

STANDARDS COMMITTEE

29 SEPTEMBER 2014

REPORT OF THE MONITORING OFFICER

A.2 MEMBER AND OFFICER RELATIONS PROTOCOL

(Report prepared by Lisa Hastings)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To seek the approval of the proposed Member and Officer Relations Protocol in accordance with the delegated power from full Council in December 2009.

EXECUTIVE SUMMARY

As part of the Council's fundamental constitution review and the Standards Committee work programme, the Member and Officer Relations Protocol has been reviewed and a revised document is proposed for the Standards Committee to approve.

In addition, it is suggested that the Standards Committee recommend to Council that the document, once approved, is reinstated within the Constitution with the Members' and Officers' Code of Conduct at Part 6.

RECOMMENDATION(S)

It is recommended that:

1. Subject to any proposed amendments requested by the Standards Committee, that the revised Member and Officer Relations Protocol is approved and adopted;
2. The Committee recommend to Council that the Protocol is reinstated into the Constitution together with the Officer's Code of Conduct within Part 6.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The success of the Council is greatly dependent upon the positive nature of the working relationship between Members and Officers. Mutual trust and respect between both Members and Officers is essential to good local government.

The purpose of this protocol is to provide a guide to good working relationships between Members and Officers, defining their respective roles and outlining the principles that underpin their relationship.

The protocol also builds on the Council's good governance arrangements and respective Codes of Conduct for both Members and Officers and through this promotes the maintenance of integrity, both real and perceived, of the Council as well as very high

standards of personal conduct.

FINANCE, OTHER RESOURCES AND RISK

Finance and Other Resources

Finance

None associated with the content of this report.

Risk

Without a clear defined Member and Officer Protocol in place the Council's governance arrangements are weaker than the recommended good practice and there is a risk that the mutual trust and respect aspect could be undermined, affecting the Council's productivity and employment relations.

LEGAL

This Protocol follows best practice and assists the Council to fulfil its statutory duty to promote and maintain high standards of conduct for both members and officers.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder/Equality and Diversity/Health Inequalities/Area or Ward affected/Consultation/Public Engagement.

Wards Affected: All

PART 3 – SUPPORTING INFORMATION

BACKGROUND

In December 2009, Council resolved that the Member/Officer Protocol would be removed from the Constitution but kept under review by the Standards Committee. Since 2009, no changes have been made to the Protocol. During the Constitution Review it has been highlighted that the Protocol should be updated and it is suggested that the document is reinstated within the Constitution to sit with the new revised Members' Code of Conduct together with the Officer's Code of Conduct.

The Monitoring Officer considers that it is good practice for the Codes and Protocols to sit together within the Constitution however, the delegated power to review and approve the Protocol should still rest with the Standards Committee, in accordance with its terms of reference.

CURRENT POSITION

Rather than simply update the existing Protocol, the Monitoring Officer felt it would be more appropriate to propose a new revised document, which is based on good practice elsewhere. It is important to ensure that the Protocol is balanced between the responsibilities and duties of both Members and Officers and provides helpful guidance to all parties.

The revised Protocol is attached as Appendix A for Members to consider and comment on for approval and adoption.

BACKGROUND PAPERS FOR THE DECISION

There are no background papers arising from this report.

APPENDICES

A.2 – Appendix A

Member Officer Relations Protocol

PROTOCOL ON MEMBER/OFFICER RELATIONS

INTRODUCTION:

The success of the Council is greatly dependent upon the positive nature of the working relationship between Members and Officers. Mutual trust and respect between both Members and Officers is essential to good local government.

The purpose of this protocol is to provide a guide to good working relationships between Members and Officers, defining their respective roles and outlining the principles that underpin their relationship.

The protocol also builds on the respective Codes of Conduct for both Members and Officers and through this promotes the maintenance of integrity, both real and perceived, of the Council as well as very high standards of personal conduct.

1. THE ROLES OF MEMBERS AND OFFICERS:

1.1 The elected Members are responsible for:

- (a) the initiation and direction of policy;
- (b) acting honestly, with integrity and in the public interest;
- (c) open and transparent objective decision making;
- (d) democratic accountability to the electorate for their actions and service delivery;
- (e) the scrutiny of Council services;
- (f) community leadership;
- (g) the promotion of partnership working; and
- (h) the presentation of Council policy, including via the media.

1.2 The Officers are responsible for:

- (a) providing the professional and technical advice that Members must have before them when formulating policy and when taking decisions;
- (b) lawfully implementing Members' decisions;
- (c) day-to-day administration;
- (d) taking managerial and operational decisions in accordance with the Council's Scheme of Delegation;
- (e) the provision of information regarding Council services; and

(f) undertake public consultation.

2. WORKING RELATIONSHIPS - UNDERPINNING PRINCIPLES:

To be followed by both Members and Officers in fulfilling their duties:

- mutual respect and courtesy between Officers and Members;
- an awareness of each other's responsibilities and duties;
- no inappropriate criticism, intimidating behaviour or the creation of a threatening work environment of any kind from either Members or Officers;
- equal treatment, regardless of personal or political opinions (actual or perceived);
- an adherence to the law and the lawful instructions and advice of others;
- an avoidance of close personal familiarity.

The above principles are designed to foster the good working relationships between Officers and Members that are essential to effective decision making and the delivery of services.

Alleged breaches of the Members' Code of Conduct are dealt with through the Council's Standards Committee and in relation to the Officer Code, by the Head of Paid Service. If an Officer is concerned about the conduct of a Member, they should report this to their senior manager, who will notify both the Head of Paid Service and Monitoring Officer. These concerns could include public criticism of an Officer by a Member.

3. OFFICER APPOINTMENTS, PERFORMANCE & POLITICAL NEUTRALITY:

- 3.1 The appointment of the Chief Executive is made at full Council and the appointments of Corporate Directors are made in consultation with the Leader of the Council, Deputy Leader and Group Leaders. The appointment of a Head of Department is made in consultation with the relevant Portfolio Holder. All other appointments are made at officer level.
- 3.2 Staffing matters (including discipline, training, setting and monitoring targets) are dealt with by the relevant managers, although the relevant Portfolio Holders/Cabinet Members will agree to targets in the case of the Chief Executive. All other targets are set at Officer level.
- 3.3 Members wishing to comment on an individual Officer's performance and/or deficiencies are usually expected to raise the matter with the relevant Corporate Director in the first instance. Thereafter to the Chief Executive if unresolved.

3.4 Officers are politically neutral, serve the whole Council and must avoid being identified with any political group. In order to safeguard this neutrality, Officers must avoid involvement in party political matters, such as campaigns in the political arena. This assumes particular significance in the run up to District Council and General Elections. In their lives outside work, the Chief Executive, Corporate Directors and Senior Officers are restricted from active political involvement.

3.5 OFFICER ATTENDANCE AND ADVICE TO PARTY GROUPS

3.5.1 The political parties represented on the Council hold regular group meetings. Officers do not usually advise these meetings, but may be invited to give information. All invitations should be routed through the Chief Executive.

3.5.2 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such items being considered by the relevant Council decision-making body. The support provided by Officers can take many forms, ranging from a briefing meeting with a Cabinet Member, Chairman or spokesperson (either jointly or individually) prior to a 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.

3.5.3 The parameters for support to party groups and individuals must be clearly understood, and to assist in this the following applies:-

- (i) The Chief Executive will inform all party groups of the facility for an Officer to attend a party group meeting for a specific purpose and will decide, on request, which Officer may attend.
- (ii) Support must not extend beyond providing information and advice in relation to Council business. Officers must not be involved in advising on matters of party business and should not, therefore, be present at group meetings when such issues are being discussed.
- (iii) Party group meetings are not empowered to make decisions on behalf of the Council and therefore any conclusions reached at group meetings do not rank as a Council decision and cannot be interpreted or acted upon as such.
- (iv) Advice provided to party groups on an issue does not act as a substitute for providing all the necessary information and advice to Members at meetings when that issue is being considered.
- (v) The attendance of Officers at a party group meeting does not confer any official standing to that meeting.

- (vi) Special care will be exercised when non-Members are in attendance at a group meeting.
- (vii) The provisions of the Code of Conduct do not apply to non-Members and therefore the nature of advice, guidance and information given by Officers may not be the same as that given to a Members-only meeting.
- (viii) Officers must respect the confidentiality of discussions at party group meetings and must not relay the content of these discussions to any other party group.

4. DECISION MAKING – PROVIDING AND CONSIDERING ADVICE

- 4.1 Decision-making by local authorities is closely regulated by law. The taking of a decision by the wrong person/body or in the wrong way can invalidate the decision from the beginning or leave it vulnerable to being challenged and overturned by a court.
- 4.2 In the event of challenge, attention may also be focussed on the information, professional advice and options made available to the decision-making body or individual prior to that decision being made. Reports and/or other papers placed before decision-making bodies or individuals must therefore contain the relevant facts, correct and complete professional advice and alternative options that may be open to the Council. Officers have the duty to ensure that all of the information on an issue for decision by Members is available, subject to the provisions in this protocol and the Constitution on access to information.
- 4.3 The Officers are responsible for providing those reports and/or papers, and the Monitoring Officer and Chief Financial Officer are required to ensure that their proper advice is placed before decision-makers. Officers preparing reports for consideration by Committees etc. do so in the best interests of the Council and not to promote the viewpoint of a particular Member or group of Members. Whilst reports to Cabinet are submitted in the name of the relevant Cabinet Member and will be prepared with their input, Members must recognise that Officers drafting reports must do so in the interests of the Council as a whole through the Head of Paid Service.
- 4.4 Officers have a duty to give advice to the Council and its Members using their professional technical knowledge and experience. This will be provided within the report and or papers and at the meeting, if required.
- 4.5 Members are entitled to expect Officer attendance at meetings at an appropriate level of expertise to ensure adequate knowledge and advice on the subject matter under discussion. Officers in attendance at meetings will always be fully briefed as far as is practical on the issues under discussion on an Agenda.

- 4.6 Such advice is given in good faith and will be in line with and reflect legislation, good practice, Council procedures, experience, professional and technical knowledge, and the Council's formally adopted policies.
- 4.7 Members are entitled to expect clear, concise and unambiguous information from Officers at all times to assist them in the decision making process. Officer's advice must be given in accordance with the Council's instructions through the decision making and review process set out in the Council's Constitution and should be taken into account by Members when considering an action or making a decision.
- 4.8 Officers are also expected to faithfully and conscientiously to implement the lawful decisions of Councillors and properly take decisions delegated to them.
- 4.9 Officers and Members must ensure that the Council's responsibilities regarding notification of and publication of decisions are complied with, as set out in the Access to Information Rules of Procedure as set out in Part 5 of the Council's Constitution.
- 4.10 In addition to legal challenges and implications, failure to follow the decision making principles may amount to breaches of both Members' and Officers' Code of Conduct and lead respectively to action under the Standards Framework or to disciplinary proceedings.

5. ACCESS TO CONFIDENTIAL INFORMATION

- 5.1 Both Members and Officers must adhere to the Access to Information provisions concerning confidential information set in Part 5 of the Council's Constitution.
- 5.2 Disclosure of confidential information by either a Member or Officer will constitute a breach of their relevant Code of Conduct and the appropriate action will be taken. In addition, the Council could be exposed to a damages or compensation claim as a result of the disclosure.

6. SCRUTINY

The rules and procedures governing Officer and Member responsibilities in support of the Council's overview and scrutiny function are set out in Part 5 of the Constitution.

7. WORKING WITH THE MEDIA

- 7.1 Information provided to the media is governed by the Local Government Act 1986 and the Code of Practice on Local Authority Publicity. In particular,
information should be:-

- Objective, factual and informative
- Non- party political or designed to affect public support for a political party

7.2 The functions of the Council are discharged corporately and it is not, therefore, appropriate for public resources to be used to promote the views of individual Members. This does not preclude, in the interests of public accountability, publicity of the views of individual Members when they are representing the Council.

7.3 Press releases containing comments by individual Members are similarly acceptable practice. The Communications & Public Relations Manager will provide the press with factual information but comment will only be provided by the Officers with the prior consent of the Chief Executive and/or the relevant Portfolio Holder/Cabinet Member or the relevant Committee Chairman.