

MEMBER/OFFICER PROTOCOL¹

1. Introduction

- 1.1. This part of the Guidance supports the respective Members' Code of Conduct and the Officers' Code of Conduct by providing more detail on member/officer protocols and it applies equally to Members and to officers.

2. Roles and responsibilities

- 2.1. Members and officers have different roles and accountabilities. Councillors are responsible to the electorate and serve until their term of office expires. Officers are employed by, and are responsible to, the Council and not to one political party or individual Members. They are subject to the Council's employment procedures and their contracts of employment. Their job is to advise Members and the Council, and to carry out the Council's work under the direction of Council decision-making bodies and individuals and the management of the Chief Executive.
- 2.2. This joint protocol sets out the respective roles and responsibilities of both Members and officers. Officers are responsible for the day-to-day management of the organisation. In reaching decisions, Members should be informed by advice from officers.
- 2.3. Officers have a duty to present impartial information and to keep Members of all political groups fully informed about developments of significance in relation to Council activities. Care must be taken by both officers and Members to ensure that officers' political impartiality is not compromised. Members of the Cabinet must take special care to avoid and to be seen to avoid placing pressure on officers to act other than in an impartial way. This is particularly important given their additional responsibilities and decision-making powers.
- 2.4. In particular, Members (irrespective of their particular roles and positions) need to recognise the position that they hold in terms of officers and be careful to avoid engaging in behavior that might amount to bullying. This does not prevent robust challenge but that must be in the right forum and with an appropriately briefed and senior officer. In particular, should Members have concerns over the performance of an officer they should take this up with the relevant senior officer as set out under 8.4.

3. Reports to the Cabinet, committees and other Council bodies

- 3.1. Cabinet reports are usually reports of the relevant Cabinet Member, though will be drafted by officers, contain their advice and be will signed by a relevant Chief Officer.

¹ As agreed by Standards Committee and full Council, November 2016

- 3.2. Reports to other Council bodies, bar some scrutiny committee reports and reports by Cabinet Advisers, are officers' reports and contain advice to Members. If Members decide not to follow that advice, the correct course is for Members to reject it in a formal meeting and for the meeting to decide upon an alternative course of action. Officers must give full and impartial advice and should not exclude options if these are valid alternatives on the assumption that they may be unpalatable to one political group. Likewise, while Cabinet reports are usually from the Cabinet Member they must contain impartial officer advice.
- 3.3. Group leaders, Cabinet Members and chairs of committees (including scrutiny bodies) may receive draft versions of reports to give preliminary consideration to the issues. There is nothing improper in reports being subsequently amended by an officer if preliminary consideration discloses that key issues have not been adequately explained or that relevant options have not been properly addressed. There should not however be an expectation that a report will be re-written because, for example, its conclusions are politically unpalatable.
- 3.4. Members cannot instruct an officer not to present a report if the officer considers it proper to do so. If the report is not regarded as appropriate by the relevant Member body, the remedy is for that body to reject its recommendations. The Council's statutory officers have a right in law to take reports to Cabinet and/or Council.
- 3.5. Reports of scrutiny panels may be drafted by officers depending on the arrangements in place but are the reports of the relevant panel. In this instance (and when the reports are the report of a Cabinet Adviser) it is acceptable for members of the panel to ask for draft reports to be amended.

4. Briefings

- 4.1. Where key decisions are being considered and are to be made collectively in the Cabinet then those meetings (subject to the rules allowing resolution to exclude the public for any particular item on the grounds set out in the Local Government Act 1972) should be in public. Whilst Members can meet privately at any time, if they wish to meet with officers regarding that decision other than to be briefed they should endeavour to do so 28 days before the decision is due to be taken. The underlying approach is that a meeting of the Cabinet should be public if at that meeting key decisions are taken collectively or where there is substantive discussion of such a decision expected to be taken collectively at a subsequent meeting. Meetings purely to allow a briefing can be in private at any time.
- 4.2. The rules recognise that the Cabinet will (in the words of the statutory guidance) "need time and space to think the unthinkable" out of the public glare and with officers. The rules do not therefore prevent early collective discussions where options are narrowed. In addition it does not prevent, when officers are not present, political debate as long key decisions are not decided at the meeting and nor does it at any time prevent briefings by officers to Members.

5. Decisions

- 5.1. Council decisions can only be made by full Council, other formal bodies within the Constitution, including Single Cabinet Members or officers acting under delegated authority (who may in turn authorise other officers as appropriate). Decisions by party political groups are not Council decisions and should not be presented as such to the public and press. Representations to a political group by interested parties on any matter for Council decision are not representations made to the Council.

6. Advice to Political Groups

- 6.1. Officers cannot be required to advise any political group of the Council, either as to the work of the Group or as to the work of the Council, nor can they be required to attend meetings of the political groups. There may however be occasions when it is appropriate for officers to attend political meetings. This will only be to convey information and officers cannot engage in any political discussion.
- 6.2. Only the relevant Chief Officer should be asked to attend meetings or write reports for a party political group or any single party meeting (other than the Cabinet). At the appropriate Chief Officer's discretion, other officers may be invited to attend or write reports.
- 6.3. Any report to a party political group from an officer should be written as if the report was being prepared for the relevant formal body. It should include appropriate legal and financial advice and must be capable of being circulated to Members of other parties.

7. Pre-election period

- 7.1. Members and officers should be guided on protocol during the pre-election period before an election by specific advice issued by the Monitoring Officer, on the announcement of any election, by-election or other relevant vote such as a referendum.

8. Contact between officers and Members

- 8.1. There must be mutual respect between Members and officers. Officers cannot respond to public comment from Members. This means that Members must take care about public comment about individual officers and not seek to undermine their position by personal criticism, rudeness, abuse or ridicule. In addition, they should ensure they avoid any behaviour that might objectively be said to amount to bullying. This does not prevent Members from criticising the reports, actions and work of a department or section of the Council, where they believe such criticism is merited or from expressing concern about the manner in which a Council department has acted, or dealt with a constituent, or a service has performed generally. But the manner of such criticism should have regard to this guidance. When officers are called to give evidence to or appear before scrutiny committees, Members must treat those officers courteously.

- 8.2. Regular contact between Members and officers is necessary to ensure the efficient working of the Council. Members and officers should have regard to and respect for their different roles in such contacts. The level at which contact occurs will vary depending upon the nature of the service and the reason for the contact. In general, contact will be at senior officer level but Members may, for example, need direct contact with relatively junior staff when dealing with constituency casework. Members should always bring concerns about issues affecting a department directly to the attention of the relevant Chief Officer and not to more junior staff. If a Member is in any doubt as to who to contact always refer to the Chief Officer.
- 8.3. Approaches by Members to junior officers are proper when casework is detailed and ongoing or matters are routine, but Members should keep the relevant Chief Officers informed by copying them into correspondence, e-mails, etc., and routing general enquiries through them. Members should not seek views on policy issues or non-routine business from more junior members of staff. Members must not give instructions to junior staff as this may undermine the formal accountability of staff to their line manager and compromise the political impartiality of the officer concerned. Junior staff are advised to respond promptly and courteously to Members' requests for information or routine enquiries, but to refer any concerns or wider policy matters to a Chief Officer.
- 8.4. If an individual Member has a complaint about a junior officer, it should be raised with the appropriate Chief Officer. If the complaint concerns a Chief Officer it should be raised with the relevant Executive Director or Chief Executive as Head of the Paid Service. A complaint about the Chief Executive should be raised with the Leader, who will consider how it should be dealt with.
- 8.5. Members will also have contact with junior officers when visiting Council offices. Relevant Chief Officers should be advised in advance of Member visits to front-line services, unless the visits are of a statutory inspection nature in which case other procedures may apply. Special circumstances may also warrant unannounced visits.
- 8.6. Members need to take particular care if their paid employment brings them into contact with officers of the Council. Members must not abuse their position as an elected representative to obtain information they require in their professional capacity which would not otherwise be available to them. The Members' Code of Conduct states that Members must not use their position as a member improperly to confer on or secure for themselves or any other person an advantage or disadvantage. It may be difficult for officers to distinguish between the professional role of the Member concerned and his or her role as an elected representative. Such situations should be avoided wherever possible.
- 8.7. Officers must not seek to circumvent staff consultative, dispute processes or other procedures by lobbying Members on matters which directly concern them as employees. If Members believe they have been approached by a member of staff in this way they should let the Monitoring Officer know immediately.

8.8. If an Officer believes that a Member may be in breach of the Members' Code of Conduct, they should inform their manager as soon as possible. That manager will then decide whether to seek advice from the Monitoring Officer.

9. Socialising

9.1. Social contact between officers and Members can be beneficial in a work related context. For example, a departmental management team may wish to invite Members to an office Christmas party. A professional relationship must be maintained at all times and officers must be careful not to socialise with Members of one political group to the exclusion of others. Officers and Members must take care in such situations to avoid casting doubt on officers' political impartiality. Officers must avoid breaches of confidence or of management instructions, or the reasonable suspicion of them.

9.2. Close personal relationships between Members and officers with whom they have, or are likely to have, contact in the course of their duties are to be avoided. Both Members and officers should avoid establishing business or contractual relationships with each other, or entering into loans or other financial obligations. Should a Member or officer find that they have an arrangement of this nature they should advise the Monitoring Officer. Close personal friendships between Members and officers should be avoided as should sexual relationships. If such a relationship arises, the Member should disclose this to the Chief Executive who will take advice from HR as to the appropriate course of action. Members need to be cognisant at all times of their relative position of power with regard to officers.

10. Correspondence

10.1. Where not obviously confidential, correspondence between officers and Members may be copied by either the sender or the recipient to others, subject to 10.2 below. Wide circulation of correspondence should not be used as a means of rebuking an officer. Members and officers should take care not to inappropriately document criticisms of Members or officers in e-mails that may be widely circulated and breach confidentiality. Further should a Member wish to raise issues with an Officer over his or her performance then such concerns should be raised with the officer's line manager.

10.2. Officers should not copy correspondence with a Member of one party to a Member of another party without consent. This does not prevent officers or Members copying letters to each other about casework across ward or interest group boundaries, although Members need to take care that this is not in breach of the Data Protection Act. Nor when necessary does it preclude a Chief Officer from advising a relevant Cabinet Member in general terms of an issue raised with the Chief Officer in correspondence, or otherwise, by a Member.

ENDS