

# PROTOCOL ON MEMBER/ OFFICER RELATIONS

The purpose of this Protocol is to guide Members and Officers in their relations with one another so as to assist in the proper running of the Council.

## 1. THE PRINCIPLES UNDERLYING MEMBER – OFFICER RELATIONS

- A good working relationship between Members and Officers is essential to the proper functioning of the Council.
- Members and Officers have distinct but complementary roles and responsibilities and are indispensable to one another.
- Mutual respect between Members and Officers is essential to good local government.
- Close personal familiarity between Officers and individual Members can damage a good working relationship and should be avoided. If it exists it should be declared to the Monitoring Officer. It is not possible to define exactly the range of relationships that would be considered as close or personal. Examples, however, would include a family, business or sexual relationship or regular social mixing such as holidays, networking, outings or meals together.
- The political neutrality of Officers must be respected and observed at all times.
- Officers must serve all Members not just those of any particular group
- Officers must not allow their own personal or political opinions to interfere with their work
- Members need professional assistance and support from Officers in order to be effective in their various roles.
- Members should accept and act on the professional advice given to them by Officers unless they have good reasons not to do so. Members should recognise that a failure to accept and act on Officers' professional advice may result in legal and other challenges to the Council's decisions.
- Members should not put unreasonable demands on Officers and must never ask Officers to breach any Council procedure, policy or legal requirement.
- Officers should provide efficient support to Members as is appropriate and required by the Officer's role.
- There should be no improper disclosure of information between Members and Officers. Improper disclosure of information would include the disclosure of any personal, confidential, sensitive, medical, legally privileged,

commercial or similar information without the consent of the information owner or in breach of a legal duty of confidentiality.

- Members should not raise matters relating to the conduct or capability of an Officer in any public forum including a committee meeting.

## 2. THE ROLE OF MEMBERS

Members of the Council have a complex role and have to act in a number of capacities.

**The representative role** - Members are accountable to the electorate who elect them and have an important role in expressing the wishes of the electorate, which will involve representing ward interests and representing individuals as occasion arises.

**The role as a Member of the Council and its Committees** - Members have individual and collective responsibility in properly fulfilling the role as a Member of full Council or serving on a Council Committee.

**The role as an office holder** - Members who are appointed to the Cabinet or are appointed as Committee Chairmen, Vice Chairmen etc. will have individual and collective responsibility for performing these roles effectively.

**The role as a Member of a political group** - Members will usually belong to a political group represented officially on the Council and will be free to express political values and support the policies of the Group to which they belong.

Members are required to adhere at all times to the Council's adopted Code of Conduct for Members whenever they are acting in their official capacity.

## 3. THE ROLE OF OFFICERS

Officers are employees of and responsible to the Council. Their role is to carry out the Council's work in accordance with the policy and budgetary framework agreed by the Council and under the direction as to implementation of the Cabinet. They are responsible for assisting in the work of the Council Committees, sub committees and the overview and scrutiny function. Officers also have responsibility for supporting Members in their various roles, by the provision of advice and support as appropriate.

In addition, certain Officers hold the statutory posts of Head of Paid Services, the Chief Finance Officer (Section 151 Officer) and the Monitoring Officer.

## 4. THE RELATIONSHIP BETWEEN MAYOR OF THE COUNCIL AND OFFICERS

The Mayor is appointed annually from the Membership of the Council. The principles which underlie Member/Officer relations therefore also apply to the relationship between the Mayor and Officers. However, the position as Mayor carries with it specific civic and ceremonial duties and Officers will provide support to assist the Mayor in the performance of the civic and ceremonial role.

This will include the provision of support in organising the calendar of civic events, transport arrangements and administrative support in dealing with complaints addressed directly to the Mayor. Support will also be provided to the Mayor on implementation of the [Council's Procedure Rules](#) to assist in the chairing of meetings of the Council.

## **5. THE RELATIONSHIP BETWEEN THE LEADER AND MEMBERS OF THE CABINET AND OFFICERS**

The Leader and Members of the Cabinet are appointed by the Council from serving Members. In addition to the principles which underlie the relationship between Members and Officers there are some additional requirements in connection with the relationship between the Cabinet and Officers.

The Cabinet will be involved in preparing the policy and budgetary framework for agreement by the Council. These responsibilities will require a close working relationship with Officers.

The following principles shall apply to facilitate this working relationship.

- Officers shall make themselves available to brief and advise the Leader and other Members of the Cabinet outside the formal decision making process in connection with executive matters at all reasonable times.
- Officers shall keep the detail of such meetings confidential together with the associated papers.
- Officers shall make themselves available to advise Executive Members at all reasonable times in connection with the discharge of executive functions.

## **6. THE RELATIONSHIP BETWEEN THE CHAIRMAN AND MEMBERS OF OVERVIEW AND SCRUTINY AND OFFICERS**

Members exercising overview and scrutiny functions will be serving Members from outside the Cabinet. In order for such functions to be effective the following principles will apply in connection with the relationship with Officers in addition to the underlying principles governing Member/Officer relationships. These principles shall be applied to accord at all times with the Protocol for the Operation of the Overview and Scrutiny Committee as set out in Part 4 of this Constitution.

- Officers shall respond to requests from the Overview and Scrutiny Committee for information which is necessary in order for the Committee to discharge its function.
- Officers shall provide support to Members exercising overview and scrutiny functions which will include giving advice and assistance and providing written reports on matters within their remit.
- Officers shall attend before the Overview and Scrutiny Committee or any of its Task and Finish Panels or scrutiny events to answer questions posed by Members in connection

with the reasonable discharge of their functions. Such questions may include requiring Officers to state and explain the advice they have given the Cabinet in connection with an executive decision or matter that the Overview and Scrutiny Committee is reviewing.

## **7. THE RELATIONSHIP BETWEEN CHAIRMEN AND MEMBERS OF OTHER COMMITTEES AND OFFICERS**

There will be non-executive Committees exercising regulatory and licensing functions, for example, Development Management Committee and the Hackney Carriage Committee. Again, the principles underlying Member/Officer relations apply to such Committee Members and Officers.

In addition, Officers will provide administrative and professional support and advice to such Committees pursuant to their functions.

## **8. OFFICER RELATIONSHIPS WITH PARTY GROUPS**

Party groups are an integral part of the way the Council works and it is a proper function of Officers to support and contribute to party group consideration if required. In practice this is most likely to be for the majority group, although Officer support is available to all party groups.

In connection with Officer relationships with party groups the following principles shall apply.

- Any attendance of an Officer at a meeting of a party group shall be with the prior agreement of the Chief Executive (unless it is a general briefing meeting prior to a Committee).
- Officers will provide factual information and advice only on areas within their professional remit and in relation to issues currently or shortly to be considered by the Council, whether relating to executive or non-executive functions, provided that the request does not relate to an individual matter such as a planning application, or does not disclose information given at confidential briefings with the Cabinet. The provision of such Officer information and advice cannot act as a substitute for providing all necessary information and advice to the ultimate decision making body.
- Any such meeting will be held at the Council offices.
- The only other persons present at such a meeting should be Members of the Council.
- Officers must leave group meetings before groups enter into political discussion. Group Members should refrain from political comment until the Officer concerned has left the meeting.
- Officers must not disclose the nature of any business conducted at party group meetings.

Group leaders and the Chief Executive will formally meet jointly at regular intervals on a basis to be determined between them. This should not inhibit any Member seeking a meeting with the Chief Executive or appropriate Director in connection with a matter affecting the Council.

Groups, through their Leaders, may require to be briefed by the Chief Executive or appropriate Director on the business of the Council. Such a briefing will be treated with whatever level of confidentiality the group requires.

#### **9. MEMBERS IN THEIR WARD ROLES AND OFFICERS**

It is necessary for Members, in order to properly discharge their representative roles, to be provided with information on items which affect their Wards. Members are entitled to such information unless the work required to supply the information is out of proportion to the benefit or cannot be disclosed by the Officer due to legal reasons. Requests for information should be directed to Officers with management responsibilities.

Members will also receive administrative support to facilitate the holding of surgeries within their respective Wards. This support together with items such as computers are provided to Members to assist them in discharging their role as Members of the Council.

#### **10. MEMBER ACCESS TO DOCUMENTS AND INFORMATION**

The principles which govern Members right of access to documents and information are as follows.

- The proper running of the Council requires Members to be fully informed on items on which they are required to make decisions or which affect their Wards and to support overview and scrutiny.
- In principle, information is the property of the whole Council, but there are circumstances recognised by statute where it is reasonable to restrict circulation.
- The legal rights of Members to access Council documents for the purpose of fulfilling their functions as Members will be respected at all times.
- Members' rights to access to documents relate to documents in the possession of the Council and not, for example, documents in the possession of a particular party/political group.
- Any document or information provided to Members will only be used in connection with the proper performance of the Member's duties as a Member of the Council.
- There will be no leaking of confidential documents or information to third parties e.g. the press which, if proven, could constitute a breach of the Code of Conduct for Members or a legal obligation.

## The legal right of access

Members have the right to see documents containing information relating to any business to be transacted at Council/Committees/Panel/Cabinet meetings (regardless of whether they are Members of such bodies). **Excluded** from this right are documents containing certain exempt information relating to individuals, terms to be proposed by or to the Council in the course of negotiations for a contract, labour relations matters, information where a claim to legal professional privilege could be maintained and information relating to any action in connection with the prevention, investigation or prosecution of crime.

The same right of access applies to documents relating to decisions made by individual Cabinet Members and any key decisions made by Officers once the decisions are made. The same exclusion from the right of access applies in relation to certain confidential/exempt information, as detailed in the above paragraph.

For the purposes of overview and scrutiny access by Members exercising those functions to **any** confidential/exempt information is permitted if such information is relevant to the work of overview and scrutiny.

Members also have the legal rights available to the public to inspect agendas, reports, minutes and background papers on the public part of agendas.

In addition to these statutory rights any Member has a common law right to inspect any document if they have a "**need to know**" i.e. if it is reasonably necessary to fulfil their duties as a Member.

A Member will normally have a "**need to know**" if he/she is a Member of the Committee/decision making body which is responsible for the service to which the document relates, or it is relevant to their responsibilities as a Ward Member.

In cases where Members are not entitled to access to documents either by virtue of statute or common law, access to otherwise confidential/exempt documents e.g. because they relate to personal circumstances or contain commercially sensitive information, will have to be justified by Members.

Information - Members are free to ask Officers for information, explanation and advice as they may need to help them discharge their role, but there may be circumstances where the work required to supply the information is out of proportion to the benefit or cannot be disclosed for legal reasons. Requests for information will also be refused if it clearly is being requested for a political purpose or some other improper purpose e.g. to assist an individual to take or contest action by the Council. Further, compliance with data protection principles may limit the ability of Officers to comply with a Member's request.

Any dispute relating to a Member's right to access documents or information should be referred to the Executive Director (Finance and Transformation) for decision.

## 11. CO-OPTED MEMBERS

Individuals who are not Members of the Council may be co-opted onto decision making bodies from time to time. For example, the Overview and Scrutiny Committee is given specific power to co-opt Members onto the Committee to assist its work, if it so requires. Co-opted Members do not have voting rights on council committees.

This Protocol on Member/Officer relations will apply to the extent necessary to enable co-opted Members to properly discharge their functions.

## 12. **PUBLIC RELATIONS AND PRESS RELEASES**

The Policy and Communications Service serves the Council as a whole and operates within the limits of the Local Government Act 1986 which prohibits the Council from publishing material which appears to be designed to effect public support for a political party.

All press releases issued by the Council and in the Council's name shall only contain factual information. The Council press releases are drafted by Officers. Where such releases contain quotations from Members (within the limits of the Local Government Act 1986) those Members whose quotations are being used must be consulted.

Press releases relating to Committee items will be prepared by the Corporate Strategy and Engagement Manager in consultation with the author of the report, the relevant Director and the Chairman of the relevant Committee. Those relating to executive functions will be prepared in consultation with the relevant executive Member.

All press releases will be copied to the Mayor, the Leader and all Group rooms at the time of release to the press and will be available on the Council's web site.

When a Member is quoted, their political affiliation will not be specified. In press releases where there are no Member quotations, non-political quotations from Officers will be acceptable.

In pre-election periods, also known as 'purdah', it may not be appropriate to attribute statements to Members and an Officer statement may be issued instead.

Media briefings may be called by the Chief Executive in consultation with the Leader of the Council or appropriate executive Member and attended by an Officer from the Policy and Communications Service.

Press requests for information or comment from the Council will be referred by the Policy and Communications Service, to the Chief Executive, or relevant Director (or other senior officer directly responsible for the matter concerned) except where a response has been pre-agreed or is a matter of

basic information which has already been a Public Report (Part 1) Item. The Policy and Communications Service should be kept informed of all direct approaches by the press and other media and the information and comment supplied. Members contacting or contacted by the media should indicate in what capacity they are speaking e.g. in a personal capacity, as Ward Member, as Chairman of a Committee, on behalf of the Council or on behalf of a political group. Where any matters of policy or of a controversial nature relating to Council business are concerned, the Leader or appropriate portfolio holder or Committee Chairman must be informed as soon as possible and given an opportunity to respond, with assistance of the Corporate Strategy and Engagement Manager.

"Photo opportunities" will be arranged for the Mayor, Deputy Mayor, Chairman of relevant Committees, Leader or relevant portfolio holder in connection with Council business or civic duties.

Local journalists will be encouraged to exercise their right to attend all public meetings of the Council, its Committees and the Cabinet.

### **13. CORRESPONDENCE**

Correspondence between an individual Member and an Officer, particularly when it has been initiated by the Member, should not normally be copied (by the Officer) to any other Member other than the appropriate Group Leader. 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.

Official letters on behalf of 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 circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Member, but this should be the exception rather than the norm. 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.

### **14. THE APPOINTMENT AND DISCIPLINE OF OFFICERS**

Members taking part in the recruitment of Officers should judge candidates on merit in accordance with the Council's Recruitment and Selection Policy and may only participate in Appointment Panels if they have undertaken appropriate training in recruitment and selection. Members must not seek to influence appointments made by Panels to which they do not belong or otherwise seek support for any candidate, or give any particular candidate information not available to others, or participate in recruitment where friends, relatives, partners or members of their household are candidates or promote these job applications with officers in any way.

If a Member has any concerns about the conduct or capability of an Officer, then the Member should report it to the appropriate Manager. They must not however seek to influence any subsequent disciplinary procedure conducted by the



Manager. Further, Members must never seek to influence any disciplinary matter heard by a Member Committee to which they do not belong. (Any concerns which Officers have regarding a Members' conduct should be raised with the Monitoring Officer).

#### 15. **EMPLOYMENT NEGOTIATIONS**

Members who are involved in employment negotiations do so in the role of employer. Members who are Members of a trade union must not serve on bodies which have a responsibility for negotiating with that trade union.

A Member may be asked for advice and assistance by an Officer who is one of his/her constituents on issues not directly connected with the Officer's employment with the Council. However, it is not appropriate for Members to be approached by Officers on issues relating to their employment and if this occurs, Members should advise the Officer concerned to use the proper procedures.