

Report

Standards Committee

Part 1

Date: 15 September 2016

Item No: 08

Subject Protocol on Member/Officer relations

Purpose To review the current Protocol for Member/Officer relations

Author Head of Law and Regulation

Ward General

Summary Standards Committee have previously undertaken a review of the Protocol for Member/Officer Relations as part of their Ethical standards audit. The Protocol forms part of the Constitution and, as such, requires approval and adoption by full Council. The purpose of the Protocol is to supplement the statutory Members Code of Conduct and the contractual Employee Code of Conduct by providing practical guidance on the application of the general principles of mutual trust and respect and integrity which are enshrined in both codes.

The last review was undertaken in 2012 and a copy of the revised version is attached at Appendix 1. This was submitted for approval to Council in January 2012, but it was not approved and adopted because of concerns about its status and impact. Therefore, the original version is still included within the published Council Constitution, albeit that it is marked as being “under review”. This is attached at Appendix 2.

Proposal To review the Protocol for Member/Officer relations and consider whether it should be amended and recommended to the Council for adoption

Action by Head of Law and Regulation

Timetable Immediate

Background

1. Standards Committee have previously undertaken a review of the Protocol for Member/Officer Relations as part of their Ethical standards audit. The Protocol forms part of the Constitution and, as such, requires approval and adoption by full Council. The purpose of the Protocol is to supplement the statutory Members Code of Conduct and the contractual Employee Code of Conduct by providing practical guidance on the application of the general principles of mutual trust and respect and integrity which are enshrined in both codes
2. The Protocol deal with issues such as
 - Personal relationships
 - Professional Relationships
 - How to deal with enquiries
 - Mutual respect
 - Complaints
 - Relationships with the Leader and or Chairpersons
 - Members' representational roles.

The protocol then looks at issues around neutrality, the rights of access for members who are not members of committees and the use of Council facilities.

3. The last review was undertaken in 2012 and a copy of the revised version is attached at [Appendix 1](#). This was submitted for approval to Council in January 2012, but it was not approved and adopted because of concerns about its status and impact
4. Therefore, the original version is still included within the published Council Constitution, albeit that it is marked as being "under review". This is attached at [Appendix 2](#)
5. The original Protocol is now outdated and has been superseded by changes in the Codes of Conduct and the Council's internal management and decision-making arrangements. The revised 2012 version also needs minor changes to reflect developments such as the Local resolution protocol
6. Therefore, it needs to be updated as part on the on-going review of the Council's Constitution.

Financial Summary

There are no financial implications.

Options Available

- (a) To review the Protocol for Member/Officer relations
- (b) Not to review the Protocol

The preferred option is (a) because the original Protocol is now outdated and has been superseded by changes in the Codes of Conduct and the Council's internal management and decision-making arrangements. The revised 2012 version also needs minor changes to reflect developments such as the Local resolution protocol.

Comments of Chief Financial Officer

There are no financial implications.

Comments of Monitoring Officer

Included in the Report.

Staffing Implications: Comments of Head of People and Business Change

There are no staffing or policy implications.

Dated: 7 September 2016

Appendix 1

Protocol on Member/Officer Relations

Principles

1. The basic principle of good Councillor / employee relations in local government is based on trust, mutual respect and a common understanding of respective roles.
2. Councillors have a responsibility to the electorate for decisions that are made. Employees /officers are appointed by the Council to give robust and impartial advice, which will assist Councillors in reaching the best decisions for the city.
3. Councillors and employees should show respect and consideration for each other and should not do anything which compromises, or which is likely to compromise, the impartiality of the Authority's employees.
4. Mutual respect between employees and Councillors is essential to good local government, and working relationships should be kept on a professional basis.
5. Members and officers should not only seek to avoid actual impropriety they should also at all times avoid any occasion for suspicion or any appearance of improper conduct.

Personal Relationships

6. Close personal familiarity between individual councillors and employees can damage these principles and might prove embarrassing to other councillors and employees.
7. Councillors should declare to the Leader or to the Party Whips, any relationship with an employee, which could be considered as influencing their work as a member. This might be a family relationship, a business relationship, or another close relationship, which might be considered such as might influence the Councillor's decision-making.
8. Officers also have a duty to declare any such relationships to their Manager or to his or her Head of Service, where appropriate.
9. Councillors should not accept any Cabinet position or sit on any Committee which is responsible for any Service Area where a member's relationship with an employee might be considered as such that it could influence the Councillor's decision-making or the work of the Service Area in question.
10. Councillors should not accept any Cabinet position or sit on any Committee where his or her family, personal or business relationships might be considered as such that it could influence the Councillor's decision-making.
11. The provision of this part of the Constitution does not absolve members or employees from their statutory duties in relation to disclosure of personal interests.
12. Members should be aware of the requirement for officers:
 - to serve all members of the Council;
 - to avoid close, personal familiarity with members; and
 - to inform Managers at any-time that a member asks for, or seeks to influence an employee to deal with a matter outside the Council procedures or outside of policy. Any request to act illegally or improperly will be reported to the Monitoring Officer or to the Head of Finance and Scrutiny (Acting as Section 151 Officer) if financial impropriety is suspected.

Councillors' Roles

13. All Councillors have a responsibility to fulfil representational and constituency roles in respect of their electoral divisions or wards. They also have responsibilities as members of the full Council to take some of the most important decisions the Council can make, including approval of the budget and policy framework.
14. Some Councillors will be involved in taking other more detailed Council decisions, particularly those serving on the Cabinet, the planning committee or the licensing committee. Others will have responsibility for maintaining an overview and scrutiny of executive decisions and the efficient performance of Council functions. All of these roles will involve relationships with employees and will require appropriate working relationships as described in this part of the constitution.

Officer Roles and Advice

15. Council employees have an obligation to give impartial advice and to implement the Council's decisions. They have operational responsibilities and powers which are generally set out in the Council's scheme of delegation.
16. Councillors taking decisions must reach those decisions having regard to any relevant advice by the authority's officers. In advising, officers are free to give their professional advice wherever appropriate. Councillors may wish to test this advice by questioning and challenging in an appropriate manner and not in a way that could be interpreted as intimidating, threatening or bullying.
17. Councillors should ensure that any challenge of advice given is made to an employee of suitable seniority, generally a Chief Officer.
18. Employees should remember that councillors are entitled to question advice given, and to receive a full and complete explanation.
19. The Council has three main statutory officers; the Head of Paid Service, the Monitoring Officer and the Section 151 Officer, who have duties to advise the Council as a corporate body or the Executive in relation to executive functions, and have a statutory right to advise as they believe appropriate within their statutory duties. The Head of Human Resources and Policy should provide advice on staffing issues or procedures.

Correspondence with Councillors and others

20. Officers should always respond to Councillors within the Council's target timescales for response, and if they cannot, should keep the Member informed as to progress.

Relationships between Officers and Members

21. Councillors should not, by their conduct, language, or actions, make employees feel intimidated, threatened or bullied. Personal comments about individual members of staff should not take place in public.
22. Officers should not, by their conduct, language, or actions, make elected members feel intimidated, threatened or bullied. Personal comments about individual members of the council should not take place in public.
23. All councillors and employees will demonstrate mutual respect and will deal with each other sympathetically, efficiently and without bias. Officers are responsible for advising the whole Council but may occasionally be called upon by individual Members to advise or give information on particular issues that relate to the councillor's representational or constituency roles. This is

entirely proper and, within available resources, advice should be given. Officers should not advise councillors on or to assist them in personal or political capacities.

24. Leader, Cabinet Members and Chairs

Certain employees will work closely with the Leader and Cabinet Members on policy matters. Certain employees will also work closely with Chairs of Committees or Forums. These employees may be asked to brief these members on legal or constitutional issue, the implementation of policies and/or available options. This is entirely acceptable, whether done individually or collectively. However, the relationship should not be so close (or appear to be so close) as to bring into question the employees ability to deal impartially with other members or party groups.

Party Groups and Officers

25. No officer may be compelled to attend a meeting of the Council's political groups and similarly may not insist on doing so. Officers will not attend party group meetings which include individuals other than Council Members or Council officers acting in that capacity. If an officer gives a briefing to any political group represented on the Council, he/she will be available for a similar briefing to the other party groups.

Conduct and Effectiveness / Complaints

26. Personal criticism by elected Members of individual officers or identifiable groups of officers will not take place in public forums (including the media)
27. No Council employee will publicly criticise any councillor in public forums (including the media)
28. If councillors have any concerns about the effectiveness or conduct of particular officers, they must take this up directly and confidentially with the appropriate Chief Officer with responsibility for the officer's service area. In the case of a Chief Officer the councillor should raise the matter with the appropriate Corporate Director or the Head of Paid Service. If the complaint is about the Head of Paid Service, this must be raised with the Leader. In all such cases the issue raised will be handled in accordance with the Council's procedures and the Member and officer concerned will be advised of the outcome, unless there are legal reasons why they may not. The outcome of the process is the only information Councillors will be entitled to.
29. If any employee has concerns about the conduct of a particular Member, he/she will raise it in the first instance with his/her Chief Officer or Corporate Director so that attempts can be made to resolve the issue. If this is not possible, or the alleged misconduct is of a serious nature, the matter will be reported to the Council's Monitoring Officer, who will then advise on whether it is appropriate for the issue to be referred to the Local Government Ombudsman.
30. The Council's disciplinary and appeals processes are set out in the relevant policy documents

Access to Information and Documents

31. The common law right of members is based on the principle that any member has a right to inspect Council documents so far as his/ her access to the document is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council. This principle is commonly referred to as the "need to know" principle.
32. Councillors have a right to see some information on Cabinet, Forum or Committee agendas, which is judged to be exempt from disclosure to the public. This access is on a "need to know" basis.
33. The Council promotes openness and access to information by all its councillors. Whilst Councillors have no automatic right to exempt information, and they may have to establish a 'need

to know', generally reports to be considered by the Council, the Cabinet, Cabinet Members, Committees or Forums are made available to all members of the Council. Employees and councillors will abide by the Access to Information Procedure Rules set out in the Council's Constitution. Confidential information or exempt information provided to Councillors must be used properly, and only for the purposes for which it has been released.

34. Reports relating to specific members of staff will not be released to any member of the Council, other than the appropriate decision maker, unless a 'need to know' is established.

Appointment of Staff / Referee

35. Councillors will play no part in the appointment of staff to the Council, other than the appointment of Chief Officers.
36. Councillors should not act as referee or canvass the appointment of any individual for a post within the City Council. Councillors will take their own personal view as to whether to act as referee for any member of staff applying for a post which is not within the City Council.

Interests

37. Advice on the circumstances in which a councillor should declare an interest is set out in the Code of Conduct. However, the Monitoring Officer or his/her nominee may advise individual councillors on the Member Code of Conduct and their responsibilities in relation to declaration of interests. The responsibility on deciding whether or not to declare rests with the Councillor.
38. If a Councillor seeks advice from the Monitoring Officer in relation an interest, the advice should be provided in writing.
39. A register is held to record Councillors interests and shall be updated by the Chief Democratic Services Officer
40. A register is held in each service area to record officer interests and hospitality received and shall be updated and held by the Head of Service.

Use of Council Facilities and equipment

41. Councillors must use any Council facilities and / or equipment provided for them for use in their role as member strictly for that purpose. Premises must not be used for any personal, business related or party political matter nor on behalf of any community group. Rooms will be made available only for meetings of political groups serving on the Council.
42. Officers must use any Council facilities and / or equipment provided for them for use in their role as officers strictly for that purpose. Premises must not be used for any personal or business related matter.
43. Members will sign an 'acceptable use policy for the use of ICT equipment provided and will use ICT equipment in accordance with acceptable use policy
44. Officers shall also sign an 'acceptable use policy for the use of ICT equipment provided and will use ICT equipment in accordance with acceptable use policy

Party Political Advisers

45. Members often are assisted by political party workers. No such party worker has any entitlement to access to Council facilities provided for the use of councillors or to information to which councillors have access in their roles as councillors.

Protocol on Councillor/Officer Relations

Purpose and Principles

1. The purpose of this protocol is to guide councillors and officers of the council in their relations with one another.
2. This protocol does not seek to be either prescriptive or comprehensive. It seeks to offer guidance on some of the issues which most commonly arise.
3. The protocol produced here is based on current practices. The intention is to provide a protocol which provides clarity about these relationships
4. This protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to councillors and officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and they therefore demand very high standards of personal conduct.
5. A relevant extract from the National Code of Local Government Conduct for councillors is reproduced below:

23. Both councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers 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, their committees and sub-committees.

24. Mutual respect between councillors and officers is essential to good local government. Close personal familiarity between individual councillors and officers can damage this relationship and prove embarrassing to other councillors and officers.
6. In line with the National Code's reference to "mutual respect", it is important that any dealings between councillors and officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.
7. Councillors and officers should not only seek to avoid actual impropriety they should also at all times avoid any occasion for suspicion or any appearance of improper conduct.

Personal Relationships

8. Councillors should declare to the Leader of his or her Political Group or to the Leader of the Council or to the Monitoring Officer, any relationship with an employee, which could be considered as influencing their work as a councillor. This might be a family relationship, a business relationship, or another close relationship, which might be considered such as might influence the Councillor's decision-making.
9. Officers also have a duty to declare any such relationships to their Manager or to his or her Head of Service, where appropriate.
10. Councillors should not accept any Cabinet position or sit on any Committee which is responsible for any Service Area where a councillor's relationship with an employee might be considered as such that it could influence the Councillor's decision-making or the work of the Service Area in question or be perceived as such
11. Councillors should not accept any Cabinet position or sit on any Committee where his or her family, personal or business relationships might be considered as such that it could influence the Councillor's decision-making.
12. Employees and councillors have statutory duties in relation to disclosure of personal interests.
13. Officers must:
 - serve all councillors of the Council;
 - avoid close, personal familiarity with councillors; and
 - Inform managers at any time that a councillor or employee asks for, or seeks to influence an employee to deal with a matter outside the Council procedures or outside of policy. Any request to act illegally or improperly will be reported to the Monitoring Officer or to the Head of Finance and Scrutiny (Acting as Section 151 Officer) if financial impropriety is suspected.

Guidance and Advice

14. Council employees have an obligation to give impartial advice and to implement the Council's decisions. They have operational responsibilities and powers which are generally set out in the Council's scheme of delegation.
15. Councillors taking decisions must reach those decisions having regard to any relevant advice by the authority's officers. In advising, officers are free to give their professional advice wherever appropriate. Councillors may wish to test this advice by questioning and challenging in an appropriate manner and not in a way that could be interpreted as intimidating, threatening or bullying.
16. Councillors should ensure that any challenge of advice given is made to an employee of suitable seniority, generally a Chief Officer.
17. Employees should remember that councillors are entitled to question advice given, and to receive a full and complete explanation.

18. The Council has three main statutory officers; the Head of Paid Service, the Monitoring Officer and the Section 151 Officer, who have duties to advise the Council as a corporate body or the Executive in relation to executive functions, and have a statutory right to advise as they believe appropriate within their statutory duties. The Head of Service that deals with Human Resources should provide advice on staffing issues or procedures.

Correspondence with Councillors and others

19. Officers should always respond to Councillors within the Council's target timescales for response, and if they cannot, should keep the councillor informed as to progress.

Relationships between Officers and Councillors

20. Councillors should not, by their conduct, language, or actions, make any employee(s) feel intimidated, threatened or bullied. Similarly, officers should not, by their conduct, language, or actions, make any councillor(s) feel intimidated, threatened or bullied.
21. All councillors and employees will demonstrate mutual respect and will deal with each other sympathetically, efficiently and without bias. Officers are responsible for advising the whole Council but may occasionally be called upon by individual Councillors to advise or give information on particular issues that relate to the councillor's representational or constituency roles. This is entirely proper and, within available resources, advice should be given.
22. Officers must not advise councillors on or to assist them in personal or political capacities unless employed as a political assistant.

Leader, Cabinet Councillors and Chairs

23. Certain employees will work closely with the Leader and Cabinet members on policy matters. Certain employees will also work closely with Chairs of Committees. These employees may be asked to brief these councillors on legal or constitutional issues, the implementation of policies and/or available options. This is entirely acceptable, whether done individually or collectively. However, the relationship should not be so close (or appear to be so close) as to bring into question the employees ability to deal impartially with other councillors or party groups.

Political Parties and Groups

24. No officer may be compelled to attend a meeting of the Council's political groups. No officer may insist on doing so.
25. Officers will not attend party group meetings which include individuals other than City Councillors or Council officers acting in that capacity.
26. If an officer gives a briefing to any political group represented on the Council, he/she will be available for a similar briefing to the other party groups.
27. 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.

Conduct and Effectiveness / Complaints

28. Personal criticism by elected Councillors of individual officers or identifiable groups of officers will not take place in public forums (including the media). Similarly personal criticism by employees of elected Councillors or groups of councillors will not take place in public forums (including the media)
29. If councillors have any concerns about the effectiveness or conduct of particular officers, they must take this up directly and confidentially with the appropriate Chief Officer with responsibility for the officer's service area. In the case of a Chief Officer the councillor should raise the matter with the appropriate Director of the Head of Paid Service. If the complaint is about the Head of Paid Service, this must be raised with the Leader of the Council. In all such cases the issue raised will be handled in accordance with the Council's procedures and the Councillor and officer concerned will be advised of the outcome, unless there are legal reasons why they may not. The outcome of the process is the only information Councillors will be entitled to.
30. If any employee has concerns about the conduct of a particular Councillor, he/she will raise it in the first instance with his/her Chief Officer or Corporate Director so that attempts can be made to resolve the issue. If this is not possible, or the alleged misconduct is of a serious nature, the matter will be reported to the Council's Monitoring Officer, who will then advise on whether it is appropriate for the issue to be referred to the Local Government Ombudsman.
31. In certain circumstances, appeals by employees are heard by the cabinet member who is responsible for Human Resources unless the Cabinet Member has been involved in the case. In such cases the appeal will be heard by an alternative Cabinet Member

Access to Information and Documents

32. The common law right of councillors is based on the principle that any councillor has a right to inspect Council documents so far as his/ her access to the document is reasonably necessary to enable the councillor properly to perform his/her duties as a councillor of the Council. This principle is commonly referred to as the "need to know" principle.
33. Councillors have a right to see some information on Cabinet, Forum or Committee agendas, which is judged to be exempt from disclosure to the public. This access is on a "need to know" basis.
34. The Council promotes openness and access to information by all its councillors. Whilst Councillors have no automatic right to exempt information, and they may have to establish a 'need to know', generally reports to be considered by the Council, the Cabinet, Cabinet Members, Committees or Forums are made available to all councillors of the Council. Employees and councillors will abide by the Access to Information Procedure Rules set out in the Council's Constitution. Confidential information or exempt information provided to Councillors must be used properly, and only for the purposes for which it has been released.

35. Reports relating to specific councillors of staff will not be released to any member of the Council, other than the appropriate decision maker, unless a 'need to know' is established.
36. The Monitoring Officer has the overriding responsibility to determine whether consideration of reports to the Council, Cabinet, Cabinet members or Committees are likely to disclose confidential or 'exempt' information as defined in legislation.
37. If any report is issued within Part 2 of the agenda for a meeting and unless the Council, Cabinet or Committee decides that it should be discussed in public, all employees and councillors must respect the confidentiality of the report and not disclose it to a third party.
38. It does not however follow that all the contents of a Part 2 report must be regarded as secret. It may only be certain items of information or terms of negotiations justify the inclusion of that report within Part II: other aspects may already be within the public domain or otherwise outside the definition of 'exempt'. In such circumstances, an employee of councillor member may refer to these 'public' aspects in discussions with third parties but must exercise proper care and judgement not to reveal those elements of the paper which are protected. Any employee or councillor must consult with the Monitoring Officer before doing so.

Appointment of Staff / Referee

39. Councillors will play no part in the appointment of staff to the Council, other than the appointment of Chief Officers.
40. Councillors should not act as referee or canvass the appointment of any individual for a post within the City Council. Councillors will take their own personal view as to whether to act as referee for any councillor of staff applying for a post which is not within the City Council.

Interests

41. Advice on the circumstances in which a councillor should declare an interest is set out in the Code of Conduct. However, the Monitoring Officer or his/her nominee may advise individual councillors on the Councillor Code of Conduct and their responsibilities in relation to declaration of interests. The responsibility on deciding whether or not to declare rests with the Councillor.

Use of Council Facilities and equipment

42. Councillors and employees must use any Council facilities and / or equipment provided for them for use in their role as councillor or employee strictly for that purpose. Premises and equipment must not be used for any personal, business related or party political matter or on behalf of any community group. Rooms will be made available only for meetings of political groups serving on the Council or for employees carrying out their duties.
43. Councillors and employees will sign an 'acceptable use policy for the use of ICT equipment provided and will use ICT equipment in accordance with acceptable use policy

Party Political Advisers

44. Councillors often are assisted by political party workers. Such party worker have the same rights of access to Council facilities, council employees or to information as any member of the public.

Under review