

# **PROTOCOL ON MEMBER/OFFICER RELATIONS**

## **Purpose**

1. The conduct of both members and officers is governed by the Codes of Conduct detailed in Part 5 of the Council's Constitution. The purpose of this Protocol is to guide both members and officers of the Borough Council in their relationships with each other.
2. The Protocol aims to provide greater clarity and certainty in the relationship between members and officers and, in doing so, to assist both in complying with their respective Codes of Conduct. Taken together, the Codes and this Protocol have the aim of promoting high standards of conduct by the Council's members and officers.
3. The Protocol cannot provide a definitive statement on every situation that members and officers may find themselves in, but offers guidance for a number of common situations. The Protocol does however set out the general principles which should govern the relationship between members and officers.

## **General Principles**

4. The fundamental principles on which this Protocol is based are:
  - (a) the Council is a democratically-elected local authority delivering a range of services to the people of Charnwood;
  - (b) the Council is a single entity, a statutory corporate body;
  - (c) the separate functions of the Council such as the Cabinet, scrutiny and regulatory areas are just aspects of the Council as a single statutory corporate body;
  - (d) in everything they do, the members and officers of the Council are obliged to act within the law and in compliance with relevant standards and codes of conduct;
  - (e) dealings between members and officers should be based on mutual trust and respect;
  - (f) relationships between members and officers must exist on a professional basis only so that the ability of an officer to deal impartially with members or political groups could not be questioned;
  - (g) officers should not approach members on matters to do with reorganisations, their terms and conditions of employment or other employment matters except through procedures laid down in the employee handbook or agreed by the Head of Paid Service.
5. Derived from these fundamental principles, the following working arrangements apply, within the political context of the Council and the Leader and Cabinet model, to the respective roles of members and officers.

## **6. The role of Members**

- (a) Members provide the political direction and leadership of the Council and are ultimately accountable to the people of Charnwood through the ballot box for their actions as Councillors.
- (b) The administration, whether joint or single, is ultimately accountable to the electorate for the effectiveness and delivery of those of its policies and plans which have been approved by the Council and will, therefore, have an interest in ensuring that services are delivered by officers in accordance with those approved policies and plans.
- (c) Members recognise that officers have the duty and right to provide appropriate professional advice and the right to have that advice recorded, so that all members are fully aware of the implications of their decisions.
- (d) The provision of professional advice by officers is the principal means by which members can gain assurance that their decisions comply with the law and relevant standards or codes of conduct.
- (e) Members are able to ask questions about the Council's decisions and performance both at formal meetings and informally. Members will have regard for an officer's level of seniority and area of responsibility in determining what are reasonable comments and questions.

## **7. The role of Officers**

- (a) Officers serve the whole Council as a single statutory corporate body but recognise the differences between the Council's functions and particularly the role of the Cabinet.
- (b) Officers will, wherever practicable, provide support to all members in their representational role.
- (c) Officers are free to take decisions within their area of responsibility which have been delegated to them but recognise that, where functions have not been delegated to officers, it is the right of members to take the final decisions in the light of their advice.
- (d) The advice provided by officers should be factual, honest and objective. The advice provided by officers and the actions they take should be politically neutral and undertaken without fear of intimidation or restraint.
- (e) The advice provided and actions taken by officers should be sensitive to the political aspirations and constraints of members but should not reflect, or be influenced by, those aspirations and constraints.
- (f) The advice given and actions taken by officers will have the ultimate aim of serving the interests of the Council as a whole, irrespective of whether the current emphasis of an officer's role is the Cabinet, scrutiny or regulatory.

## **Information and the political perspective**

- 8. For the proper functioning of the Council as a whole, officers will normally be permitted to share information freely between themselves, irrespective of whether the current emphasis of an officer's role is connected with the

Cabinet, scrutiny or regulatory functions of the Council. Where the information has been supplied/received subject to a request for party political confidentiality an officer will be permitted to share that information with other officers only where he/she believes that to be necessary - for example for the purpose of verifying the legality, financial probity or procedural regularity of any proposed course of action disclosed by that information. The request for party political confidentiality will be confirmed to, and honoured by, any officers with whom the information is shared.

9. Where information is supplied to officers on a party political confidential basis, the officers will respect that confidentiality unless the officers believe that the proposed course of action appears to be in conflict with the law, or any relevant standards or codes of conduct, or would amount to an abuse of the processes of the Council.
10. Where party political confidentiality would be maintained in accordance with the preceding paragraphs, the officers may, nonetheless, seek to persuade the councillors requesting the confidentiality to agree to that information being shared with the other political groups on the grounds that it would assist the more effective functioning of the Council; however, in the absence of any such agreement to waive the confidentiality, the officers will continue to respect it.
11. Where there is a change in political administration, officers will act in relation to the new administration and opposition party or parties in the same way as they did for the old; and will continue to respect any continuing party political confidentiality.

### **The Cabinet and Scrutiny**

12. Given the nature and purpose of the Council and the respective roles of members and officers it is accepted that officers, while remaining politically neutral, will inevitably give advice on a wider range of issues and on a more regular basis to the Cabinet. For its part, the Cabinet will continue to respect the political neutrality of officers and accept that officers are obliged to respond positively to any request from scrutiny for appropriate information and advice relevant to the issue being considered by scrutiny. When an officer requests it, the Cabinet will provide an appropriate Cabinet Lead Member or Members to attend a scrutiny meeting to explain a Cabinet decision and the reasons for it.

### **Decisions under delegated powers**

13. The Scheme of Delegation in Part 3 of the Constitution sets out those functions which have been delegated to Officers to carry out. Members should not seek to improperly influence decisions taken by officers under delegated powers and should not ask them to exercise discretion which involves acting outside the Council's policies and procedures.
14. No executive powers are delegated to individual members, either as the Leader or as a member of the Cabinet. Although neither the Leader nor

individual members of the Cabinet have any personal delegated executive powers, they may, nevertheless, develop a personal involvement in specific areas of Council activity. The term “Cabinet Lead Member” is used to describe councillors with any such involvement. The Cabinet may decide that there should be more than one Lead Member for any particular area of involvement.

15. The role of a Cabinet Lead Member includes:
  - (a) providing a point of reference for the Chief Executive, Deputy Chief Executive or any Director, as appropriate;
  - (b) providing a member perspective and opinion on any relevant proposals before (or likely to come before) the Cabinet;
  - (c) appearing, as appropriate, before any relevant scrutiny committee on behalf of the Cabinet.
  - (d) sitting on Programme Boards and the Project Boards of projects with significant financial, political and reputational risk.
  - (e) chairing Member Reference Groups which will be established for projects of a significant size and/or which have potential reputational risk to guide and support the work of the project and advise the Project Board on strategic and policy matters which the Board refers to it.
  
16. Where an officer volunteers (rather than is required) to consult a Cabinet Lead Member before exercising his or her delegated powers, both will understand, and accept, that the final decision (and the responsibility which goes with it) remains with the officer. The same principles apply where authority to take a decision has been specifically delegated to an officer “in consultation with” one or more councillors, whether Cabinet Lead Member or otherwise. Although the process of consultation is required by the specific delegation of authority, this does not change the fact that the process is still one of consultation with, not specific approval by, the member(s) concerned.
  
17. Since consultation alone is involved, an officer can, theoretically, decide to proceed with his or her proposed course of action even in the face of some degree of objection from the member(s) consulted. However, an alternative course of action would be for the officer to decline to exercise the delegated authority and refer the decision back to the body, which conferred the authority on the officer.
  
18. In implementing any process of consultation, if the view of the Cabinet Lead Member does not agree with the professional view of the officer and the difference of view is material and cannot be reconciled, the officer should consider:
  - (a) seeking advice from the Head of Paid Service, Monitoring Officer or Chief Financial Officer as appropriate; and
  - (b) referring the issue to a meeting of the Cabinet or the body which conferred the delegated power.

## **19. Officers and Party Group Meetings**

Officers cannot be required to attend political party group meetings. They will only do so by invitation, with the express authority of the Chief Executive whose decision will be final. The Chief Executive will have the right to nominate alternative or additional officers to attend at his or her sole discretion.

Where it is possible that persons other than elected members of the Borough Council will be present at a political party group meeting to which an officer has been invited, the Chief Executive will be informed beforehand, and he will take this into account in arriving at his decision(s).

## **20. Visits to Premises and Land**

Members have the right to visit premises and land owned by the Council apart from occupied Council houses and other leased or tenanted premises. They must first make suitable arrangements with the Chief Financial Officer, Deputy Chief Executive or the appropriate Director who will pay particular regard to health and safety issues and to the sensitivity and timing of the proposed visit.

It should be noted:

- (a) that this right is only available to the extent that a member needs to visit premises or land to enable him or her better to fulfil his or her duties as a member; and
- (b) that these arrangements are not intended to restrict a member's rights as a member of the public.

## **21. Press Releases**

Where an officer makes a press release on behalf of the Council, quotations accompanying such releases will be made by the Leader or Deputy Leader(s) or by the relevant Cabinet Lead Member or by an appropriate officer. In respect of press releases relating to the work of scrutiny, or the Council's other committees, quotations accompanying such press releases will be made by Scrutiny Chairs or the Chairs of the relevant committees in that capacity only. Similar considerations will be given to other media releases. All press releases will be expected to comply with both legislative requirements and the Code of Recommended Practice on Local Authority Publicity.

## **22. Inspection of Documents**

A member is entitled to see such documents as are reasonably necessary to enable him or her to carry out his or her duties. There is, however, no general right to examine all documents of the Council; a mere curiosity or wish to see them is not sufficient. Furthermore, disclosure will be refused if a member's intent is other than in his or her public position and has an indirect motive, for example, a desire to assist a person in litigation with the Council.

In addition to a member's common law rights and the provisions of the Freedom of Information Act 2000, the Local Government Act 1972 provides a statutory right of access to documents. Any document which is in the Council's possession and contains material relating to any business to be transacted at a meeting of the Council, the Cabinet, a Committee or Sub Committee is to be open to inspection by any member. However, there is no right of inspection where it appears to the Monitoring Officer that a document discloses certain classes of exempt information as set out in Access to Information Procedure Rule 21.

## **Complaints**

23. If a member has cause to complain about the conduct of an officer, they should make their complaint, preferably in writing, to the relevant Director. If the complaint is about a Director, it should be made to the Chief Executive and if it is about the Chief Executive to the Monitoring Officer. The complaint will be investigated and dealt with in accordance with the Council's disciplinary and capability procedures if required.
24. If an officer had cause to complain about the conduct of a member they may make a complaint to the Standards Committee if they consider that the conduct involves a breach of the Members' Code of Conduct. If an Officer considers that the conduct does not involve a breach of the Code of Conduct but is in breach of this Protocol, they should make their complaint, preferably in writing, to the Monitoring Officer. The Monitoring Officer will deal with the complaint in accordance with the procedure for non-Code of Conduct complaints in Part 4 of the Constitution. In both cases officers should seek the advice of the Monitoring Officer.