

## **18.3 PROTOCOL FOR MEMBER / OFFICER RELATIONS**

### **1. Introduction**

**1.1.** The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another and to promote the high standards in public office which are essential for successful local government.

**1.2.** This protocol seeks to offer guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other issues.

**1.3.** This protocol seeks to promote greater clarity and certainty. If it is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and undue influence.

### **2. Principles**

**2.1** This Protocol is based on the following principles: -

- An understanding by both Members and Officers of the requirements of each other's functions.
- Mutual respect for each other's time and priorities.
- Courtesy and sensitivity at all times.
- Honesty and integrity in all dealings to foster co-operation and trust.
- Professional and cordial relationships avoiding over familiarity

**2.2** It also seeks 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.

**2.3** The Council's Code of Conduct for Members states at paragraph 4: -

**'You must –**

**a)** carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion.

**b)** show respect and consideration for others

**c)** not use bullying behaviour or harass any person, and

**d)** not do anything which compromises or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority'.

**2.4** The statutory Code of Conduct for Officers which is incorporated in their conditions of employment, states: -

'Mutual respect between qualifying employees and members is essential to good local government and working relationships should be kept on a professional basis'. 'Qualifying employees of relevant

authorities should deal with the public, members and other employees sympathetically, efficiently and without bias’.

### **3. Roles and Responsibilities**

**3.1** Local authority Officers are employed by and are responsible to the Council as a whole. They owe a duty to each and every Member and not to a political group, even if it is in a majority. They also have a wider duty to the public as a whole.

**3.2** In carrying out their duties, Officers have the right to expect from Members:

- Respect for officer neutrality
- Respect for their person
- An understanding of their roles and workloads when making requests for assistance
- Reasonable standards of courtesy
- Respect for confidential advice and guidance.

**3.3** Members undertake many different roles. Broadly these are:

- Members are involved in scrutinising decisions and holding decision makers to account on behalf of their communities.
- Members represent their electoral division and are advocates for the citizens who live in the area.
- Members are involved in active partnerships with other organisations as community leaders.
- Members contribute to the decisions taken in Full Council and in its various bodies on which they serve, as well as joint committees, outside bodies and partnership organisations.
- Members help develop and review policy and strategy.
- Members monitor and review policy implementation and service quality.
- Members are involved in quasi-judicial work through their Membership of regulatory committees.
- Members express political values and support the policies of the party or group to which they belong (if any).

**3.4** In carrying out their duties Members will be supported by Officers and have the right to expect from them:

- Full, impartial advice and information.
- Accurate, well written advice in concise and easily understood formats and language to enable decisions to be taken, the decision maker(s) to be held to account and information be provided to advise individual people with enquiries, problems or grievances.
- For the above to be provided in the Member’s preferred language of communication.
- Respect for their person.

- Respect for the confidential nature of information and views.

#### **4. The Relationship**

**4.1** Mutual respect is essential to good local government. Officers and Members should have good working relationships, whilst being aware that close personal relationships can damage this relationship and prove embarrassing for other Officers and Members.

**4.2** Members should not put officers under inappropriate pressure to act in accordance with the Member's wishes.

**4.3** Officers must at all times feel free to offer professional opinion and advice which may be contrary to the opinion of the Member.

**4.4** It is not acceptable for a Member to bully or harass an Officer. Any action against an Officer would be considered as bullying or harassing if the intention was to improperly or unfairly influence the Officer's opinion or actions.

**4.5** It is not appropriate for Members to raise matters relating to conduct and capability of any Officer publicly in a meeting, the press, or by other means e.g. e-mail or internet. Members should use the Council's internal procedures to resolve such issues. For the avoidance of doubt Members who are unable to resolve differences in an appropriate manner with the Officer concerned should raise the matter with the Officer's Head of Service or Corporate Director. If the Member remains dissatisfied with the response received the Chief Executive should be advised.

**4.6** Other than when carrying out statutory functions in respect of Members' conduct, Officers should not raise matters publicly relating to the conduct or capability of any Member either at a meeting, in the press or by other means e.g. e-mail, internet or social media.

**4.7** 'Publicly' includes in this context e-mailing large groups of people on the Council's internal e-mail system e.g. all Councillors.

#### **5 Relationships between Officers, Chairs and Cabinet Members**

**5.1** It is clearly important that there should be a close working relationship between Cabinet Members and the Director, Head of Service, any other senior officers of those services which fall under a Cabinet Member's portfolio. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members or political groups.

**5.2** Whilst the Chair of a committee or Lead Member will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in certain circumstances the Chief Executive, Corporate Director or Head of Service will be under a duty to submit a report on a particular matter.

**5.3** Whilst it is the duty of officers to assist the Cabinet in the delivery of its responsibilities it is necessary for the Leader and Cabinet to observe the independence of the management function of the authority from the decision making function.

**5.4** Whilst Officers should always seek to assist any Member in discharging their responsibilities, the Officer must not in doing so, go beyond the bounds of whatever authority they have been given by their Head of Service.

**5.5** A Corporate Director, Head of Service or Lead Member will always be fully responsible for the contents of any report submitted in his/her name. Officers writing reports on behalf of Lead Members will always consult the Lead Member on the content of the report.

## **6 Officer advice to political groups**

**6.1** Directors or Heads of Service may properly be called upon to advise the chairs or spokespersons of political groups, but they should attend group meetings only in exceptional circumstances and in such a case the other political groups should be informed of the advice given.

**6.2** Certain points must be clearly understood by all those participating in this type of process, Members and Officers alike. In particular: -

- 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 political group business;
- political group meetings are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
- similarly, where Officers provide information and advice to the chair or spokesperson of a political group in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to Members when the matter in question is considered by a decision making body.

**6.3** Any particular cases of difficulty or uncertainty in this area of Officer advice to political groups should be raised with the Chief Executive who will discuss them with the relevant Group Leaders.

## **7 Officer attendance at meetings not organised by the Council**

**7.1** Officers will advise formal meetings of the Council, informal meetings of Members of the Council, and other meetings organised by or on behalf of the Council.

**7.2** In no circumstances should Officers be attending public meetings of a political nature organised by politicians external to the Council in order to represent the political view or programme of the Council.

**7.3** Where any Officer or Member receives an invitation for the Council to be represented at a public meeting organised other than by the Council, they should refer that invitation to the Cabinet Support Staff who will liaise with the Leader as to the most appropriate Member representation.

**7.4** The Leader will determine whether or not the meeting is one at which the Council should be represented, and if so, which Member or Members of the Cabinet should attend.

**7.5** If no Cabinet Member is available to attend, then the Leader will determine whether to request that the meeting be rearranged or whether the organiser should be informed that no Member is available to attend.

**7.6** A Cabinet Member may require briefing and support to fulfil their role in attending such a meeting. Officers will provide advice and assistance to the Member in preparing for attendance at such a meeting.

**7.7** At some events, it will be appropriate for the Member to be accompanied by a suitably Senior Officer, such as a Corporate Director or Head of Service. At other events, it will be sufficient for other staff to accompany them.

**7.8** The relevant Head of Service/Director should be consulted by the Leader as to whether attendance by an Officer is necessary and should advise the Leader which (if any) Officer will be present.

**7.9** The foregoing provisions do not prevent appropriate Officers attending meetings of City, Town and Community Councils in accordance with the provisions of the Charter between those Councils and the County Council. Any Officer attending such a meeting should liaise with the relevant Lead Member.

## **8 Support services to Members and political groups.**

**8.1** The only basis on which the Council can lawfully provide support services (e.g. 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 be used only on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

## **9 Members in their Ward Role and Officers**

**9.1** The Council accepts that Members need to be aware of significant developments within their local electoral divisions if they are to be effective in their roles as spokespersons on behalf of their local communities.

**9.2** In consequence, Senior Officers as well as the Leader, Portfolio Holders, and Chairs and Vice Chairs are expected to notify local Members of significant matters that are not the subject of a report to Council, Cabinet or Committee, but which relate specifically to the local Member's electoral division or which may have a material impact in the area of which the electoral division forms a part.

**9.3** 'Significant matters' include matters or items that are of concern to the general public and local electoral division member(s).

**9.4** In particular, the local Member(s) should, where appropriate, be invited to relevant meetings. If local Members do not attend such meeting for whatever reason, they should be advised by the convenor of the meeting (provided the meeting is convened by the Council or its officers) of any significant outcome. Similarly, local Members will also be informed of significant matters raised by the Town or Community Council within their area.

**9.5** Whenever the Council undertakes any form of consultation exercise on a local issue, the ward Members should be notified at the outset of the exercise.

**9.6** Before Officers exercise delegated powers under the Scheme of Delegation they shall consider whether their decision is likely to have a significant impact upon the Council's profile or have significant financial implications, if it is there will be a presumption in favour of referring the matter to Members.

**9.7** In any event when exercising delegated powers Officers will, where appropriate, keep the Cabinet fully informed, in particular the relevant Portfolio Holder, have regard to any comments

from the relevant Scrutiny Committee and ensure that they consult with/inform the local Member in advance.

**9.8** The Council has developed a Member Events Calendar which is accessible by all Members. An 'event' is an activity undertaken by the Council which is visible to members of the public, and may have an effect on them and/or their daily lives. Officers must ensure that the Calendar is populated with relevant information. Members must take responsibility to inform themselves of activity taking place within their areas by reference to the Calendar.

## **10 Members' access to information and buildings**

**10.1** Members can approach any department to request any information, explanation and advice as they may reasonably need to assist them in discharging their role as Members. A request for information may be made on behalf of a constituent, but any request for personal information should be authorised in writing by that constituent. Approaches should normally be directed to the Head of Service or another Senior Officer of the service.

**10.2** A Member should always contact beforehand any Officer that he/she wishes to see. This will ensure that the Officer is available and prepared to answer the Member's questions in order to make the most effective use of the meeting.

**10.3** A Member should always call at reception and ask for the Officer. This is a matter of personal safety as it is essential in case of fire that the name of everyone in the building is known.

**10.4** Officers should always ensure that, bearing in mind the reasonable calls of their other duties, they respond to a reasonable request for information relevant to a member's work or a request for a meeting.

**10.5** Contact between Members and Officers should only take place at agreed offices or other meeting locations. Members and Officers should not arrange meetings at their respective homes.

**10.6** Telephone contact between Members and Officers should be restricted to normal office hours. Only exceptionally should Members and Officers contact each other outside these times and such contact should be restricted to Directors and Heads of Service.

**10.7** Members are entitled to have access to the Council Chamber, Committee rooms and all other public areas of the Council's buildings.

**10.8** Members who are not in pursuit of their duties as Councillors have the same rights of access to Council buildings and premises as any other member of the public.

**10.9** A Member has the right to enter "staff only" areas only with the express authorisation of the relevant Corporate Director or Head of Service.

## **11 Members' rights to inspect Council documents.**

**11.1** In addition to their rights under the Freedom of Information Act 2000, Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, committee or sub-committee meeting. This right applies irrespective of whether the Member is a member of the committee or subcommittee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This statutory right does not extend to information falling within paragraphs 12 to 18, 23, 24, and 26 of Part 4 of Schedule 12A of the Local Government Act 1972. However, the common law right (see below) could override this restriction in certain cases.

**11.2** The common law right of Members is much broader and is based on the principle that any Member has a prima facie right to inspect Council documents so far as his/her access to the documents 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.

**11.3** The exercise of this common law right depends upon the Member’s ability to demonstrate that he/she has the necessary “need to know”. In this respect a Member has no right to “a roving commission” to examine documents of the Council. Mere curiosity is not sufficient. Contents of personal files e.g. social service assessments, adoption and child protection papers, SEN statements, personnel files will definitely not be available for access under a right to know except in limited cases e.g. the 372 Member who sits on adoption and fostering panel. If a Member’s motive for seeing documents is indirect, improper or ulterior access will be refused. The crucial question is the determination of the “need to know”. This question must initially be determined by the particular Head of Service whose department holds the document in question (with advice from the Head of Legal, HR and Democratic Services). In the event of a dispute, the question falls to be determined by the Head of Legal, HR and Democratic Services and on appeal to the Chief Executive.

**11.4** In some circumstances (e.g. a cabinet or 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 and in the light of data protection legislation.

**11.5** Further and more detailed advice regarding Members’ rights to inspect Council documents may be obtained from the Head of Legal, HR and Democratic Services.

**11.6** Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided i.e. in connection with the proper performance of the Member’s duties as a Member of the Council. The Council’s Code of Conduct for Members states at paragraph 5: -

**‘You must not:**

**(a)** disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so’.

**12 Correspondence, including e-mail.**

**12.1** Correspondence between an individual Member and an Officer should not normally be copied by the Officer to any other Member.

**12.2** This restriction will not normally apply to Cabinet matters where the Cabinet as a whole will need to be informed of matters which will be of concern to all or several Cabinet Members.

**12.3** Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of ‘silent copies’ should not be employed.

**12.4** E-mail should not be used by Officers or Members in such a way that it may be regarded as intimidating or exerting influence e.g. a Member copying to all Members a critical e-mail addressed to an Officer before that Officer has had the opportunity to respond.

**12.5** Official letters on behalf of the Council should be sent out either in the name of the appropriate portfolio holder or in the name of the appropriate Officer.

**12.6** Lead Members will be advised by their Senior Officers as to when a response from themselves rather than an Officer is the more appropriate.

**12.7** Letters which create obligations or give instructions on behalf of the Council should never be sent out over the name of a Member.

### **13 Press releases**

**13.1** From time to time Members will be called upon to provide comments for the press relating to the work of the Council.

**13.2** No remark will be attributed to a Member who has not first cleared that remark.

### **14 Breaches of the Protocol.**

**14.1** Breaches of this protocol may lead to disciplinary action in the case of Officers or, in the case of Members, an allegation to the Ombudsman that they have breached the Code of Conduct, or reference to the Council's Standards Committee.

**14.2** If a Member should be dissatisfied with the conduct of an Officer, he/she should in the first place discuss the matter with the relevant Head of Service in order to try to resolve the matter. The Council's disciplinary procedures will not necessarily be relevant and/or appropriate in all circumstances but the relevant Head of Service will resort to these procedures in appropriate cases. When dealing with a matter the Head of Service could, depending on the circumstances, consult with the Chief Executive, the Monitoring Officer, the Chairman of the Council or the leader of the relevant political group.

**14.3** Similarly, if an Officer is dissatisfied with the conduct of a Member he/she should also raise the matter with his/her Head of Service in order to try to resolve the matter with the Member without the need to resort to the formal procedures that could lead to the Standards Committee.

**14.4** Should the Officer continue to be dissatisfied, he/she can refer his complaint to the procedure adopted by the Council for the local resolution of complaints about Members and this ultimately could lead to reprimand by the Standards Committee. However, this does not supersede the Officer's right, as any other individual, to make an official complaint that a Member has breached the code of conduct to the Public Services Ombudsman for Wales.