



Protocol on Member/ Officer Relations

Adopted at the Full Council Meeting held on Thursday 13th April 2023

Introduction

Given the variety and complexity of member and officer relations, this protocol does not seek to cover everything or be prescriptive in its application. General guidance is offered on some of the issues which most commonly arise or cause concern. It is hoped, therefore, that the approach which this protocol adopts, will serve as a guide to dealing with other issues that may arise from time to time.

This protocol seeks to encourage best practice and to promote greater clarity and certainty between the various relationships. If any member is unsure about any matter, they should contact the relevant the Monitoring Officer for appropriate advice and assistance. If there is any disagreement in the interpretation of this protocol, the opinion of the Monitoring Officer will prevail.

The Joint Standards Committee and the Monitoring Officer may issue general guidance on the Members' Code of Conduct. Members and officers should, therefore, keep abreast of such issues and respect each other and do not do anything to bring the Council, their offices or professions into disrepute.

Principles underlying Member/Officer Relations

The relationship between members and officers generally is characterised by mutual trust, respect and courtesy. These are essential for good local government and serve to enhance local democracy. Member and officer relations are based upon the principles set out in this protocol.

Members must respect an officer's professional opinion on any Council business matter. They should not do anything that compromises, or which is likely to compromise the Council's position on any matter or the impartiality of officers or those who work for, or on behalf of the Council. In particular members will be in breach of the Members' Code of Conduct if they instruct any officer to change their professional advice or take any action which the officer considers to be unlawful or illegal or which could amount to maladministration or breach any relevant Codes of Conduct (including professional codes of conduct).

Officers, being employees of the Council, must always act in the best interests of the Council as a whole, and must give wholly impartial advice. Officer support to Political Groups must not extend beyond providing information and advice in relation to Council business (not Party politics/business). It is good practice for party political discussions and decision-making to take place in the absence of officers, in order to avoid any suspicion of impropriety or misunderstanding.

Legal Issues

Members of the Council do not, as elected members, have any special immunity from civil or criminal wrongs that they may commit against fellow members, officers or members of the public. Members must abide by the Council's adopted Members' Code of Conduct and ensure that they do not, for example, defame another person. During the course of their normal duties for the Council, members only have a qualified (not absolute) protection against prosecution or civil action.

Any member of the public (including officers) can complain to the Council's Monitoring Officer about an alleged breach of the Members' Code of Conduct and can bring private civil litigation proceedings against an elected member. The appointed External Auditor can also take legal action against an individual member and the Council, as a whole, for any breaches of the law.

The Chairman and Parish Clerk are responsible for co-ordinating the relations with the press and other media organisations on behalf of the Council. It is important, therefore, that all official communication relating to the Council (but not party political or private matters) is dealt with by this team, so as to ensure the proactive, effective and efficient management of the Council's public image, relations and interface.

Employer/employee issues

Any dealings between members and officers should continue to be conducted with mutual trust, respect and courtesy, and neither party should seek to take an unfair advantage of their position. In particular, members should recognise and pay due regard to their role as an employer in their dealings with officers and avoid placing the Council at risk of formal employment challenge.

Members must, in particular, guard against generating a perception that they are putting inappropriate pressure on officers. Both members and officers must ensure that all communications between them (including written communications) are not likely to cause any embarrassment, lead to the breakdown of mutual trust, respect and courtesy in member/officer relations nor likely to bring the Council into disrepute.

In seeking advice and support, members should have due regard to the seniority of the officer with whom they are dealing and recognise that, whilst those officers owe an overriding duty to the Council as a whole, such duties are first expressed to their respective line managers and not to any individual member. For this reason, members should not give direct instructions to staff,

Equalities Issues

The Council has statutory duties with regard to equality issues and in accordance with the Members' Code of Conduct; members must also promote equality by not discriminating against others. Members and officers are bound by the provisions of the Human Rights Act 1998 which prohibit discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status, including disability, age or sexual orientation.

Officer Conduct or Capability Issues

Members should not raise matters relating to the conduct or capability of an officer (or of officers, collectively) at meetings held in public or in the presence of the media, as officers have no means of responding to the same in public. If any member considers that they have not been treated with the proper mutual trust, respect or courtesy or has any concern about the conduct or capability of an officer, they should raise the matter, in private, with the Chairman. Any concerns with regard to the Chairman should be discussed, in private, with the Clerk and Monitoring Officer.

Use of Council Resources

The only basis on which the Council can lawfully provide support services to members (e.g. computers, typing, photo-copying, transport, etc.) is to assist them in the effective and efficient discharge of their duties and role as members of the Council. Such support services must therefore be only used for Council business. The same should never be used for or in connection with party political or campaigning activities or for private purposes. Accordingly, a member requiring use of Council facilities should not request an officer to provide such services.

Access to Information and the Need to Know

Section 100F of the Local Government Act 1972 was introduced to give members rights in addition to those already enjoyed at common law. Section 100F makes it clear that any document which is in the possession or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council, or a committee or a sub-committee of the Council, subject to confidentiality provisions, will be open to inspection by a member of the Council.

In all cases, however, if there appears to be confidential/exempt information, by virtue of the parts of the 1972 Act, there is still the discretion for the relevant proper officer to withhold the confidential/exempt information.

It is also a matter of fact as to whether or not the information is “in the possession or under the control of” the Council. The key issue to be determined is whether or not the information belongs to the Council or to another person. If it belongs to another person, officers will only release any confidential information after an appropriate consent to release such information has been obtained from the relevant person.

Officers will not, therefore, “hand over” their files to a member, without the officer being clear about the reasonableness of the request and the officer’s ability to share the information in the file with a member. If any officer is unsure about a request for information, they must discuss the same with the Monitoring Officer.

Signed as read:

Print name:

Date: