



# Part 5C

## Protocol for Member/Officer Working Arrangements

## **PART 5C - PROTOCOL FOR MEMBER/OFFICER WORKING ARRANGEMENTS**

### **1. INTRODUCTION**

- 1.1 This Protocol reflects the provisions of the Local Government Act 2000 and Regulations made in respect of the Act. A Model Code of Conduct for all Members will be adopted by the Council, which will reflect the Model Code of Local Government Conduct.
- 1.2 This Protocol should be read and applied in conjunction with the Member and Officer Codes of Conduct. The principles and procedures set out in this Protocol are already, to a large extent, established and form the basis of the Council's working arrangements. The purpose of this Protocol is to provide guidance on Member/Officer working arrangements, particularly in the case of doubt or difficulty.
- 1.3 In particular, this Protocol aims to support the enhancement of local democracy by:
- facilitating the participation of Members and Officers in the Council's policy development and decision-making processes;
  - assisting Members and those Officers who support them in their role as representatives of the community within the Council and externally; and
  - clarifying arrangements for the provision of the information and support for Members and their party groups.
- 1.4 This Protocol is intended to assist Members and Officers in maintaining the highest standards of integrity and propriety and ensuring that all they do is seen by others to be done properly, fairly and, where possible, openly.
- 1.5 It is important, therefore, that any dealings with Members and Officers should observe reasonable standards of mutual courtesy and respect and that neither should seek to take unfair advantage of their position in any circumstances.

### **2. MEMBER/OFFICER COMMUNICATION**

- 2.1 Members should communicate with Officers at the appropriate level. Routine service related enquiries should be initiated through normal departmental enquiry/contact points. Other matters will normally involve the appropriate Deputy Chief Executive, the Strategic Director of Reform or other senior manager.

- 2.2 In communicating with Members, Officers should have regard to the Council's Code of Conduct for Employees, the requirements of this Protocol, and any instructions issued by their Departmental management.

### **3. OFFICER ADVICE TO PARTY GROUPS**

- 3.1 There is no statutory recognition for party groups, but 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 Council. Officers may properly be called upon to support and contribute to such deliberations by party groups.
- 3.2 The support provided by Officers can take many forms ranging from a briefing meeting with a Chair or Spokesperson prior to a Council meeting, to a presentation to a full party group meeting. 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.
- 3.3 Certain points must, however, be clearly understood by all those participating in this process, Members and Officers alike. In particular:
- a. Officer support in these circumstances 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 expected to be 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 communicated (inside or outside the organisation), interpreted or acted upon as though they have that official status;
  - 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 substitute for providing all necessary information and advice to the Cabinet or relevant Committee when the matter in question is considered.
- 3.4 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Model Code of Conduct, in particular the provisions concerning the Members' Declaration of Interests and Confidentiality, and

for this and other reasons, Officers may not be able to provide the same level of information and advice as they would to a meeting of Members only.

- 3.5 Officers must respect the confidentiality of any party group discussions at which they are present and should not, in particular, relay the content of any such discussion to another party group.
- 3.6 Any request for an Officer to attend a meeting arranged by a party or party group for the purpose of presenting information to the meeting (in relation to an issue or proposal or involving the Council) must be made to the relevant Deputy Chief Executive or the Strategic Director of Reform, who will consult with the Chief Executive, or to the Chief Executive. Where it is agreed that an Officer will attend for this purpose, the same facility will be offered or made available to other party groups. Any Officer who so attends will do so in his/her official capacity, will be politically neutral, and attendance will not signify support for any particular political view, proposal or response.
- 3.7 Attendance at any public meeting will generally be avoided during the period between the announcement and conclusion of a new local or parliamentary election affecting the area involved, and will only occur during such a period if representatives of all parties supporting candidates in the election have been invited to take part in the meeting.
- 3.8 At any public meeting organised by any party group, or by any individual Member (rather than by the Council), Officers will attend only to provide information which is publicly available. **No such Officer attendance will take place during the "pre-election" period referred to in paragraph 3.7.**
- 3.9 Any particular difficulty or uncertainty concerning Officer advice to party groups should be raised with the Chief Executive who will, where appropriate, discuss it with the relevant group leaders.

#### **4. SUPPORT SERVICES AND FACILITIES FOR MEMBERS AND PARTY GROUPS**

- 4.1 Secretarial and other support services and facilities (for example stationery, typing, etc.) are provided for Members to assist them in discharging their role as Members of the Council. Such support services and facilities must therefore only be used in accordance with specific guidance issued by the Council. They should never be used in connection with party political or campaigning activities or for private business purposes.

- 4.2 Support services for Members will normally be provided by the Council's Members' Services Section.

## **5. OFFICER/CABINET/CHAIR RELATIONSHIPS**

- 5.1 It is clearly important that there should be a close working relationship between a Cabinet Member and the Chair of an Overview & Scrutiny Committee, and the Deputy Chief Executive, the Strategic Director of Reform and other senior Officers of any Department which reports to that Cabinet Member or Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other party groups, or with any other individual or organisation.
- 5.2 The Cabinet Member or Chair will routinely be consulted as part of the process of drawing up an agenda for a forthcoming meeting. It must, however, be recognised that, in some circumstances, the proper conduct of business may require a particular matter to be included on the Agenda and that the Cabinet Member/Chair is not entitled to require the removal of such an item from the Agenda. Deputy Chief Executives and the Strategic Director of Reform will always be fully responsible for the content of any report submitted in their name. Any issue concerning the inclusion of any item on an Agenda and the submission of any particular report which cannot be agreed between Cabinet Member and Chair and Deputy Chief Executive/Strategic Director of Reform, should be referred to the Chief Executive. There may also be circumstances in which the Chief Executive and Head of Paid Service, the Director of Legal Services as Monitoring Officer or the Chief Finance Officer as Statutory Finance Officer, will be under a duty to submit a report.
- 5.3 In relation to any action under delegated powers, it is important to remember that the law allows for decisions relating to the discharge of any of the Council's functions which are not specifically reserved to the Council to be taken by the Cabinet or a Cabinet Member with delegated powers. Normally, wherever the authority to make a decision is delegated to an Officer, it is on the basis that the Officer will exercise that authority in consultation with the Cabinet Member and/or other nominated Members.
- 5.4 It must be remembered that Officers within a Department are accountable to their Deputy Chief Executive/the Strategic Director of Reform and that, whilst Officers should seek to assist a Cabinet Member or Chair or indeed any Member, they must not, in doing so, go beyond the bounds of whatever authority they have been given by their Deputy Chief Executive/Strategic Director of Reform. It should be noted that the Chief Executive has a statutory responsibility, as Head of Paid Service, for ensuring the proper organisation and management of the Council's staff

and has, therefore, an overall responsibility for the direction and management of all Officers.

## **6. CORRESPONDENCE**

- 6.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member, except at the discretion of the Chief Executive or Deputy Chief Executive or the Strategic Director of Reform, where necessary for the proper conduct of business. Where, exceptionally, it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, "**blind**" copies of such correspondence should not be circulated.
- 6.2 Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances, for example, representations to a Government Minister, for a letter to be issued in the name of the Leader of the Council. Letters which, for example, create obligations, confirm or deny the acceptance of any liability, or give instructions on behalf of the Council, should always be sent out by the Chief Executive or the appropriate Deputy Chief Executive or the Strategic Director of Reform or other senior Officer.

## **7. PUBLICITY AND THE MEDIA**

- 7.1 Contact with the media on issues relating to the Council or to Council business is handled through or with advice/support from Public Relations.
- 7.2 Any Member who approaches the media on any item involving or affecting the Council without first approaching or consulting the Council (through the relevant Cabinet Member of the Chair Department or Public Relations) will be responsible for such action. Any Member who does so should make it clear that he/she is speaking on his/her own behalf, or on behalf of his/her political party, and not representing or speaking for the Council.
- 7.3 The Code of Conduct for Employees will require Officers to obtain the approval of their Department before issuing any information to the media.
- 7.4 Members and Officers should be mindful of the prohibition on the publication by the Council of any information intending to promote or canvas support for any political party or candidate for elections. In case of doubt, advice should first be obtained from the Director of Legal Services.

## **8. PERSONAL RELATIONSHIPS**

- 8.1 No Member or Officer should allow any personal connection or relationship with any other Member or Officer to affect the performance of his or her official responsibilities, or the taking of any action or decision by or on behalf of the Council. This includes, for example, any family relationship, membership of the same household or any business connection. Members and Officers should always consider how such a relationship or connection would be likely be regarded by anyone outside the Council, or by any other Member or Officer, and avoid creating any impression of bias or unfairness.
- 8.2 An Officer who is personally connected or related to any Member should notify his or her Deputy Chief Executive or the Strategic Director of Reform, as appropriate in writing.
- 8.3 Members should take into account any personal relationship or connection with any other Member or Officer, in considering the need to register or declare a personal or personal and prejudicial interest, whenever appropriate.

## **9. INVOLVEMENT OF WARD COUNCILLORS**

- 9.1 Whenever a public meeting is organised by the Council to consider a local issue affecting a particular area, those Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting. Similarly, wherever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise.

## **10. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS**

- 10.1 Members are free to request from the Council such information as they may reasonably need in order to assist them in discharging their role as Members of the Council, having regard to any special responsibility, for example as a Cabinet Member or Overview & Scrutiny Committee Chair. Such requests should normally be directed to the Deputy Chief Executive, the Strategic Director of Reform or appropriate senior Officer of the Department concerned.
- 10.2 The legal rights of Members to inspect Council documents arise partly from statute and partly from the common law (judicial decisions).
- 10.3 Members have a statutory right to inspect any document which contains material relating to any business which is to be transacted at a Council meeting. This right applies in respect of whether the Member is a member

of the Cabinet or of a Committee, and it extends not only to report which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents which are exempt from publication unless the Member is a member of the relevant Committee.

Certain documents are (by statute) exempt from publication because, for example, they relate or refer to employees.

- 10.4 The common law right of Members is much broader and based on the principle that any Member has a prima facie right to inspect Council documents, so far as his/her access to the document is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This principle is common and commonly referred to as the "**need to know**".
- 10.5 Whether a Member is, in any particular case, entitled to exercise this common law right depends, therefore, on the Member's ability to demonstrate that he/she has the necessary "**need to know**". In this respect, a Member has no right to a "**roving commission**" to examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "**need to know**" for a purpose necessary to enable the Member to carry out his or her public duties. In any case of doubt or difficulty, Members should refer to the Chief Executive or the Director of Legal Services.
- 10.6 In some circumstances, for example a Member of an Overview & Scrutiny Committee wishing to inspect documents relating to the functions of that Committee, a Member's need to know will normally be presumed. In other circumstances, for example, a Member wishing to inspect documents which contain personal information about third parties, a Member will normally be expected to justify the request in specific terms. and evidence justification and compliance with data protection legislation
- 10.7 The term "**Council document**" is very broad and includes any document produced by whatever means with Council resources. It is accepted by convention that a Member of one party will not have any "**need to know**" and therefore no right to inspect, a document which forms part of the internal working of another party group.
- 10.8 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Director of Legal and Democratic Services.
- 10.9 Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, that is, only to enable the proper performance of the functions of the Council. The point is



Emphasised in the new Model Code of Local Government Conduct in the following terms:

***"(iii) A Member***

- (a) Must not disclose any information given to him in confidence by anyone, without the consent of a person authorised to give it, unless he is required by law to do so;***
- (b) Must not prevent another person from gaining access to information which that person is entitled to by law."***

**11. FURTHER GUIDANCE**

- 11.1 Any Member of the Council who needs further guidance on any of the matters referred to in the Code, or on any similar or related issues, is advised to contact the Chief Executive or Director of Legal Services. Any Officer needing such guidance should refer initially to his/her manager, who will consult senior management and obtain advice as necessary.

