

PROTOCOL ON MEMBER/OFFICER RELATIONS

1. Executive Summary

This report submits as an appendix the draft Protocol on Member/Officer Relations for endorsement by the Committee and referral to the Council for formal approval. Once approved, the Protocol will be included in Part 5 of the Council's constitution.

2. Member/Officer Protocol

The Council's formal written constitution, which was approved at meetings held on 18 April and 13 May 2002, includes a section on Codes and Protocols. Currently this includes only the Code of Conduct for Members. Publication of regulations on a code of conduct for officers is still awaited.

A draft Protocol on Member/Officer Relations has been prepared which provides a structured and formal basis intended to govern relations between elected members and officers which reflects the current balanced make-up of the Council. This was considered by the Local Democracy Working Party on 23 September. The revised draft, which takes account of the Working Party's recommendations, is submitted for endorsement by this Committee and referral to the Council for formal approval.

3. Financial and Staffing Implications

There are no financial or staffing implications arising out of this report.

4. Other Implications

There are no implications arising out of this report in terms of equal opportunities, ethnic minorities, the elderly or the disabled; nor are there any community safety, human rights, social inclusion, Local Agenda 21, environmental or planning implications.

5. Local Member Support Implications

This report has no implications for specific wards.

6. Background Papers

No background papers were used in the preparation of this report.

7. Decision required:

The Committee is requested to endorse the Protocol on Member/Officer Relations, as now submitted, and to refer it to the Council on 16 December for formal approval.

JOHANNA MILLER

Borough Solicitor and Secretary

HRJ/WBC/G1/8
11 November 2002.

STANDARDS\REPORTS\STASOL021118REP139

METROPOLITAN BOROUGH OF WIRRAL

PROTOCOL ON MEMBER/OFFICER RELATIONS

(Incorporating amendments approved by the local Democracy Working Party on 23 September 2002)

1. Role and Purpose

The purpose of this protocol is to guide Members and Officers in their relations with each other and outline some of the appropriate conventions within the Council. The document cannot cover every eventuality nor is it prescriptive. Its intention is to offer guidance on some of the issues which commonly arise.

2. Definition of the Role and Officers and Members

This protocol seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The aim of these codes is to enhance and maintain the integrity of local government and they therefore demand very high standards of personal conduct.

Both Councillors and Officers are servants of the public. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are employed by, and are responsible to the Council. Their job is to give advice to Councillors and the Council and to carry out the Council's work under the direction and control of the Council, its Cabinet, Committees and Sub-Committees.

For the effective conduct of Council business, there should be mutual respect and courtesy in all meetings and contacts (both formal and informal) between Members and Officers. It is important that behaviour which could be viewed as conferring an advantage or disadvantage is avoided, as should close personal familiarity between Members and Officers, which could undermine public confidence in the Council. It is acknowledged that some close relationships may inevitably develop, and if so these must be openly declared and, where possible, Members and Officers who have close personal relationships should avoid working relations where they would come into regular contact on projects and in the day-to-day business of the Council.

3. Officer Advice to Party Groups

Officers cannot be instructed to attend party political group meetings, or write reports for such meetings.

It is recognised that groups may wish to give preliminary consideration to matters of Council business in advance of such matters being considered by

the relevant decision making body. Officers may properly be called upon to support and contribute to such deliberations, provided they maintain a stance of political neutrality. Support includes briefings for Cabinet and committees, and briefings for Members related to their individual role, e.g. cabinet member or scrutiny chair. Officers should be required to give information and advice on Council business only, and not on matters which are of a party political nature. Such support and advice is available to all party groups, not solely the majority group.

Usually, only Chief Officers may be asked to provide the support outlined above in meetings. Requests for attendance should be made in sufficient time to allow proper preparation. Due consideration shall be given to the timing of meetings to avoid onerous demands being made. The time spent advising a group or individual shall be reasonable, given the demands on the time of all concerned.

Any requests for advice or attendance shall be directed through the Group Leaders or Chairs/Spokespersons for the relevant Committee or Cabinet member concerned. The request shall be made to the relevant Chief Officer, or in his/her absence to their Deputy or the next appropriate lower tier officer. An officer accepting an invitation to one group or individual shall not decline an invitation to advise another Group or individual on the same subject, although the Officer is not obliged to offer to advise another group on the same subject. Any request received and advice given shall be the subject of strict confidentiality, unless agreed otherwise.

The principles outlined above do not obviate the necessity for regular contact on matters affecting the Council between Senior Officers and the Leadership of political groups, and on matters affecting Cabinet members' responsibilities or those of Committee Chairs.

4. Support Services for Members

The role of Officers is only to assist Members in discharging their role as Members of the Council for Council business and in their role as advocates for local communities. Officers should not be used in connection with party political campaigning or for private purposes. Council resources (e.g. member services, stationery, photocopying) may only be used for Council business or where such use is conducive or incidental to that role.

5. Members' Access to Information and Council Documents

All groups shall receive equal access to information and advice, including Leaders' briefings, Cabinet briefings and necessary committee briefings; background information to decisions, including essential financial information, shall also be made available to all three parties, except that individual party requests to officers for specific information, and the replies, shall remain confidential to that party.

Members should not put undue pressure on Officers to release information and documents to which they are not entitled to have access. Reference should be made to the provisions of the Constitution and the Access to Information Procedure Rules.

The common law right of Members is based on the principle that any Member has “prima facie” (or “on the face of it”) right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable him/her to properly perform their duties as a Member of the Council. This is referred to as the “need to know” principle.

The exercise of this common law right depends upon the Member’s ability to demonstrate that he/she has the necessary “need to know”. A Member has no right to a “roving commission” to go and examine documents of the Council, and what the law terms “mere curiosity” is not sufficient. The question must initially be determined by the particular Chief Officer whose department holds the documents in question, with advice from the Borough Solicitor and Secretary.

In some circumstances (e.g. a Committee Member wishing to inspect documents relating to the functions of that Committee), a Member’s need to know will normally be presumed. In other circumstances (e.g. 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, possibly in writing.

6. Reports

Chief Officers may initiate reports on any matter where they believe the Council, Cabinet, committee or sub-committee should make a decision or should be informed. Where such a report affects another service, the appropriate Chief Officer must be consulted. Cabinet members/Committee Chair may make suggestions to Officers as to the contents of the report . However, the report is the Officer’s, and even if the Cabinet member/Chair is unhappy with its contents, it should not be amended, other than with the express approval of the relevant Chief Officer. Where the Chair/Cabinet member wishes to suggest an alternative course of action to that proposed by the Officer, then in exceptional circumstances he/she should write his/her own report in addition to that submitted by the Chief Officer. In this instance, Members should not use undue pressure to persuade the Chief Officer to withdraw or amend the original Officer report.

7. Select Committee

Select Committees may require Officers and Members to attend and provide any information required to answer questions (other than those which he or she would be entitled to refuse to answer in a court of law). Detailed provisions are contained within the overview and Scrutiny Procedure Rules.

8. **Ward Councillors**

Ward Councillors (and, where appropriate, councillors for neighbouring wards where there is a clear and obvious connection) should be kept informed and consulted on relevant matters affecting their Ward, e.g. planning, highways, licensing and other relevant matters. In the case of public meetings in a particular locality, Ward Councillors will normally be invited to attend and can expect to be consulted on any form of consultation exercise on local issues.

So far as decision making is concerned, Members remain accountable to the whole electorate of the Borough, and must make a personal decision on matters which come before them, balancing the interests of the electorate as a whole. Including those members of the public who did not vote for them.

9. **Correspondence**

Where an Officer copies correspondence addressed from one Member to another, it should be made clear to the originator and should not be sent to any Member of another Group without the originator's consent. Members' correspondence with Chief Officers should not be copied to Cabinet Members or Select Committee Chairs unless the originating Member consents.

Official letters from the Council should normally be sent out in the name of the appropriate Officer, rather than a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) to address correspondence in the name of the Member, but this is the exception rather than the rule. Letters which create obligations or give instructions should not be sent out in the name of a Member.

10. **Press Releases**

Members are reminded of the need to comply with the requirements of the Local Government Act 1986 and the Code of Recommended Practice on Local Authority Publicity which prohibits local councils from publishing any material which appears to be designed to reflect support for a political party. Publicity should not be used as a means to publicise individual Councillors, except where they are acting to represent the Council as a whole.

To reflect the current balance of political parties on the Council, press releases issued by the Council will include officer quotes only and leave politicians to make their own comments to the press as they feel appropriate.

11. **Ceremonial Events**

Ceremonial events would normally be attended by the Mayor or Deputy Mayor, unless they relate specifically to initiatives led by the Cabinet or in

particular committee, in which case the Cabinet Member, Chair or Vice-Chair of that Committee would attend.

In addition, local Members should be informed and, where possible and appropriate, invited to participate.

12. **Complaints**

Where a Member's conduct is considered inappropriate, contact should be made in the first instance with the Chief Executive or Monitoring Officer. If it is a matter of party discipline, then the matter will be investigated by the party itself, otherwise such matters will be investigated by the Chief Executive or Monitoring Officer or a person duly authorised by him/her. In serious cases, or case where it appears that a Member may have breached the Code of Conduct, a written complaint may be made to the Standards Board for England.

Where an Officer's conduct is considered inappropriate, complaints should be directed to the relevant Chief Officer or Chief Executive for investigation.