

# Protocol on Member/Officer Relations

## 31.1 Principles underlying Member – Officer relations :

- Good administration is dependent upon a successful relationship between Councillors and officers which can only be based upon mutual trust and an understanding of each other's roles and responsibilities.
- This relationship, and, the trust which underpins it, should not be abused or compromised.
- Accordingly, Councillors should not attempt in any way to influence the terms of officers' reports or recommendations on any matter.
- Equally, officers should give clear, independent advice. It is not enough to avoid actual impropriety.
- Members and Officers should at all times avoid any occasion for suspicion and any appearance of improper conduct.
- The fundamental principle which underlies Member/Officer relationships is that officers are required to be politically neutral.

## 31.2 The Nolan Principles

The Council's ethical framework is underpinned by the Seven Principles of Public Life also called the Nolan Principles that apply to anyone who is a public office holder. This protocol implements the Principles into practice as follows:

- Selflessness - By ensuring that officers and members work together for the public benefit.
- Integrity - By avoiding inappropriate influence on officers' activities and the delivery of services.
- Objectivity - By ensuring officers act impartially and fairly between political groups and they are not asked or pressured to act otherwise by members.
- Openness - By ensuring members are aware of their rights to information where information is confidential and should not be shared. Ensuring Officers respect members' rights and understand their limits, especially where personal information is involved.
- Accountability - Breach of this protocol may be evidence of a breach of the Council's Code of Conduct or the officer code of conduct.

- Leadership - By treating others with respect and actively supporting the Nolan Principles in practice.

### **31.3 Bullying**

- (1) Councillors and officers must not bully or harass any person. Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at any person through means that undermine, humiliate, denigrate or injure the recipient. This can be contrasted with the legitimate challenges which a Councillor or officer can make in challenging policy or scrutinising performance.
- (2) Bad relations between Councillors and officers can be destructive to good governance and there has to be an understanding by Councillors that sometimes there may be a legitimate reason why member expectations cannot be met, e.g. because of a council policy or a legal requirement such as confidentiality.
- (3) Where a Councillor has a concern about an officer or the Council services then this should be made to the Director of the service where the Councillor feels the fault lies or to the Chief Executive where it involves a Director personally. Indeed, Councillors have a duty to raise any issues where they have reason to think that fraud/probity, corruption or malpractice of any sort is involved within the Council.

### **31.4 Roles of Members and Officers**

- (1) For local government to be effective a strong working partnership between Members and officers must be established. This partnership can only be effective if it is based on mutual trust and respect. The contents of the Code of Governance and this protocol are intended to ensure that there is no doubt about the roles and procedures of the City Council, which will help this partnership to operate effectively.
- (2) Officers serve the City Council as a whole, serving all elected Members. Officers must carry out the Council's work under the direction and control of the Council and properly constituted Committees and Sub-Committees, the Cabinet and Cabinet Members. A Member in an individual capacity (except a Cabinet Member acting within his / her terms of reference) can exercise no lawful authority and Members in general must operate through the Council and its Committees and Sub-Committees. Cabinet Members must exercise their functions in accordance with the Constitution and their terms of reference. However, it is also important that officers recognise the right of Members, the elected representatives, to determine policy and do not act in any way to undermine that right.
- (3) The Councillors are responsible for:

- (a) providing a focus for community leadership in local wards and acting as advocates on behalf of constituents;
- (b) giving the authority political leadership and deciding on overall Council policy;
- (c) making decisions within overall Council policy;
- (d) the scrutiny of Council policy and services; and
- (e) representing the area and the Council externally.

Council officers are responsible for:

- (a) providing professional advice and relevant information (objectively and impartially) to elected members when they are formulating policy and taking decisions or scrutinising the decisions and actions of others;
- (b) implementing decisions made by Councillors/committees; and
- (c) taking managerial and operational decisions in accordance with the Council's schemes of delegation.

### **31.5 Relationship Between Members and Officers**

Regular contact between Councillors and officers is necessary to ensure the efficient working of the Council. Councillors and officers should have regard to and respect for their different roles in such contacts. The level at which contact occurs will vary depending upon the nature of the service and the reason for the contact. Councillors and Officers involved should always bring concerns about issues affecting a department directly to the attention of the relevant Director.

### **31.6 Relationship between the Chair of the Council and Officers**

The Lord Mayor acts as Chair of the Council. In this capacity the Lord Mayor is entitled to receive a briefing from officers on matters relating to the conduct of the Council Meeting.

### **31.7 Relationship between Leader and other Members of Cabinet and Officers**

- (1) The Leader of the Council, as Chair and a member of the Cabinet, has the duty to appoint the other members of the Cabinet (not exceeding 10 Members including the Leader). As such the Leader has a special responsibility at the centre of the Council. Other members of the Cabinet will be required to recognise this when taking decisions within their respective portfolios and otherwise keeping the Leader informed.
- (2) Officers will need to be conscious of the respective roles played by the Leader and individual Members of the Cabinet. These Members will

require additional briefing on areas within their respective portfolios. It will be the responsibility of the relevant Chief Officer to ensure that this is carried out. Officers and Members will be asked to remember that Cabinet members are unable to take individual decisions without having first considered an Officer report.

### **31.8 Relationship between Chairs and Members of Policy and Scrutiny Committees and Officers**

- (1) The Chairs and Members' of Policy and Scrutiny Committees have powers to call in decisions taken, but not implemented, in accordance with the procedures set out in the constitution.
- (2) The Chairs and Members of Policy and Scrutiny Committees have a role in helping to ensure that Council services are provided in accordance with agreed policies. They can also require that reports relating to their areas of responsibility (as set out in the Terms of Reference) be submitted to assist them in their overview role. They can, however, only require this when acting collectively as a Committee.
- (3) Officers have a duty to ensure that Chairs of Policy and Scrutiny Committees receive sufficient information to enable them to conduct their roles in respect of both overview and scrutiny.

### **31.9 Role of Chairs generally, including relationship with Officers**

Standing Orders give Committee Chairs certain responsibilities to control and conduct Meetings. Other than these powers the Chairs are in the same constitutional position as all other members. Standing Orders also require Chairs to be consulted by Chief Officers before certain delegated powers are exercised by the Chief Officer. ~~The position of Chairmen as the spokesman for their Party on certain issues is informal, but reflects the reality that it would not be practical for Chief Officers to deal with whole committees or all fifty-four Members individually on a day to day basis.~~ However, as emphasised above, Chairs have no executive role or powers to make decisions relating to the discharge of Council functions. The power to make such decisions remains with the Council, the Cabinet, the relevant Cabinet Member, committee or Chief Officer in accordance with the agreed scheme of delegation.

### **31.10 Officer Relationships with Party Groups**

Meetings of Party Groups are essentially political forums, and as such, not attended by Officers.

Officers may attend these meetings to provide briefings only with the express permission of the Chief Executive and in such instances a similar briefing should be offered to all the Political Groups on the Council.

### **31.11 Members in their Ward role and Officers**

- (1) Members of the Council will of course wish to take a special interest in matters in their ward. This is reflected in the Ward Member Consultation procedures, which are set out in the Code of Governance. Guidance in respect of Ward Member Consultation for officers is set out in detail in the Report Writing Guide. Under this procedure Members are consulted on all reports which affect their wards and have the right to have their comments included in the Committee reports. Members have a special role in the local community covered by their Ward and they may from time to time seek advice from Officers in respect of any matters in their Ward as a result. Provided these relate to the functions of the City Council this advice should be given.
- (2) Members will, through their ward casework, often be required to make contact with officers in a number of departments to obtain information on behalf of their constituents. This is perfectly in order and from time to time it may be appropriate for officers to reply to constituents on behalf of, or at the request of, Ward Members.

### **31.12 Councillor Access to documents and information**

- (1) The City Council has agreed the following policy: “Information and documents should be made available on request by Officers to Members unless
  - (a) there is a clearly and properly justifiable reason for declining access and
  - (b) the Member in question cannot establish a legal right to the information or documentation”.
- (2) Members are entitled on a “need to know” basis to receive documents and information on request where it is clear that the Member concerned requires the documentation or information because of their position within the City Council or by virtue of their Membership of a Committee or Sub-Committee.

However, if information is requested which is not readily available, or will require significant resources to produce, officers are advised to seek guidance from their respective Chief Officer, before providing the information.

- (3) In addition, all Members of the Council have a separate statutory right to inspect documents relating to matters which are to be the subject of a decision by the Council, the Cabinet, a Cabinet member or a Committee or Sub-Committee, provided that the documents are within the possession of the Council.

- (4) Members of the Council will only be entitled to receive such information and documents under their statutory right if it is not exempt or confidential in accordance with the provisions of the Access to Information legislation. However, they may nevertheless be entitled under their common law “to know” rights.
- (5) More details of Members’ rights of access to information can be found in the Access to Information Procedure Rules set out in the Constitution and elsewhere in the Code of Governance.

### **31.13 Other individuals who are Members of Council Bodies**

Co-opted Members of the Children and Adults, Public Health & Voluntary Sector Policy and Scrutiny Committee and the Independent Member of the Standards Committee are entitled to receive documents and information relating to their respective appointment in the same way as if they were an elected Member.

### **31.14 Press Releases**

Full details of the framework for the issue of press releases, together with details of the role of the Council’s Communications Section, are set out in Section 38 of the Constitution.

### **31.15 Correspondence and Communications**

Members may telephone or email issues, which require responses to officers. Whatever method is used Members are entitled to receive a full response within 10 days. If for any reason this is not possible, a holding reply setting out the reasons for the delay should be sent as soon as possible (and before the expiry of the 10 days). If Members have not received any response after the expiry of 10 days the relevant Director should be informed.

### **31.16 Confidentiality**

- (1) Members and officers must be aware of and respect the limits on their access:
  - Receiving confidential information as a Councillor does not mean the information is public and can be shared with other members, constituents or the public. It remains confidential unless there is consent to disclosure or it is published. Consent can be given to disclosure either to specific persons or generally.
  - Individual’s data protection rights and privacy must still be respected;
  - Confidential and personal information received as a Councillor cannot be used for party political purposes.

- (2) A breach of confidentiality is likely to be a breach of the Members' Code of Conduct and place the Council at legal, financial and reputational risk. It potentially leaves the Councillor and Council at risk of legal action for breach of confidentiality and, for personal data, at risk of enforcement action by the Information Commissioner's Office.