

## **SECTION C - Protocol for Managing Member/Officer Relations**

*Issued July 2002; Revised December 2007; February<sup>i</sup> 2018*

### **1 Introduction**

- 1.1 This Protocol is primarily based on the model prepared by Birmingham City Council and which was referred to in the Nolan Committee report<sup>1</sup> as an example of good practice.
- 1.2 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 that a high standard of conduct is maintained and to ensure the business of the Council is transacted in a transparent, effective and efficient manner.
- 1.3 The Protocol is to a large extent a written statement of current practice and convention and given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It offers guidance on some of the issues which most commonly arise and serves as a guide to dealing with other circumstances as they arise.
- 1.4 This protocol seeks to reflect the principles underlying the Code of Conduct for Members and the Code of Conduct for Officers. The shared objective of these codes is to maintain and enhance the integrity (real and perceived) of Local Government and they therefore demand very high standards of personal conduct by all parties.
- 1.5 This Protocol sits together with a number of other existing and evolving Council procedures and there may be some overlap between this document and those other procedures and rules both within and outside the Constitution.
- 1.6 This Protocol seeks to promote greater clarity and certainty as to working relationships between Members and Officers. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that Officers are not subject to accusations of bias, and any undue influence from Members.
- 1.7 Given the variety and complexity of Member/Officer relations, any protocol cannot seek to be entirely prescriptive or comprehensive. Although some of the references relate to regulatory matters, the document largely seeks to offer guidance on some of the issues that most commonly arise. All successful organisations need to be flexible to suit circumstances but, at the same time, it

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<sup>1</sup> “Standards in Public Life”, the report of the Nolan Committee can be accessed at:  
<http://www.archive.official-documents.co.uk/document/parlment/nolan2/nolan.htm>

should be recognised that the guidance should, as far as is possible, be uniformly followed throughout the Council.

- 1.8 In appreciation that this will be an evolving document and recognising the rapid changes in working practices both statutory and social (e.g. new technology), the Protocol will need to be reviewed regularly.
- 1.9 This Protocol, where applicable, will also apply to lay or co-opted Members of Committees.
- 1.10 If a councillor is unsure about any matter s/he should contact the relevant Group Chairman/Leader or the Monitoring Officer for appropriate advice and assistance. If an Officer is unsure about any matter s/he should contact the Monitoring Officer.

## **2 The Respective Roles of Elected Members and Officers**

2.1 The Elected Members are responsible for:

- Initiation & direction of Policy
- Democratic accountability to the electorate for policies and for service delivery;
- Scrutiny of Council services;
- Community leadership; and
- Promotion of partnership working

2.2 The Officers are responsible for:

- Providing the professional advice that Members must have before them when formulating policy and when taking decisions;
- Implementing Members 'decisions that have followed due process;
- Running the Council's services and day-to-day administration;
- Taking managerial and operational decisions in accordance with the Council's schemes of delegation; and
- Providing information regarding Council services and approved Council policies.

## **3 Access to Officers**

- 3.1 If Members wish to raise a request for a service delivery (which is a matter covered by the CRM system), then they should raise this in line with the Council's standard processes, (eg through the Council's Contact Centre) rather than with individual officers.
- 3.2 If an issue or concern needs to be raised around the delivery of a service request or its failure, Members should at first instance contact the relevant

Head of Service or a nominated officer<sup>2</sup>. Members should seek to avoid, as far as possible, entering an Officer's work area and requiring immediate attention.

- 3.3 If any Member wishes to raise any matter which is either strategic in nature, or relates to a policy, they must do so at first instance with the Chief Executive.
- 3.4 It is important to ensure timely response to correspondence and both Members and Officers should aim to respond to enquiries and requests they have raised, within one week from receipt of the enquiry/request.
- 3.5 If a Member wishes to follow up any unanswered correspondence, they should email the relevant service area's Chief Officer to raise the matter.
- 3.6 Where a decision has been delegated to an Officer, whether or not in consultation with nominated Members, it will be notified to all Members through the Council's processes. To assist Members' understanding, Officers should, when requested, explain to a Member the guidelines they use when making a delegated authority decision.

#### **4 Access to information and to Council Documents**

- 4.1 Members are entitled to such information as they may reasonably need to assist them in discharging their role as Members of the Council.<sup>3</sup> The legal right of Members to inspect Council documents is covered by:
  - (i) Statutory right (Access to Information Act 1985, Freedom of Information Act 2000, Environmental Information Regulations 2004);
  - (ii) Common law (on a need to know basis).
- 4.2 Officers must treat all Members on an equal basis where there is an equal need to know. Officers must treat all such requests with care and respect and must not disclose any requests from one Political Group to another.
- 4.3 The courts have ruled that the test of a Member's need to know derives from the Member's committee responsibilities, but this will not be exclusively the case. A Member dealing with a Ward issue, casework or an issue raised by a ward resident, may have a legitimate need to know, which will enable him/her to have access to the relevant Council documents. The final decision on a Members 'need to know' will rest with the Chief Executive in consultation with the Monitoring Officer.
- 4.4 Members should be kept fully informed and consulted by Officers on all relevant matters affecting their Ward. If a matter is urgent or sensitive, Officers must

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<sup>2</sup> A list of contacts for Heads of Service and other nominated [contact](#) officers will be supplied to Members.

<sup>3</sup> *This is covered in more detail in Article 2 and Standing Orders of the Council's Constitution*

ensure Members are made aware as soon as reasonably possible and before the matter is made public.

- 4.5 It is important for Members and Officers to recognise that information disclosed to a Member on a need to know basis, should not be disclosed to another Member, unless there is an equal need to know, or the first Member is notified that the information is being so disclosed.
- 4.6 Any correspondence to a constituent, from a Member or Officer, which raises an issue of policy or finance, should be sent to the relevant Head of Service.

## **5 Working Relationships**

- 5.1 Both Members and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and Officers are responsible to the Council as a whole. The conduct of Members and Officers should be such as to instil mutual confidence and trust. These should be reflected in the behaviour and attitudes of each other both publically and privately.
- 5.2 To ensure that the business of the Council is carried out effectively, Members and Officers should endeavour to create a cordial and collaborative working relationship with each other.
- 5.3 Members recognise that as the Head of Paid Service, the Chief Executive has key statutory responsibilities. These include setting the manner in which the Council's different functions are discharged, the organisation of the Council's staffing structure, as well as the appointment and proper management of the Council's staff. It is therefore important to ensure the Chief Executive is able to carry out these functions both independently and free from any pressure.
- 5.4 Members can expect the following from Officers:
- (i) a commitment to the Council as a whole and not to any political group;
  - (ii) a performance of their duties effectively and efficiently;
  - (iii) to work to their Service Delivery Plans;
  - (iv) a working partnership;
  - (v) an understanding and appreciation of respective roles and pressures;
  - (vi) timely responses to enquires and complaints;
  - (vii) impartial professional advice;
  - (viii) awareness of and sensitivity to the political environment;
  - (ix) courtesy and appropriate confidentiality;
  - (x) that they will not use their relationship with Members to advance their personal interests to influence decisions improperly;
  - (xi) that relationships between Members and Officers will never be so close, or appear to be so close as to bring into question the Officer's ability to deal impartially with other Members, individuals or organisations;

- (xii) compliance with the Officers' Code of Conduct;
- (xiii) that Officers will not go beyond the bounds of their specific or delegated authority;
- (xiv) that Officers named in a report to the Council (or any part of its formal decision-making structure) will always be fully responsible for the contents of it.

5.5 Officers can expect the following from Members:

- (i) a working partnership
- (ii) an understanding and appreciation of respective roles and pressures;
- (iii) courtesy and appropriate confidentiality;
- (iv) not to put officers undue pressure and to respect personal and professional boundaries;
- (v) the efficient and agreed use of Council resources;
- (vi) a respect for professional advice;
- (vii) not to use their relationship with Officers to advance their personal interests to influence decisions improperly;
- (viii) that relationships between Members and Officers will never be so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members, individuals or organisations;
- (ix) compliance with the Members' Code of Conduct;
- (x) to treat officers with respect at all times including during meetings whether public or otherwise which includes not raising matters relating to the conduct or capabilities of an Officer;
- (xi) to inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work or role.

5.6 Nothing in this protocol shall prevent a Member or Officer expressing a relevant concern under the Council's Whistleblowing Policy.

5.7 Any Officer who is personally connected to a Member must notify the Monitoring Officer in writing. This would include a family, business or social connection.

5.8 Both Members and Officers should be guarded, as close personal familiarity or the perception of such, can damage the relationship or undermine trust, as might a family or business connection. Close personal familiarity between individual Members and Officers may also cause embarrassment to other Members and Officers. Particular care should be taken around of the use of social media and the perception it could give in terms of close personal familiarity.

5.9 Members should not expect Officers to attend Members homes to conduct or discuss Council business. Nor should Officers expect to attend a Members'

home. Generally for most Officers, Members telephone contact with them should be during normal working hours.

- 5.10 Challenge in a constructive and non-confrontational way is important in ensuring that policies and service performance are meeting the Council's strategic objectives. Nothing in this protocol is therefore intended to stop Members holding Officers to account for decisions made under delegated powers. Nor is the protocol intended to inhibit constructive criticism delivered with courtesy and Officers should not feel their employment is at risk as a result of such intervention.
- 5.11 Correspondence between Members and Officers should not be copied to or by Officers to other Members. Nor should such correspondence be disclosed to any third parties be they members of the public, stakeholders or partners.  
~~However, Members are reminded that where such correspondence concerns a Council policy or, the interpretation of Council policy, a copy be sent to the relevant Committee Chairman.~~
- 5.12 Under no circumstances should either a Member or an Officer blind copy any of their exchanges to any external third party, Member or Officer. If it is important to raise an issue, then in the case of Members, then such matter must be raised with the Chief Executive at first instance and in the case of officers with their head of service or chief officer.
- 5.13 As a rule Members and Officers must not forward their correspondence to any other Member, Officers or external 3<sup>rd</sup> parties. There may be service reasons where this may be necessary, therefore, before doing so, either the original author must have specifically requested it or has expressly consented to their correspondence being sent on to a named person. If there is any concern as to what steps should be taken advice should be sought from their line manager or the Monitoring Officer.
- 5.14 Members and Officers must take great care when including new parties to on-going existing correspondence. Particular care must be taken to avoid forwarding on email chains from Officers or Members as this could amount to breach of personal data or the unintended release of confidential or sensitive information.
- 5.15 Members should never forward Officer correspondence on to any constituent or other third party. If there is a need to forward contact details for an Officer, Members must only forward details of the relevant Head of Service, and only after they have discussed the matter with the Head of Service.

## **6 If Things Go Wrong**

- 6.1 Where a Member considers that he or she has not been treated with proper respect or courtesy by an Officer, or is otherwise concerned with the performance of an Officer, the Member should first discuss the complaint with the relevant group Chairman or Leader. If the Member wishes to pursue the

matter as a formal or informal complaint, then they will need to complete and submit a complaint from (which will be available from the Chief Executive) to the Chief Executive. The complaint will remain confidential and cannot be discussed with by or with the relevant Group Chairman or Leader. As the head of paid service, the Chief Executive has responsibility for staff and will take such action as is appropriate.

- 6.2 If an Officer considers that he or she has not been treated with proper respect or courtesy by a Member, he or she should raise the matter with the Monitoring Officer in the knowledge that the matter will be handled with sensitivity and in confidence. In such circumstances, the Monitoring Officer will take such action as is appropriate.
- 6.3 This protocol does not affect the rights of Officers and Members to raise the matters via the Council's usual procedures in cases where such processes apply.

## **7 Officer Advice to Party Groups**

- 7.1 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.
- 7.2 The assistance provided by Officers can take many forms ranging from a briefing meeting with a Committee Chair or other Members prior to a meeting, to a presentation, to a full political group meeting. It is an important principle that such assistance is available to all political groups and individual Members. All Officers must, in their dealings with political groups and individual Members, maintain political neutrality and treat them in a fair and even-handed manner.
- 7.3 Officers must not do any work that is designed to promote one political group within the Council rather than the whole Council.
- 7.4 If Members require the attendance of an Officer at a political group meeting, they will contact the Chief Executive or the Chief Operating Officer first. Any Officer invited to attend meetings organised by any political group should contact the Chief Executive or the Chief Operating Officer as appropriate, as soon as possible. It is a matter for the Chief Executive to decide whether it is appropriate for an Officer to attend and if so who that Officer should be.
- 7.5 The Officer's role at any such meeting is limited to providing factual information only and may be called upon to provide a professional opinion. They must not provide a personal opinion. It is important when attending such a meeting, for an Officer to be advised of who else is at the meeting to avoid any confidential or information sensitive to the Council, being inadvertently released to third parties.
- 7.6 Officers must respect the confidentiality of any party group discussions at which they are present. When information is disclosed to an Officer during discussions with a party group, that information should not be passed on to

other groups. However, Members should be aware that this would not prevent Officers from disclosing such information to other Officers of the Authority in so far as that is necessary to perform their duties.

## **8 Members and the Media**

- 8.1 Contact with the media on issues related to Council business is handled through the Communications Team who provides support, advice and training to Members and Officers.
- 8.2 Any Member who wishes to approach the media to speak on behalf of the Council on any item involving or affecting the Council, should first consult the relevant Committee Chairman, Chief Executive or Chief Operating Officer as appropriate.
- 8.3 If a member wishes to approach or is approached by the media for a comment or action involving Council business, the Member should make it clear to the media, that any comments that are made are those of the Member personally and do not reflect the views or policies of the Council as a whole.
- 8.4 Requests for comments or opinion on Council policy or political matters should be referred to the appropriate Committee Chairman.
- 8.5 Councils are prohibited from publishing any material that appears to be designed to affect support for any political group.

## **9. Conclusion**

- 9.1 This Protocol is intended to build on the sound arrangements that have existed within the Council for years.
  - 9.2 Mutual understanding, respect and openness on these sensitive issues are the greatest safeguard of the integrity of the Council, its Members and Officers.
  - 9.3 This Protocol can be revised or amended at any time in accordance with Constitutional requirements.
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