

Section 3 - Protocol on Member/Employee Relations

1. Introduction

- 1.1 The purpose of this protocol is to guide members and employees of the Council in their relations with one another.
- 1.2 Given the variety and complexity of such relations, the protocol does not seek to be prescriptive and it may not cover all situations. However, it does seek to provide guidance on some of the issues that most commonly arise. The approach to these issues will serve as a guide to dealing with other issues.
- 1.3 The protocol is largely a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.
- 1.4 It also seeks to reflect the principles underlying the respective rules of conduct that apply to members and employees. Its purpose, therefore, is to enhance and maintain the integrity of local government by demanding very high standards of personal conduct.
- 1.5 Councillors and employees are servants of the public and they depend on each other in carrying out the work of the Authority. Councillors are responsible to the electorate and serve only so long as their term of office lasts, while employees are responsible to the Council. Their job is to give advice to the Council, as well as to individual Councillors, and to carry out the Council's work under the direction and control of the Council and its various bodies.
- 1.6 Mutual respect between Councillors and employees is essential to good local government. However, close personal familiarity between individual Councillors and employees can damage this relationship and prove embarrassing to other Councillors and employees.
- 1.7 The relationship has to function without compromising the ultimate responsibilities of employees to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that employees can legitimately provide to members. The protocol seeks to set a framework that assists the working relationships between members and employees.

2. Roles of Members

2.1 Members undertake many different roles. Broadly these are:

- Members express political values and support the policies of the party or group to which they belong (if any).
- Members are the ultimate policy makers and carry out a number of strategic and corporate management functions.
- Members help develop and review policy and strategy.
- Members monitor and review policy implementation and service quality.
- Members represent their communities and bring their views into the Council's decision-making process i.e. become the advocate of and for their communities.
- Members deal with individual case work and act as an advocate for constituents in resolving particular concerns or grievances.
- Members balance different interests identified within the ward and represent the ward as a whole.
- Members are involved in active partnerships with other organisations as Community Leaders.
- Members represent the Council on other bodies and act as ambassadors for the City of Sunderland.
- Members are involved in quasi-judicial work through their membership of regulatory committees.

3. Roles of Employees

3.1 Briefly, employees have the following main roles:-

- Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services.
- Providing advice to the Council and its various bodies and to individual members in respect of the services provided.
- Initiating policy proposals.
- Implementing agreed policy.

- Ensuring that the Council acts in a lawful manner.
- Representing the Council on external organisations.

4. Respect and Courtesy

- 4.1 For the effective conduct of Council business there must be mutual respect, trust, courtesy and evenhandedness in all meetings and contacts, both formal and informal, between members and employees. This plays a very important part in the Council's reputation and how it is seen in public.

The Council's Reputation

- 4.2 All members and employees have an obligation to help engender a good reputation for the Council.

In particular they should:-

- Avoid criticism of the Council when formally representing the Council.
- Seek to protect and promote the legitimacy of democratic local government.
- Seek to avoid personal criticism of other members or employees.
- Not do anything which seeks to undermine the relationship between members and employees.

Undue Pressure

- 4.3 It is important in any dealings between members and employees that neither should seek to take unfair advantage of their position.
- 4.4 In their dealings with both Chief Officers and employees (especially junior employees) members need to be aware that it is easy for employees to be overawed and feel at a disadvantage. Such feelings can be intensified where members hold official and/or political office.
- 4.5 A member should not apply undue pressure on an employee either to do anything that he/she is not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.
- 4.6 Similarly, an employee must neither seek to use undue influence on an individual member to make a decision in his/her favour, nor raise personal matters to do with their job, nor make claims or allegations

about other employees. The Council has formal procedures for consultation, grievance and discipline, and employees have the right to report possible wrongdoing under the Council's Whistleblowing Policy.

Familiarity

- 4.7 Close personal familiarity between individual members and employees can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.
- 4.8 Such familiarity could also cause embarrassment to other members and/or other employees and even give rise to suspicions of favouritism.
- 4.9 For the above reasons close personal familiarity must be avoided.

5. Provision of Advice and Information to Members

- 5.1 Members are entitled to apply to the Chief Executive or relevant Chief Officer to provide them with such information and advice as they may reasonably need in order to assist them in discharging their role as a member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.
- 5.2 The legal rights of members to inspect Council documents are covered partly by statute and partly by common law.
- 5.3 The Access to Information Rules of the Constitution explain the position with regard to access to papers relating to the business of a Council body.
- 5.4 The exercise of the common law right depends upon a member's ability to demonstrate a "need to know". In this respect a member has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.
- 5.5 The information sought by a member should be provided in a timely manner. It should only be provided by the respective Department as long as it is within the limits of the Department's resources. For their part, members should seek to act reasonably in the number and content of the requests they make.

- 5.6 It is important for Chief Officers to keep members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the areas that he/she represents. It is expected that Members will be kept informed about proposals that affect their ward and should also be invited to attend Council initiated events within their ward.
- 5.7 If a member asks for specific information relating to the work of a particular Department, and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate Cabinet Member or Committee Chairman concerned should be advised about the information provided.
- 5.8 Any member may apply in confidence to the Chief Executive or appropriate Chief Officer for procedural advice or information to address a constituency issue.
- 5.9 Confidential information relating to third parties must not be provided to Members without lawful authority or the consent in writing of the third party.

Confidential information provided to a member must not be disclosed to a third party unless:

- the member is legally compelled to do so;
 - the disclosure is at the request of and with the consent of the party that provided the information.
- 5.10 In order to safeguard against possible breaches of the Data Protection Legislation (which applies to all information of a personal nature) a member should always seek advice from the Chief Executive or Monitoring Officer before disclosing confidential information. Generally personal information cannot be released without the consent of the person to whom it relates. Improper disclosure of confidential information can put the member and the Council at legal and financial risk.

6. Party Group Meetings and Member Briefing

- 6.1 There is statutory recognition for party groups. It is common practice for party group meetings to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body.

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- 6.2 Employees cannot be required to attend party group meetings. If requested to attend employees will consider such requests in the light of the following:
- Employees may attend party group meetings to make presentations with the agreement of the Chief Executive;
 - Equivalent facilities are available to all political groups on the Council if they so request;
 - Employees may attend briefing meetings with members of the Cabinet and Committee Chairman and Vice Chairman either on a specific topic or prior to a formal meeting;
 - Employees may also consult Cabinet Members and Committee Chairmen prior to exercising delegated powers;
- 6.3 Certain matters must be understood by all those participating in this type of process, members and officers alike. In particular:
- a) Employee support in these circumstances should not extend beyond providing information and advice in relation to matters of Council business;
 - b) Such meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions, and should not be interpreted as such;
 - c) Similarly, where employees provide information and advice to such meetings in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant formal decision-making forum;
 - d) Employees must not be asked to provide advice on how to undermine or prevent the implementation of agreed Council policy.
- 6.4 Employees must respect the confidentiality of any discussions at which they are present with members.
- 6.5 Any particular cause of difficulty or uncertainty in this area of employee advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

7. Attendance of Employees and Members at Overview and Scrutiny Committees

- 7.1 The Local Government Act 2000 empowers an Overview and Scrutiny Committee to require members of the executive and employees to attend meetings of the committee and answer questions. It is the statutory duty of members and employees to comply with such requests. This statutory position is reflected in the Overview and Scrutiny Procedure Rules.
- 7.2 It is important for the reputation of the Council that Overview and Scrutiny Committees use this power in a responsible and constructive manner which will assist the Committee in its work.
- 7.3 The Overview and Scrutiny Procedure Rules contain requirements relating to the giving of proper notice to the member or employees concerned. It is important that care is taken to identify the relevant employee who is best equipped to help the committee in its work. That will not necessarily be the Chief Officer. Where there is any doubt the Chairman of the Overview and Scrutiny Committee concerned should consult with the relevant Chief Officer to identify the appropriate employee.
- 7.4 Whilst the legislation enables an Overview and Scrutiny Committee to require any officer to attend before it, in general this power should only need to be exercised in relation to senior employees namely Chief Officers, Heads of Service, third tier or other appropriate senior employees.
- 7.5 Overview and Scrutiny Committees must always treat a member or employee appearing before it with respect and courtesy. The member or employee is there to help the Committee with its work and a positive and constructive approach should be taken by all parties. Committees should in particular refrain from any personal criticism. Chairmen of Overview and Scrutiny Committees have a particular responsibility in setting the tone of the meeting to ensure this protocol is followed.
- 7.6 Overview and Scrutiny Committees should always bear in mind that when employees appear to answer questions their evidence should, so far as possible, be confined to questions of fact and explanation relating to policies and decisions.
- 7.7 Employees may explain: what the policies are; the justification and objectives of those policies as the executive sees them; the extent to which those objectives may have been met; and how administrative factors may have affected both the choice of policy measures and the manner of their implementation.

- 7.8 Employees may be asked to explain and justify advice they have given to members of the executive prior to decisions being taken and they may also be asked to explain and justify decisions they themselves have taken under delegated powers.
- 7.9 Employees should not be drawn into discussion of the merits of alternative policies where this is politically contentious. Any comment by employees should always be consistent with the requirement to be politically impartial.

8. Provision of Support Services to Members

- 8.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, IT equipment 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.

Correspondence

- 8.2 Official letters entering into formal commitments on behalf of the Council should be sent in the name of the appropriate employee, rather than over the name of a member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a member. It may be appropriate in some circumstances for a letter to be sent in the name of a member, for example in response to a letter of complaint sent direct to that member. But this should be the exception rather than the norm and it should only be done following consultation with the Chief Executive or appropriate Chief Officer.

Media

- 8.3 Communication with the media can be an important part of a member's workload. In general, members provide comment and views while employees provide factual information. If a member is totally unsure about the circumstances of a particular issue he should contact the appropriate officer concerned or ask the Press Office to do so.

Training

- 8.4 From time to time training programmes will be arranged for members. These might involve induction for new members, presentations and discussions on particular topics as well as training on specific topics such as the Code of Conduct. It is important that members take advantage of these training opportunities and attend those relevant to their needs.

9. Political Activity

- 9.1 There are a number of constraints that apply to an employee who occupies a post that is designated as “politically restricted” under the terms of the Local Government and Housing Act 1989.
- 9.2 In summary, such employees are prevented from:
- (a) being a Member of Parliament, European Parliament or local authority;
 - (b) acting as an election agent or sub-agent for a candidate for election as a member of any of the bodies referred to in (a);
 - (c) being an officer of a political party or any branch of a political party or a member of any committee or sub-committee of such a party or branch, if his duties would be likely to require him –
 - (i) to participate in the general management of the party or branch;
 - or;
 - (ii) to act on behalf of the party or branch in dealings with persons other than members of the party;
 - (d) canvassing on behalf of a political party or a candidate for election to any of the bodies referred to in (a);
 - (e) speaking to the public with the apparent intent of affecting public support for a political party;
 - (f) publishing any written or artistic work of which he is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party;
- 9.3 Employees are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Chief Officer, and not to individual members of the Council whatever office they might hold.

10. Breaches of the Protocol

- 10.1 If a member considers that there has been a breach of this protocol by an employee he/she should raise the matter with the relevant Chief Officer and/or Chief Executive without delay. The Chief Officer will investigate the matter and, if required, appropriate action may be taken in accordance with the Council's normal disciplinary procedures. Feedback on the outcome should be given to the member.
- 10.2 If an employee feels there has been a breach by a member he/she should raise the matter with his/her line manager or Chief Officer without delay. The Chief Officer shall inform the Chief Executive. Attempts should then be made to resolve the issue informally by approaching the member direct and/or Party Group Leader. Feedback on the outcome should be given to the employee.
- 10.3 Serious or repeated breaches of this protocol by a member may be referred to the Standards Committee of the Council. Should a breach also amount to a breach of the Members' Code of Conduct the matter must be referred to the Standards Board for England and Wales by the Monitoring Officer.

11. Conclusion

- 11.1 It is hoped that by following good practice and securing sensible and practical working relationships between members and employees we can provide one of the cornerstones of a successful Local Authority and thereby enhance the delivery of high value quality services to the people of Sunderland. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its members and employees.