

Part 4 – codes & protocols

c. protocol on member/officer relations

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Councillors are democratically accountable and have political affiliations. Officers must serve the whole council objectively. Together they must balance a complex range of obligations and competing interests. For this to be effective, councillors and officers must have mutual trust and respect for each other's requirements and duties. There must also be a transparent consistency in everyday working relationships.

Ten general principles of conduct for councillors and co-opted members of local authorities have been prescribed by legislation. The council's adopted code of conduct sets out the minimum standards councillors and co-opted members must observe. These conventions operate within that framework and provide the council's local ground rules.

Councillors, co-opted members and officers agree to observe the general principles and these conventions, and to be guided by them in the interests of fair treatment and good governance. The conventions are the council's way of applying the following basic principles:

- Members have a right to information and support on a "need to know" basis.
- The "need" is so that they can perform their role as a councillor. It can be limited by conflict of interest, confidentiality and practicality
- Officers must serve the whole council objectively
- Officers must provide "unified advice" at all times. This is advice which is objective, consistent and points out all relevant factors
- Political processes and different roles for councillors are a legitimate part of local democracy
- Officer advice and support can be tailored accordingly. A party group is entitled to the confidentiality of officer advice on developing policies and may decide when to publish a proposal. The overall arrangements for officer advice must be transparent.
- Observance of the general principles and these conventions is essential to the maintenance of high standards of probity and integrity.

1. Officer neutrality

- 1.1 As a general rule, the council is free to employ such officers as it sees fit and an employer/employee relationship exists between the council and its officers. Council is required to appoint certain statutory officers who have obligations in their own right.

Every officer appointment and every employment decision must be on merit alone (by law). This council has no political assistants.

Council appoints the Chief Executive as Head of Paid Service, Monitoring Officer and Head of Finance. Members have a role in certain employment matters as outlined in this constitution (see responsibility for functions).

The officer as an employee has a primary loyalty and duty to the council as a whole.

- 1.2 Certain posts are politically restricted, including all senior posts.

Officers holding politically restricted posts cannot be councillors or MPs. They cannot “speak or publish written work to the public at large or a section of the public with the apparent intention of affecting public support for a political party”. They can speak or publish “to such an extent as is necessary for the proper performance of their duties”.

- 1.3 Officers serve the whole council and must be politically neutral at work.

Councillors should respect officers’ right to private political opinions. These should not be used against an officer who remains neutral at work and observes the relevant codes. Any questions about neutrality should be raised with the relevant director or the Chief Executive.

The council’s employment procedures and codes of conduct must be observed. Failure to do so could be a disciplinary matter.

- 1.4 Close personal relationships between councillors and officers should be declared to the relevant group leader (or deputy) and the relevant director or the Chief Executive. The test is whether a member of the public might reasonably consider the relationship likely to influence the councillor or officer in their respective roles.

The councillor concerned should judge when a personal relationship has formed or whether a family relationship or friendship might reasonably be considered as having influence (depending on domestic arrangements and other circumstances). The group leader (or deputy) should consider how working contact between the councillor and officer should be avoided or managed to dispel perceived bias, taking advice from the relevant director or Chief Executive.

The officer should judge when to make a declaration. The relevant director or Chief Executive should consider how to avoid or manage working contact to dispel perceived bias.

- 1.5 Mutual respect and due courtesy between councillors and officers is expected by the council.

Unwarranted criticism of officers should be avoided, particularly when they cannot respond on equal terms, such as at meetings of council bodies. Bullying by a councillor could potentially expose the council to a claim of constructive dismissal.

Officers should avoid unwarranted criticism of councillors and should respect their rights under these conventions. Officers should not only be neutral but also should appear to be

neutral. Any matter which might cause doubt should be raised with the relevant member to consider what steps are needed to provide reassurance.

1.6 Members have a right to determine policy.

Officers should recognise the rights of members as elected representatives to determine policy. Policy support to councillors must conform to the “unified advice” principle. It must be for council and not for party political purposes. Work which could be open to misinterpretation must be transparent and justified where necessary, particularly at sensitive times (such as during the pre-election period).

2. Provision of information to councillors

2.1 Each councillor has a right to the information reasonably required to perform his or her role as councillor (the “need to know”) but not where:

- The information is primarily needed for a non-council purpose
- There is a conflict of interest
- There is an over-riding individual right of confidentiality under data protection legislation
- The resources needed to supply the information would be unreasonable.

Councillor need not state a need to know when requesting information, unless one of the restrictions applies, in which case entitlement should be demonstrated. Any relevant interests or non-council capacity should be declared at the time of the request. If dissatisfied with a refusal, the Director (Corporate Services) should be approached.

Officers should assume a councillor has a need to know unless one of the restrictions may apply. The councillor should then be asked to demonstrate entitlement and, in cases of doubt, the Director (Corporate Services) may be consulted. An officer should seek clearance from his or her manager before embarking on a significant amount of work to provide information.

2.2 Councillors are normally entitled to be given information on a confidential basis, the exceptions being:

- An over-riding council interest (for example, protecting its legal and financial position)
- Natural justice (for example, giving an individual the chance to respond to allegations).

Councillors should ensure that the need for confidentiality is made clear to officers.

The councillor must be told immediately if an exception applies.

2.3 Councillors must respect the confidentiality of confidential council information and must use confidential information only for the purpose it is given (for example, information supplied in confidence to a member of the Executive or the Scrutiny Commission cannot be used to pursue a special ward interest).

3. Entitlement to briefings

3.1 Councillors are entitled to be briefed in accordance with their need to know, taking account of any particular role they have. There are the same restrictions as for information (convention 2.1). Councillors with a particular role may expect to be briefed about relevant matters without having to make a request.

Councillors should declare any relevant interest when requesting or receiving a briefing. If dissatisfied with a refusal to brief, the Director (Corporate Services) should be approached.

Officers should be clear about the capacity in which the councillor is being briefed and the implications of any interest. In cases of doubt, the Director (Corporate Services) may be consulted. The officer should always make it clear if a briefing is not based on unified advice (if the information is still subject to consultation with other officers). Otherwise, the councillor is entitled to assume unified advice is being given.

- 3.2 Officer attendance at party political group meetings should follow the protocol on attendance by the Chief Executive and directors at party group meetings.
- 3.3 The content of briefings is confidential to the councillors concerned. Confidentiality extends to the questions asked by the councillors.
- 3.4 Members of the Executive, both individually and collectively, are entitled to regular confidential briefings on matters relevant to their areas of responsibility and in support of the policies they are developing prior to them formulating formal proposals.

The relevant member of the Executive or the Executive collectively determines whether confidential briefing material may be released to others for consultation or otherwise. When the stage of formal proposals is reached, supporting officer advice becomes publishable in conjunction with the proposals.

A briefing to help a councillor respond to a question at Council may be in the form of a suggested reply. It should be confined to factual and professional matters and to explanations of existing policy, leaving the councillor to add any political comment.

- 3.5 Councillors must respect the confidentiality of information supplied in briefing and must use it only for the purpose for which they would have been entitled to receive it (for example, information supplied to a councillor in their capacity as member of the Executive may not be used to pursue a special ward interest if it would not have been supplied to the ward councillor).
- 3.6 The Mayor is the borough's first citizen and has the primary duty to act as chairman for meetings of Council. The Mayor is traditionally non-party political during their year of office. Their standing is mainly ceremonial and is not executive.

The Mayor has the right to the advice and support of officers necessary for him/her to undertake the mayoral role.

4. Council, Executive and meetings of council bodies

- 4.1 Officer reports should be in the name of a Director or the Chief Executive who must ensure that:
 - It is made clear what stage in the process has been reached and what is required from councillors
 - There is a clear recommendation (or options if appropriate) presented in a way which enables councillors to choose between them
 - It is clear who is responsible for action
 - All relevant factors are included and the issues are presented with professional objectivity
 - Associated briefings and presentations are also professionally objective.

The principle of unified advice requires that meaningful and timely consultation is completed before finalising a report (particularly on financial and legal implications). Officers may take account of policies of the council. Options or recommendations may reflect political realities provided all realistic options are addressed in a way which is professionally objective and sustainable. It is not always necessary to recommend the course of minimum risk, provided risks and reasons for taking them are made clear.

- 4.2 A majority group will, because they hold a majority of seats, direct the policies and decisions of Council and make up the Executive. However, decisions can only be taken in properly convened meetings of Council, the Executive, or council bodies. All decisions, wherever taken, need to be properly recorded and the information on which decisions are made must be readily available.

Decisions can be taken by individual members of the Executive in accordance with the Executive scheme of delegation (included in the terms of reference for the Executive).

Decisions can be taken by officers who have formal delegated authority from Council or the Executive as set out in the scheme of delegation.

5. Regulatory committees

- 5.1 Planning, licensing and other quasi-judicial matters must be dealt with solely in accordance with the relevant policies and legal requirements, and in particular:

- The appearance of decisions being based on party political consideration must be avoided
- If officer recommendations are not accepted, care should be taken to ensure that any departures can be justified and that they are consistent over time
- The code of conduct for members of the Planning Committee must be followed.

Particular care should be taken to declare interests in formal meetings, at site visits and in formal discussion and, if necessary, avoid participation in the meeting. Potential interest should be raised with officers before the meeting.

- 5.2 Reports to regulatory committees should comply with convention 4.1 except that political considerations are inappropriate.

6. Councillor involvement in operational matters

- 6.1 Officers must implement council policy within agreed procedures. An individual councillor cannot require an officer to vary this and cannot take a decision or instruct an officer to take action. The councillor's role in relation to such matters is:

- To be briefed or consulted where there is a need to know
- To pursue the interests of individuals by seeking information, testing action taken and asking for the appropriateness of decisions to be reconsidered. A councillor's entitlement to be involved is based on their need to know and determined in accordance with conventions 2 and 3

Access to files may need to be denied or restricted if one of the exceptional circumstances in convention 2.1 and 2.2 apply. Any access then allowed may need to be managed access.

Councillors should avoid becoming unduly involved in individual cases and operational detail, except within clear procedures. Involvement in legal proceedings and audit investigations carries special risk of prejudicing the case, and of personal embarrassment. There are risks associated with a councillor intervening in the operational processes of the council without full knowledge of the facts.

If a councillor is lobbied on an issue, they should explain that any views expressed are personal and they cannot commit or anticipate the council's decision. Any lobbying should be referred to at meetings which consider the matter that was subject of the lobbying.

Officers should take the lead in pointing out where the boundaries lie in particular areas, recognising that:

- Councillors legitimately adopt different approaches
- Councillors may legitimately pursue non-ward issues
- The special local knowledge of a particular councillor may be useful to a particular case.

Officers should point out to the councillor when a restriction on the need to know may apply, explore entitlement with the councillor and, in cases of doubt, consult the Director (Corporate Services).

Directors should ensure that their staff know how to obtain appropriate senior management support when the extent of a councillor's involvement in an issue needs to be clarified.

- 6.2 A councillor pursuing a ward matter on behalf of a close family member or friend (as outlined in convention 1.4) should declare the relationship and consider whether to ask another councillor to pursue the matter.
- 6.3 Staff may raise issues with their councillors as citizens. They must not lobby councillors on personal employment or budgetary matters except within the proper management and representative procedures (in the interests of balance, unified advice to councillors).

Councillors should refuse to respond to inappropriate lobbying and to inform the relevant director who should direct the member of staff towards the appropriate channels. This applies if the approach is superficially to a ward councillor, but in reality amounts to an employment matter.

Directors should ensure their staff are aware of these requirements and the proper channels for their views to be put forward.

- 6.4 A councillor's right of access to council premises and to bring in guests is based on the "need to know". In addition to the general restrictions, it is subject to ensuring:
- Operational continuity
 - Confidentiality
 - Compliance with health & safety arrangements
 - Compliance with security requirements.

- 6.5 A councillor's guests should:

- Be properly checked in and out
- Explain the purpose of their visit, if requested
- Not be admitted after normal business hours, except for notified evening meetings and by special arrangement for particular purposes.

Directors should ensure their staff are aware of these requirements and how to obtain the appropriate senior management support (particularly after hours). They should also ensure staff are aware exactly when guests may be admitted outside normal opening hours.

7. Media relations, published material and correspondence

7.1 Statements and published material on behalf of the council (including on the council's website) must not be party political and must comply with the statutory code of practice.

Councillors are the council's principal spokespersons on policy. As individuals, they may make party political comment, but the council may not publish such comment.

Officers may publish factual, professional and technical comment. Reports, presentations and publications must be professionally objective in language, content and tone. Directors must ensure that officers who publish statements and material are competent for the role and understand the requirements of these conventions.

7.2 It should be made clear in all correspondence from councillors, whether that councillor is writing as an individual councillor or in the capacity of a role held within the council.

Where members write as individual councillors, they may seek officer advice but cannot commit the council as a corporate body. The Mayor, Leader of the Council and members of the Executive may initiate correspondence in accordance with their roles and degree of delegated authority.

Correspondence from officers should be factual and not commit the council beyond its existing policies or limit of formal delegation to the officer. Where an officer is employed as an advisor, professional opinion may be expressed.

8. Election periods

8.1 From the notice of a parliamentary or local election, until election day:

- The council is not allowed to publish any material that appears to be designed to affect public support for any political party or individual. Nothing should be published (including on the council's website and social media platforms) on a politically controversial issue or which identifies views or policies with those of individual councillors or party groups
- Nothing should be published by the council which includes a picture of, or quote from, a prospective candidate
- There should be no proactive publicity in any form which identifies candidates and other politicians involved directly in the election
- Proactive events arranged in this period should not involve members likely to be standing for election
- In parliamentary elections, nothing should be published with mentions or includes a picture of any prospective candidate
- Subject to this protocol, publicity is permitted of a councillor speaking on behalf of the council about an approved policy
- The council can publish reports of discussions at, and decisions of, Executive, Council or Scrutiny committees, as long as they are presented in an impartial way
- Any publicity should be strictly objective, concentrating on facts or explanations
- During local elections, no council newspaper, corporate or departmental, should be published

- Councillors and officers should take particular care to keep officers distant from party political matters. Those officers in politically-restricted posts should exercise particular care and should ensure they are familiar with the guidance on holding such posts
- Councillors requesting information should make their need to know clear and the need to know principle should be strictly observed
- Prospective parliamentary candidates (including current MPs) should be treated equally
- Officers should avoid even the appearance of political bias.

Subject to this convention, publicity is permitted of a councillor speaking on behalf of the council about an approved policy.

External comments should be on strictly factual or professional matters. Care should be taken to avoid being misquoted or inadvertently associated with a particular candidate or political perspective.

9. Resolving problems

- 9.1 Councillors and officers should try to interpret and apply the conventions consistently. Those concerned should first try to resolve any problems between themselves.

Councillors should raise unresolved problems with the relevant director or the Chief Executive.

Officers should raise any unresolved problems with their director who will advise or take the matter up with the relevant councillor.