

4 Officer/Councillor Relations Protocol

General Principles

- 1 The general principles of good Member/Officer relations is based on mutual trust and respect and consideration for others. Good working relationships between Members and Officers leads to good decision making, enhanced performance, confidence and community leadership.
- 2 This Protocol provides guidance for Members, co-opted Members and Officers in their working relationship with each other.
- 3 Members are bound by the Code of Conduct and Nolan Principles and are expected to maintain the highest standard of ethical behaviour when acting in their capacity as a Member and, in certain circumstances, at all times.
- 4 Officers are bound by the Code of Conduct (Qualifying Local Government Employees)(Wales) Order 2001 which provides that the public is entitled to expect the highest standards of conduct from Officers. When performing their duties Officers must act with integrity, honesty, impartiality and objectivity.
- 5 Mutual respect between Officers and Members is essential to good local government and working relationships should be kept on a professional basis and conducted in a positive and constructive way. It is important that any dealings between Members and Officers should observe standards of courtesy.
- 6 To support high performance within the Authority it is essential that both Members and Officers know and respect their different roles and perspectives.

Roles of Members

Members undertake many different roles. Broadly these are:

- 7 Members are responsible to the electorate. Members undertake important community work within their ward and act as community advocates. They also deal with individual casework within their wards.
- 8 Members also have responsibility as members of full council to make important decisions on behalf of residents of Swansea which will include approving the budget and policy framework.
- 9 Some Members are also involved in quasi-judicial decisions when sitting on regulatory committees such as planning and licensing. Other Members will have responsibility for holding the Cabinet to account and scrutinising the

performance of the council. Those Members who form part of the Cabinet will undertake the majority of the Council's functions and will decide policy and make policy decisions.

- 10 Some Members will also sit on partnerships and outside bodies ie charities, Fire Authority and will need to be familiar with their own rules of conduct and procedure.
- 11 Members help develop and review policy and strategy and review policy implementation.

Roles of Officers

Officers have the following main roles:

- 12 Officers are responsible to the Council. Their role is to give impartial advice to all Members and to implement decisions, agreed policy and corporate priorities. Officers have operational responsibilities as set out in the scheme of delegation and Constitution and are responsible for day to day management and being accountable for the efficiency and effectiveness of their services.
- 13 The Member Code of Conduct provides that Members must reach decisions having regard to any relevant advice from Officers. In providing advice Officers are free to give their professional advice wherever appropriate. Such advice should be clear, impartial and timely.
- 14 Responsibility for drafting reports to committees, providing advice and, where appropriate, setting out options for decision making.
- 15 Ensuring that the Council always acts in a lawful manner.

Dealing with Disputes

- 16 Members should not raise matters relating to the conduct or capability of an Officer in a public forum. This will include all meetings at which the public are present whether in person or via remote means. An Officer has no means of responding to such criticism in public.
- 17 If a Member feels that he/she has not been treated with respect, courtesy or has a concern about the conduct or capability of an Officer then the Member should raise it with the relevant Head of Service. There will be an expectation that the Member will also raise with their Group Leader any concerns about Officer conduct. The Head of Service will look into the matter and report back to the Member. If the Member remains dissatisfied with the response he/she should raise the issue with the relevant Director who will look into the matter afresh. Where it is felt that there is a breakdown in the relationship between both the Officer and the Member then with the consent

of all parties the Chief Executive and Group Leader may resolve to consider mediation as a way forward. Any action taken against an Officer will be in accordance with the Council's relevant HR policies and upon advice of HR Officers.

- 18 An Officer should not raise with a Member matters relating to the conduct or capability of another Officer or the internal management of their section in a manner which is incompatible with the overall objectives of this Protocol.
- 19 If an Officer feels that he/she has not been properly treated with respect and courtesy by a Member he/she should raise the matter with his/her Head of Service who will notify the relevant Director. Depending on the nature of the complaint, the relevant Head of Service or Director will speak to the Member with a view to facilitating resolution of any issues that have arisen between the Member and Officer. If the Member has a Group Leader the Head of Service/Director will also notify the Group Leader that a complaint has been made.
- 20 There will be an expectation that both parties will, in the spirit of this Protocol, engage in meaningful discussions to resolve any issues amicably. If the matter cannot be resolved at the initial stage by the Head of Service or Director then the relevant Political Group Leaders and the Chief Executive will seek to resolve by mediation and conciliation any unresolved problem or breakdown in working relationships between Members and Officers. Both parties will be expected to agree to and engage with mediation with a view to resolving the matter. Mediation will be arranged and facilitated by HR officers.
- 21 If the alleged misconduct is of a serious nature the matter should be reported to the Monitoring Officer who will discuss initially with the Chief Executive and then, if appropriate, with the Corporate Management Team as to whether it is appropriate for referral to the Public Service Ombudsman for Wales.

Respect and Courtesy

- 22 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Officers. This plays a very important part in the Council's reputation and how it is seen in public. It is very important that both Members and Officers remember their respective obligations to enhance the Council's reputation and do what they can to avoid criticism of other Members, or other Officers in public places.
- 23 Undue Pressure
 - (a) It is important in any dealings between Members and Officers that neither should seek to take unfair advantage of their position.

- (b) A Member should not apply undue pressure on an Officer either to do anything which he is not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.
- (c) Similarly, an Officer must neither seek to use undue influence on an individual Member to make a decision in his favour nor raise personal matters to do with their job nor make claims or allegations about other Officers. (The Council has formal procedures for consultation, grievance and discipline, and Officers have the right to report possible wrongdoing under the Council's confidential reporting procedures).

24 Familiarity

- (a) Close personal familiarity between individual Members and Officers can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details. Members and Officers will not therefore allow their working relationship to become so close or appear to be so close as to bring into question the Officers ability to deal impartially with Members, Political Groups and other Officers.
- (b) Such familiarity could also cause embarrassment to other Members and / or other Officers and even give rise to suspicions of favouritism.
- (c) For these reasons close personal familiarity must be avoided.

Officer Support: Members and Party Groups

- 25 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. Members should respect the political neutrality and integrity of Officers.
- 26 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters 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 evenhanded manner.
- 27 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.

- 28 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.
- 29 Officers shall exercise special care when attending and/or giving advice to Party Group Meetings. Party Group Meetings may include persons who are not Members of the Council. Such persons are unlikely to be bound by the Code of Conduct (in particular the rules around declarations of interests and confidentiality).
- 30 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.
- 31 Whilst any Member may ask a relevant Head of Service, 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).

32 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.

33 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.

34 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 Cabinet

35 It is clearly important that there should be a close working relationship between Cabinet 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.

36 Whilst Cabinet 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 a Cabinet 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.

37 The Cabinet and its members have wide ranging leadership roles. They will:

- a) lead on the preparation of the Policies and Strategies including the budget;
- b) 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
- c) be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 38 Where functions which are the responsibility of the Cabinet are delegated to Officers or other structures outside the Cabinet, the Cabinet will nevertheless remain accountable to the Council, through the Scrutiny Programme Committee and Scrutiny Panels, for the discharge of those functions. That is to say, the Cabinet will be held to account for both its decision to delegate a function and the way that the function is being carried out.
- 39 Under the Constitution individual Cabinet Members take decisions. The Cabinet and Cabinet members must satisfy themselves that they are clear as to what exactly they can and cannot do under the Constitution.
- 40 The Council has in place mechanisms/protocols which ensure that (as with the Council, its Committees and Sub Committees, and the Cabinet and its Committees) an individual Cabinet 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.
- 41 Decisions taken by individual Cabinet Members give rise to legal and financial obligations in the same way as decisions taken collectively. Therefore, Cabinet Members 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.

Officer Support - Scrutiny

- 42 The Council Constitution Part 4 contains Rules of Procedure for Scrutiny. 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

- 43 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 and to act as a critical friend.
- 44 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.

Cabinet Members and Officers should:

- a) ensure their availability to attend scrutiny meetings as requested;
- b) co-operate with scrutiny in arriving at conclusions to their investigations;
- c) provide all necessary information that will assist in the effectiveness of the scrutiny process.

Support Services to Members and Party Groups

- 45 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.

Correspondence

- 46 Official letters on behalf of the Council should be sent in the name of the appropriate Officer rather than in the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to the Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.
- 47 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. A system of 'silent copies' should not be employed.

Media

- 48 Communications with the media can be an important part of a Member's workload. In general, Members provide comment and views while Officers provide the factual information. If a Member is unsure about the circumstances of a particular issue he/she should contact the appropriate Director or Head of Service concerned or ask the Press Office to do so.

Members' Access to Information and to Council Documents

- 49 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.
- 50 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 51 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.
- 52 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.

Confidentiality

- 53 In accordance with the Code of Conduct for Members, a Member must not disclose information given to him/her in confidence by anyone, or information acquired which he/she believes, or ought reasonably to be aware, is of a confidential nature, except where:
- (a) He/she has the consent of a person authorised to give it;
 - (b) He/she is required by law to do so;
 - (c) The disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (d) The disclosure is;
 - (i) Reasonable and in the public interest; and

- (ii) Made in good faith and in compliance with the reasonable requirements of the authority;

- 54 Confidential Committee papers (yellow papers) are to be treated as confidential information unless the relevant Committee resolves not to exclude press and public. Members are reminded that the author of the report makes the initial decision as to whether or not the papers are to be treated as confidential. The decision as to whether the report remains confidential is for the Committee. The confidentiality of the information may decline over time and it will be a matter for the Monitoring Officer and report authors as to whether information can be disclosed if no longer considered confidential. Any decision to release information previously determined as confidential should be recorded formally under delegated provisions. Other information may be confidential because to disclose it would be against the Council's or public interest.
- 55 Information and correspondence about an individual's private or business affairs will normally be confidential.
- 56 Officers should make it clear to Members if they are giving them confidential information. If a Member is not sure whether information is confidential, he or she should ask the relevant Officer, but treat the information as confidential in the meantime.
- 57 Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council.
- 58 If a Member receives confidential information and considers it should be disclosed to another person because it is reasonable and in the public interest to do so then he or she must first consult with the Monitoring Officer and shall not disclose the information without having regard to any advice given by that Officer.

Publicity and Press Releases

- 59 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.

60 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.

61 The Local Authority is prohibited by s 2 Local Government Act 1986 from publishing or assisting to publish material which appears to be designed to affect public support for a political party. Welsh Government have published a Code of Recommended Practice for Local Authority Publicity which Officers and Members should have regard to in making decisions around publicity. If in any doubt the Head of Communications should be consulted. Particular care should be taken during the pre-election period around publicity.

Involvement of Ward Councillors

62 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. Any publicity afforded to Cabinet members on visits to wards may include Ward members as well as Cabinet members as long as the provisions of the Code of Recommended Practice for Local Authority Publicity is taken into account.

63 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 a Cabinet Member should be discussed with relevant Ward Members. Officers should seek the views of the appropriate Cabinet Member(s) as to with whom and when this might be done.

Conclusion

64 It is hoped that, by following good practice and securing sensible and practical working relationships between Members and Officers, that we can provide one of the cornerstones of a successful local authority and thereby enhance the delivery of high value quality services to the people of the area. Mutual understanding, openness and respect are the greatest safeguard to the integrity of the Council, its Members and Officers.

Officer/Member Protocol

65 This Protocol was adopted by the Council as part of the Constitution on ***

66 Copies of the Protocol will be issued to all Members as part of the Constitution upon election.

67 Questions of interpretation of this Protocol will be determined by the Chief Legal Officer.

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