.1 Members are provided with a range of information and communication technology equipment and other support services to assist them in their policy and representative roles. Members should not use such equipment and support in connection with party political or campaigning activity or for purposes not related to Council business. The supply of equipment is conditional upon members signing a statement of compliance with this requirement and for the return of the equipment at the end of their term of office.

14. Arbitration

- 14.1 Where necessary, the Chief Executive (or in his absence the Monitoring Officer) will arbitrate on the interpretation of this protocol.