

PART 6

6.1 Member/Officer Protocols

MEMBER/OFFICER PROTOCOLS

1. Introduction

- 1.1 The purpose of these Protocols is to guide members and officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- 1.2 Given the variety and complexity of such relations, these Protocols do not seek to be either prescriptive or comprehensive. They seek simply to offer guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which they adopt to these issues will serve as a guide to dealing with other circumstances.
- 1.3 These Protocols are to a large extent a written statement of current practice and convention. They seek to promote greater clarity and certainty. If the Protocols are followed they should ensure that members receive objective and impartial advice and that officers are protected from accusations of bias and any undue influence from members. With the development of social media, communications between officers and members may occur in many ways. While these protocols refer to more formal communications, the principles apply equally to social media, and both officers and members should ensure that they maintain the appropriate standards expected of them at all times.
- 1.4 They also seek to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these Codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.5 All members will be registered as data controllers under the Data Protection Act. Most councillors have regular access to the personal information of the residents they represent and/or other personal information through their work as a member of a committee. Like all organisations who handle people's information, it is important that councillors take their responsibilities under the Data Protection Act seriously. The Council's Chief Information Officer will provide advice, guidance and instruction as necessary in order to protect the Council's interests.

2. Officer Reports to Committees, Sub-Committees and Panels

- 2.1 Directors will discuss with Chairmen and Vice Chairmen and Cabinet members draft reports which are potentially controversial or otherwise sensitive as soon as possible, and not later than 14 days before the meeting. Agenda items involving issues which may attract public controversy will be notified to the Chairmen, Vice Chairmen, Leaders and Deputy Leader of the Council and the Chief Executive immediately.

- 2.2 A Director, who has a duty to place relevant facts before members, may agree to alter a report for greater clarity prior to the printing deadline but otherwise the statement of facts by, and professional judgement of, an officer will remain in the report. This is intended to ensure that all members receive, and are seen to receive, full, impartial, and independent advice and information. In particular the legal principles laid down in judicial review cases must be adhered to. In summary these are that all relevant points have been properly considered, that no irrelevant points have been taken into account and that the decision is not one which a responsible body could not reasonably have reached.
- 2.3 The Chief Executive and the Monitoring Officer, in conjunction with the Leader of the Council, may withdraw from an agenda any item which might unjustly bring into disrepute the County Council, its elected members, or its officers or which does not take into account all known relevant matters.
- 2.4 Where in the opinion of the appropriate Director and of the Chief Executive or the Monitoring Officer (or any other officer nominated by the Chief Executive for this purpose) a decision which would otherwise be a Committee decision is required urgently and cannot await the next scheduled meeting, the Director in consultation with other Directors as appropriate and with the appropriate Committee Chairmen may take such a decision in respect of any matter falling within the purview of the appropriate Committee or Sub-Committee on the understanding that details of the matter, together with the decision, are reported to the next meeting of the appropriate Committee or Sub-Committee. Nothing in this paragraph will exempt the Council from complying with the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

3. Briefing Meetings

- 3.1 Directors will brief, where requested, in the company of all other relevant officers, the committee, subcommittee or panel Chairmen, Vice Chairmen, and Opposition Spokesperson, either individually or in such combination as may be agreed, at an agreed time and date. The committee administrator will arrange briefings as requested and circulate details of briefing meetings to all Directors. All Directors with a contribution to make will be notified as far as possible in advance of any unscheduled briefing meetings by the officer organising them, who should normally be the committee administrator.
- 3.2 At briefing meetings, and in all dealings between officers and members, the privacy of information imparted will be respected by officers, who will treat all such discussions as confidential to the particular member or members present.

4. Agendas

- 4.1 Directors and Chairmen and Vice Chairmen of committees or subcommittees or panels may put reports on an agenda after discussion with one another.
- 4.2 Any member may make a request to a Director or Chairman for a report to be prepared for a committee, subcommittee or panel on a particular topic.
- 4.3 The Chief Executive determines the agendas issued in her name in conjunction with the Chairmen, Vice Chairmen and appropriate Director(s).
- 4.4 There will be occasions, for example at the Health and Wellbeing Board, where councillors and statutory officers are equal members of a decision making body. Members and officers should have regard to their different roles, including any statutory obligations, during meetings and not feel constrained from expressing their views. They should, of course, be mindful of the relevant codes of conduct and the principles behind these protocols.

5. Attendance at Group Meetings

- 5.1 The Chief Executive will be informed by the Group Leader of the request for an officer to attend. An officer accepting an invitation to a meeting of one Group will not decline an invitation to a meeting of another Group to discuss the same topic. Any officer attending will respect the privacy of the discussion.
- 5.2 Attendance by an officer at a Group meeting will be by agreement between the relevant Director and Group Leader. Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of *Council* business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings, or parts of meetings, when matters of *party* business are to be discussed.
- 5.3 Where officers provide information and advice to a party Group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant committee or subcommittee when the matter in question is considered.
- 5.4 Special care needs to be exercised whenever officers are involved in providing information and advice to a party Group meeting which includes persons who are not members of the Council. Such persons will not be bound by the Council's Members' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a members only meeting.

- 5.5 Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, ie in connection with the proper performance of the Member's duties as a Member of the Council. This point is emphasised in the Members' Code of Conduct in the following terms:

"3. You must not —

- (1) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
 - (a) you have the consent of a person authorised to give it;
 - (b) you are required by law to do so;
 - (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (d) the disclosure is reasonable, in the public interest, made in good faith and in compliance with the reasonable requirements of the council; "

6. Political Research Assistants

- 6.1 Research Assistants may be appointed within the Corporate Services Directorate specifically to provide support to a political group that meets the eligibility criteria. The Research Assistants are employed within Democratic Services. The Leader of the relevant political Group is responsible for their day-to-day working and the Business Manager (Councillor Services) is their line manager.

6.2 The role of the Political Research Assistant

- (i) The main function of a Research Assistant is to represent and assist the interests and work of the political Group to which they are assigned. This is in contrast to all other staff whose primary duty is to serve the County Council as a whole.
- (ii) Political Research Assistants:
 - a) cannot engage in party political activity (canvassing, holding an office in a political party etc) during the period they are in post;
 - b) are not elected councillors and must make this clear in all their dealings with colleagues and people outside the council;
 - c) can only act on behalf of the political Group, not the political party;

d) are bound by the council's protocols and codes of conduct for staff in terms of their behaviour towards colleagues and councillors; in particular, they must treat colleagues with respect, and must observe appropriate formality in dealing with councillors from their own and other political Groups. In return, they are entitled to be treated in the same way as any other council officer.

(iii) The scope of the Research Assistant's role includes:

a) Research:

- obtaining information on behalf of councillors where the councillor concerned is entitled to access to the information
- producing policy or position papers for the Group,
- political policy analysis and advice.

b) Administration:

- organising and minuting political Group meetings,
- managing correspondence,
- arranging briefing meetings with officers,
- liaison with officers about committee or outside body membership, motions for debate, training for Group members etc.

c) Casework and community liaison:

- assisting councillors in dealing with constituency casework,
- liaison with community groups about county council-related matters.

d) Media and publicity:

- dealing with media enquiries and liaising with journalists on behalf of the Group,
- writing and distributing press and other media releases
- arranging publicity for Group members,
- maintaining and developing the Group's website,
- writing and publishing leaflets and other written material.

6.3 Access to Information and Advice

(i) Political Research Assistants have the same rights of access to information as the councillors for whom they work. These rights derive from both the relevant legislation and also the common law "need to know" test established by the courts, i.e.

is the information reasonably necessary to enable the member on whose behalf it is sought properly to carry out their duties as a councillor?

- (ii) Research Assistants have the same rights to contact officers at all levels in other directorates as do their colleagues in other posts.
- (iii) A Research Assistant may seek advice or a confidential briefing from a Director in the same way as a councillor.

6.4 Working relationships with colleagues

- (i) Research Assistants are treated in accordance with, and are expected to observe, all regulations, codes, policies and practices relating to County Council employees. This includes the courtesy and consideration which the County Council expects its staff to show to one another.
- (ii) Research Assistants have no line management responsibility or power of direction over other staff. They are not authorised to comment publicly on behalf of the County Council as a whole or to commit it to any particular course of action.

6.5 Attendance at Council Committees, Sub-Committees, Panels

- (i) Research Assistants, as officers of the Council, are subject to the same rules of confidentiality that apply generally and are able to attend, but not speak at, meetings including those at which the public and press are excluded.

7. Correspondence

- 7.1 Correspondence between an individual member and an officer will not normally be copied (by the Officer) to any other member. Where, exceptionally, it is necessary to copy the correspondence to another member, this will be made clear to the original member and it will be stated to who else it has been copied. In other words, a system of "silent copies" will not be employed.
- 7.2 Official letters on behalf of the Council will normally be sent in the name of the appropriate officer, rather than in the name of a member or members. It may be appropriate in certain circumstances (eg representations to a Government Minister) for a letter to appear in the name of a member, but this will be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council will never be sent out in the name of a member or members.
- 7.3 If Council or another member body resolves that a resolution be communicated outside the Authority, the exact resolution will be

quoted. Any additional information will be included only with the agreement of Group Leaders.

8. Support services to Members and Party Groups

- 8.1 The only basis on which the Council can lawfully provide support services (eg stationery, typing, printing, photocopying, transport, etc) to members is to assist them in discharging their role as members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.
- 8.2 Whilst any member may ask a relevant Director for written factual information about a Directorate or service, such requests must relate to information a member has a reasonable need to know in order to be able to perform properly their duties as a councillor, and not amount to a roving commission. In the event of difficulty, the Monitoring Officer will advise and, if necessary, make a final decision based on decided case law.

9. Alteration of Meeting Dates

- 9.1 The date of any committee, subcommittee or panel will not be altered without substantial reason in order to minimise inconvenience to those who may be adversely affected.
- 9.2 A committee, subcommittee or panel may, by majority vote, if need be, alter a meeting date previously approved.
- 9.3 Otherwise dates may be altered by the Chief Executive or the Monitoring Officer after consultation with appropriate officers and the Chairman, Vice Chairman and Opposition Spokesperson.

10. Communications by Officers to Members and vice versa and on behalf of the County Council

- 10.1 Officers will copy all papers sent to a Chairman to the Vice Chairman also, and vice versa. Letters will always indicate to whom they have been copied.
- 10.2 Subject to this, officers will respect the privacy of discussions with members on an individual basis.
- 10.3 Officers within a directorate are accountable to their Director and whilst officers should always seek to assist a Chairman (or indeed any member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director.

11. Involvement of Local Members

Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the local area or areas affected will, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the local members will be notified at the outset of the exercise.

12. Conduct

12.1 A member will not raise matters relating to the conduct or capability of an officer at meetings held in public. An officer has no means of responding to such criticisms in public. If a member feels they have not been treated with proper respect and courtesy or have any concern about the conduct or capability of an officer, and fails to resolve it through direct discussion with the officer, they will raise the matter with the respective Director, who will then look into the facts and report back to the member. If the member continues to feel concern, the facts will be reported to the Chief Executive, who will look into the matter afresh. Any action taken against an officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Procedures.

12.2 Where an officer feels that they have not been properly treated with respect and courtesy they should raise the matter with the Director or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the member concerned. In these circumstances, the Director or Chief Executive will take appropriate action, either by approaching the individual member and/or Group Leader.