

## 4 Officer/Councillor Relations Protocol

### Introduction and Principles

- 1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- 2 Given the variety and complexity of such relations, this Protocol Does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.
- 3 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.
- 4 It also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 5 This Protocol is a local extension of the Members' and Employees' Codes of Conduct. Consequently, a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 6 This Protocol should be read in conjunction with the Members' and Employees' Codes of Local Government Conduct, the Council's Constitution and any guidance issued by the Standards and Governance Committee and/or Monitoring Officer.

### General Points

- 7 Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's works under the direction and control of the Council, the Executive, their Committees and Sub Committees.
- 8 At the heart of the Code, and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take

unfair advantage of their position or seek to exert undue influence on the other party.

- 9 Inappropriate relationships can be inferred from language/style. To protect both Members and Officers, Officers should address Members as 'Councillor XX/Mr or Madam Lord Mayor/Sheriff' save where circumstances clearly indicate that a level of informality is appropriate, e.g. a one to one between a Head of Service and their respective Cabinet Member.
- 10 A Member should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with the objectives of this Protocol. This is a long-standing tradition in public service. An Officer has no means of responding to such criticisms in public. If a Member feels s/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer s/he should raise the matter with the respective Head of Service of the Division. The Head of Service will then look into the facts and report back to the Member. If the Member continues to feel concerned, the s/he should report the facts to the Corporate Director who heads the Directorate concerned, or if, after doing so, is still dissatisfied should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint, will be in accordance with provisions of the Council's Disciplinary Rules and Procedures.
- 11 An Officer should not raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of a Section/Division/Directorate at or in a manner that is incompatible with the overall objectives of this Protocol.
- 12 Where an Officer feels that s/he has not been properly treated with respect and courtesy by a Member s/he should raise the matter with his/her Head of Service, Corporate Director or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Head of Service, Corporate Director or Chief Executive will take appropriate action either by approaching the individual Member and/or group leader or by referring the matter to the Monitoring Officer in the context of the Standards Committee considering the complaint.

### **Officer Support to Members - General Points**

- 13 Officers are responsible for day-to-day managerial and operational decisions within the authority and will provide support to both the Executive and all Councillors in their several areas.
- 14 Certain statutory officers - the Chief Executive, the Monitoring Officer and the Chief Finance Officer - have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members.
- 15 The following key principles reflect the way in which the officer core generally relates to Members:

- a) all officers are employed by, and accountable to the authority as a whole;
- b) support from officers is needed for all the authority's functions including Full Council, Overview and Scrutiny, the Executive, individual Members representing their communities etc.
- c) day-to-day managerial and operational decisions should remain the responsibility of the Chief Executive and other officers;
- d) the authority will seek to avoid potential conflicts of interest for officers arising from the separation of the Executive and Overview and Scrutiny role; and
- e) all Officers will be provided with training and development to help them support the various Member roles effectively and to understand the new structures.

16 On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Member or Members. It must be recognised that it is the Officer, rather than the Member or Members, who takes the action and it is the Officer who is accountable for it.

17 Finally, It must be remembered that Officers within a Division or Directorate are accountable to their Head of Service and Corporate Director and that whilst Officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Head of Service or Corporate Director.

### **Officer Support: Members and Party Groups**

18 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.

19 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matter of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.

20 The support provided by Officers can take many forms. 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.

21 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 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 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 interpreted or acted upon as such; and
  - 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 relevant Committee or Sub-Committee when the matter in question is considered.
- 22 Officers shall exercise special care when attending and/or giving advice to Party Group Meetings. Party Group Meetings are likely to include persons who are not Members of the Council. Such persons are not bound by the National Code of Local Government Conduct (in particular, the provisions concerning the declarations of interests and confidentiality).
- 23 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.
- 24 Whilst any Member may ask a relevant Head of Service, Programme Manager, Corporate Director or the Chief Executive for written factual information about a Directorate or service, such requests must be reasonable and not seek information relating, for instance, to case work of a similar nature, e.g. Social Services, employment etc. Requests will be met subject to any overriding legal considerations (which will be determined by the Chief Legal Officer), or if the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If a Member requesting such information is dissatisfied by such a response s/he should raise the matter in the first place with the relevant Corporate Director, and if still dissatisfied should raise the matter with the Chief Executive who will discuss the issue with the relevant Group Leader(s).
- 25 In relation to budget proposals:
- a) the Administration shall be entitled to confidential discussions with Officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of Committee/Council meetings, whichever is the earlier; and
  - b) the opposition groups shall also be entitled to confidential discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee/Council meetings, whichever is the earlier.

- 26 It must not be assumed by any party group or Member that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.
- 27 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

### **Officer Support - the Executive**

- 28 It is clearly important that there should be a close working relationship between Executive Members and the Officers who support and/or interact with them. 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 party groups.
- 29 Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a professional duty to submit a report. Similarly, a Head of Service or other senior Officer will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between an Executive Member and a Head of Service in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.
- 30 The Executive and its members have wide ranging leadership roles. They will:
- a) lead the community planning process and the search for Best Value, with input and advice from Overview and Scrutiny Committees, area committees and any other persons as appropriate;
  - b) lead the preparation of the local authority's policies and budget;
  - c) take in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Full Council; and
  - d) be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 31 Where functions which are the responsibility of the Executive are delegated to Officers or other structures outside the Executive, the Executive will nevertheless remain accountable to the Council, through Overview and Scrutiny Committees, for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out.

- 32 Under Executive Arrangements, individual Members of the Executive will, for the first time, be allowed to formally take decisions. The Executive and Cabinet members must satisfy themselves that they are clear what exactly they can and cannot do.
- 33 The Council has put in place mechanisms/protocols which ensure that (as with the Council, its Committees and Sub Committees, and the Executive and its Committees) an individual Executive Member seeks advice from relevant Officers before taking a decision within her or his delegated authority. This includes taking legal advice, financial advice and professional officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is doubt about vires.
- 34 Decisions taken by individual Members of the Executive give rise to legal and financial obligations in the same way as decisions taken collectively. Therefore, Members of the Executive should always be aware of legal and financial liabilities (consulting the Monitoring Officer and Chief Finance Officer as appropriate) which will arise from their decisions. To ensure effective leadership for the local authority and the communities it serves, there are arrangements to ensure co-ordination of and having responsibility for Executive decisions including those made by individuals.
- 35 Officers will continue to work for and serve the local authority as a whole. Nevertheless, as the majority of functions will be the responsibility of the Executive, it is likely that in practice many Officers will be working to the Executive for most of their time. The Executive must respect the political neutrality of the Officers. Officers must ensure that, even when they are predominantly supporting the Executive, that their political neutrality is not compromised.
- 36 In organising support for the Executive, there is a potential for tension between Chief Officers and Cabinet Members with portfolios. All Members and Officers need to be constantly aware of the possibility of such tensions arising and both Officers and Members need to work together to avoid such tensions and conflicts existing or being perceived.

### **Officer Support - Scrutiny**

- 37 It is not scrutiny's role to act as a disciplinary tribunal in relation to the actions of Members or Officers. Neither is it the role of Officers to become involved in what would amount to disciplinary investigations on a Panel's behalf. This is the Chief Executive's function alone in relation to staff, the Monitoring Officer's and the Standards and Governance Committee as regards the conduct of Members. This means:
- a) Scrutiny's questioning should not be directed to the conduct of individuals, not in the sense of establishing the facts about what occurred in the making of decisions or implementing of Council policies, but with the implication of allocating criticism or blame;

b) In these circumstances, it is for the Chief Executive to institute a formal enquiry, and scrutiny may ask (but not require) him to do so.

38 Scrutiny should not act as a 'court of appeal' against decisions or to pursue complaints by individuals (Councillors, Officers or members of the public) as other Procedures exist for this. These are internal, e.g. the Corporate Complaints Procedure and external/statutory, e.g. Public Services Ombudsman for Wales or appeal to the Courts. That said:

a) Scrutiny may investigate the manner in which decisions are made but should not pass judgements on the merits of a decision in individual cases;

b) they can comment, however, on the merits of a particular policy affecting individuals.

39 It would be unfair to invite someone to appear before scrutiny without telling them in general terms what they will be asked, or not giving them adequate time to prepare. Scrutiny ought to provide written questions ('Indicative Topics'). In addition, speakers ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the committee/panel had previously indicated.

40 The Scrutiny Handbook contains guidelines as to the Procedure at Evidence Meetings, and guidance for Members and Officers.

### **Protocol for Councillors and Officers Attending and Participating in Scrutiny**

41 The purpose of scrutiny is to review Council policy and service delivery while taking into account the performance of the authority. In doing so, it is expected that scrutiny members will make constructive recommendations to Council that are based on factual findings.

42 Scrutiny is not about fostering a blame culture or assigning unfair criticism. To be effective, it must have the ability to work in an environment that supports the principles of service improvement. To assist this approach, it is considered necessary that scrutiny members should:

a) undertake their roles with due diligence and satisfy themselves that all pertinent issues are covered;

b) be able to consider themselves unfettered by party political discipline;

c) use the powers of scrutiny properly and behave in a manner that reflects the trust placed in them by electors;

d) not permit personal agendas or differences in political complexion to obscure an effective scrutiny process;

e) refrain from public and personal criticism of other members or officers.

f) Cabinet Members and Officers should:

g) ensure their availability to attend scrutiny meetings as requested;

h) co-operate with scrutiny in arriving at conclusions to their investigations;

- i) provide all necessary information that will assist in the effectiveness of the overview & scrutiny process.

### **Support Services to Members and Party Groups**

- 43 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photo-copying, transport etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

### **Members' Access to Information and to Council Documents**

- 44 Members are free to approach any Directorate of the Council to ask for information in accordance with paragraph 24 above. This right extends to such information, explanation or advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be made to the Director or another Senior Officer of the Directorate concerned.
- 45 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 46 Further and more detailed information regarding Members rights to inspect Council documents is contained in the Access to Information Rules in Part 4 of this Constitution and Members may obtain advice on their rights from the Council's Monitoring Officer.
- 47 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".

### **Correspondence**

- 48 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of 'silent copies' should not be employed.
- 49 Official letters on behalf on the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain limited circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Cabinet Member or the Leader but this should be the exception rather than the norm. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member, Executive or otherwise.



## **Publicity and Press Releases**

- 50 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Authority, explaining its objectives and policies to the electors and rate-payers. In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council's activities is, in the words of the Government, to be welcomed.
- 51 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code issued under the provisions of the Local Government Act, 1986 as amended by the Local Government Act, 1988 which provides for the Secretary of State to issue Codes of Recommended Practice as regards the content, style, distribution and cost of local authority publicity, and such other matters as s/he thinks appropriate. That section requires that all local authorities shall have regard to the provisions of any such Code in coming to any decision on publicity.
- 52 Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, Officers and/or Members should seek advice from the Head of Communications and Marketing who will deal with the matter in accordance with agreed protocols. Particular care should be paid to any publicity used by the Council around the time of an election. Particular advice will be given on this by the Monitoring Officer as appropriate.

## **Involvement of Ward Councillors**

- 53 Whenever a public meeting 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 invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. More generally, Officers should consider whether other policy of briefing papers, or other topics being discussed with an Executive Member, should be discussed with relevant Ward Members. Officers should seek the views of the appropriate Executive Member(s) as to with whom and when this might be done.

## **Conclusion**

- 54 Mutual understanding, openness on these sort of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Members and Officers.

### **Officer/Member Protocol**

- 55 This Protocol was adopted by the Council as part of the Constitution on May 20th 2002.
- 56 Copies of the Protocol will be issued to all Members as part of the Constitution upon election.
- 57 Questions of interpretation of this Protocol will be determined by the Chief Legal Officer.

