

## **Part 5C**

### **Protocol on Member/Officer Relations**

#### **1. Role and Purpose**

- 1.1 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**

- 2.1 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.
- 2.2 Both Members and Officers are servants of the public. Members 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 effective, impartial advice to Members 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.
- 2.3 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**

- 3.1 Officers cannot be instructed to attend party political group meetings, or write reports for such meetings.
- 3.2 Any requests for advice or attendance shall be directed through the Group Leaders or Chairs/Spokespersons for the relevant Committee or Cabinet Member concerned.
- 3.3 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 political group or individual shall not decline an invitation to advise another political group or individual on the same subject, although the Officer is not obliged to offer to advise another political group on the same subject. Any request received and advice given shall be the subject of strict confidentiality, unless agreed otherwise.

#### **4. Briefings for Cabinets and Committees**

4.1 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 and/or Political Group Spokespersons.

4.2 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. Political Groups may at their own discretion decide to engage jointly in such deliberations. 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 asked to give advice on Council business only, and not on matters which are of a party political nature. Such support and advice is available to all political groups.

4.3 Usually, only Chief Officers may be asked to provide the support outlined above. 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 political group or individual shall be reasonable, given the demands on the time of all concerned.

#### **5. Support Services for Members**

5.1 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.

#### **6. Members' Access to Information and Council Documents**

6.1 All Political Groups shall be equally entitled, if they so choose to request and receive background information to decisions, including essential financial information. All such requests and the replies, shall remain confidential to that political group, although political groups may at their discretion choose to share that information between political groups. Members are reminded of the need to consider whether such information is likely to fall within the categories of exempt information as defined in the Access to Information Procedure

Rules, and to treat it accordingly. Release of information to Members will be subject to ensuring compliance with the Data Protection Act.

- 6.2 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.
- 6.3 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 Head of Legal and Member Services.
- 6.4 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.
- 6.5 Draft Cabinet reports and working papers will be considered as work in progress and as such may not be requested under the Access to Information Procedure Rules.

## **7. Reports**

- 7.1 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. The appropriate Cabinet member shall be consulted prior to the publication of an Executive report which concerns their portfolio. Reports shall communicate all relevant factual information and professional opinions, together with appropriate recommendations. The Cabinet Member may make suggestions as to the content and timing of the report, however the final word on these matters will be that of the Chief Officer in whose name the report is presented, even if the Cabinet Member is unhappy with the outcome.
- 7.2 The Cabinet Member may submit their own report for consideration alongside that of the Chief Officer.

## **8. Overview and Scrutiny Committee**

- 8.1 Overview and Scrutiny 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.

## **9. Ward Councillors**

9.1 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.

9.2 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.

## **10. Correspondence**

10.1 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 political group without the originator's consent. Members' correspondence with Chief Officers should not be copied to Cabinet Members or Overview and Scrutiny Committee Chairs unless the originating Member consents.

10.2 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.

10.3 Any Members who receive correspondence in their capacity as Executive members shall respond to the correspondence in their official capacity only. Such correspondence shall be copied to the Leader of the Council as Chair of Cabinet, except when doing so would constitute a breach of professional confidence.

## **11. Press Releases**

11.1 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. Council publicity should not be used as a means to publicise individual Councillors, except where they are acting to represent the Council as a whole.

## **12. Ceremonial Events**

12.1 Ceremonial events would normally be attended by the Civic Mayor or Deputy Civic 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.

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

### 13. **Complaints**

13.1 Where a Member's conduct is considered inappropriate, the complainant should raise his/her complaint under the Council's Members Code of Conduct and Protocol for Dealing with Complaints Against Members. The Protocol sets out how a complaint against a Member should be made and how it will be dealt with.

13.2 Further advice on making a complaint can be sought from the Council's Monitoring Officer.