

Report of the Assistant Director Corporate Services (City Solicitor) to the meeting of Standards Committee to be held on 26 January 2010.

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Subject:

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Protocol on Member/Officer Relations

Summary statement:

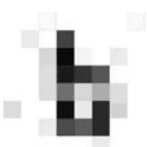
Standards Committee is invited to consider the Protocol on Member/Officer relations and discuss a review of the Protocol.

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Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



1. Summary

1.1. Standards Committee is invited to consider the Protocol on Member/Officer relations and discuss a review of the Protocol.

2. Background

2.1. The Protocol on member/officer relations is contained in the Constitution of the Council at Part 4, Paragraph C. The Protocol was drafted some years ago and has not been the subject of a review for some time.

2.2. The Protocol is an important document in that it sets out the framework to govern the working relationship of members and officers. The Protocol recognises that members and officers, whilst both servants of the public, have very different roles. In addition the Protocol recognises the requirement for political neutrality on the part of officers but the fact that officers must provide a service to members.

2.3. The Protocol also deals with communications between officers and members. Standards Committee members will note that there is little detail relating to electronic communications which have developed significantly since the Protocol was first written. The review will need to consider the development of electronic communications and the issues specific to that type of communication between officers and members.

2.4. In addition, the Protocol does not deal in any detail with the role of ward councillors. Standards Committee members should be aware that there have been concerns expressed by members regarding the recognition of the role of ward members by officers and perhaps the Protocol needs to reflect in more detail the support to be given to ward councillors in that role.

2.5. Standards Committee members are invited to look at the Protocol and discuss how the review should be conducted. Specifically, Standards Committee should consider how they wish to participate in the review, which officers should be consulted in such a review, how consultation should be undertaken with the political groups and the role of the Member Training Officer, Trade Unions and Human Resources in the review.

2.6. In addition, Standards Committee members should consider how the revised Protocol should be publicised with members and officers.

3. Financial and resource appraisal

3.1. There are no financial or resource implications for the proposed review. Such input that is required can be met from existing resources.

4. Legal appraisal

- 4.1. There are no specific legal implications of this report but it is suggested that updating the Protocol on Member/Officer relations will provide greater clarity regarding the respective roles and responsibilities of members and officers and how they work together.

5. Other Implications

- 5.1. There are no Equal Rights, Sustainability, Community Safety, Human Rights Act, implications arising from this report.

6. Trade Union Implications

- 6.1. Since the Protocol relates to the conduct of officers, consultation should be undertaken with the Trade Unions regarding any revisions to the Protocol, and their views sought on proposed amendments

7. Not for Publication documents

- 7.1. None.

8. Recommendations

- 8.1. That the Standards Committee consider the attached Protocol of Member/Officer Relations and discuss how a review should be undertaken.
- 8.2. That a further report be submitted to the Standards Committee on completion of the review with proposed amendments to the Protocol on Member/Officer Relations

9. Reason for Recommendation

- 9.1. To ensure that the Protocol on Member/Officer Relations properly reflects the up to date position and is robust and effective in promoting good working relationships between members and officers.

10. Appendices

Appendix 1 - Protocol on Member/Officer Relations

Part 4C Protocol on Member-Officer Relations

1. Introduction

- 1.1 Effective local governance and community leadership depends on good working relationships between members and officers.
- 1.2 This Protocol provides rules (set out in **bold** type) and guidance (in *italics*) for members, co-opted members and officers in their working relations with each other. The Protocol covers the more common working situations, but is not comprehensive. The principles underlying it may be applicable to other situations.
- 1.3 This Protocol applies only to working relations between members in their role as members and officers in their capacity as officers.

2. Working Relations

- 2.1 Members and officers shall establish sound and effective working relations that seek to engender mutual respect and put aside any personal differences.
- 2.2 *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. 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. Close personal familiarity must be avoided in the course of Council business.*
- 2.3 *The National Conditions of Service for Staff in Local Government provide:*

“The public is entitled to demand, of a local government officer, conduct of the highest standard.”
- 2.4 *Members and officers must recognise their different roles, needs and objectives. They must be ready to discuss positively how working relations between each other can most effectively be developed. Members and officers must set aside any personal differences in the interests of maintaining effective working relations.*

2.5 *It is important that officers develop political awareness of issues that are sensitive to the individual political groups represented on the Council.*

3. Courtesy

3.1 Members and officers will adopt reasonable standards of behaviour and courtesy towards each other and will not take or attempt to take unfair advantage of their position.

3.2 *The use of more extreme forms of behaviour and emotion is rarely conducive to establishing mutual respect and is not a basis for constructive discussion. On the other hand, over familiarity can be misconstrued and give rise to unhelpful tensions.*

3.3 *Members and officers should have regard to the formality of the occasion as to the mode of address they choose to adopt. In particular, in formally convened meetings and/or meetings open to the public a formal mode of address should be adopted. In all other cases members and officers will respect preferred modes of address.*

4. Officers Giving Advice and Information to Political Groups

4.1 Advice and information given by officers to political groups will only relate to Council business. Officers will not advise on political business.

4.2 Members will organise political group meetings to distinguish between Council and business. Officers will not attend political meetings whilst political business is being discussed.

4.3 Officers will be even handed in giving advice and information when briefing a political group or members individually.

4.4 Officers will respect the confidentiality of any political group discussion at which they are present or with individual members and will not relate the content of any discussion to another political group or member.

4.5 *The existence of political groups is recognised by legislation. It is common practice for political groups to consider matters of Council business, whether collectively within the political group as a whole or at pre-meeting briefings involving the members of the political group on the decision making body. Officer advice and information may legitimately be sought by political groups to enable them to consider the options for dealing with Council business.*

- 4.6 *Council decisions can only be made by the Council, the Executive or a delegated decision making body of the Council and not by political groups.*
- 4.7 *Officers shall tender their advice impartially and, where advice is sought from more than one political group, officers must offer the same advice to each political group. Officers may be asked questions at a briefing but these rules do not require an officer to inform other political group briefings of the questions and answers given.*
- 4.8 *Officers should be mindful that their responsibility in giving advice and information is to the relevant decision making body and that giving advice to pre-meeting briefings is no substitute.*
- 4.9 *Where officers have given advice and information in briefings to all political groups represented on the committee, it may be appropriate, with the agreement of the chair, to indicate this fact at the decision-making meeting. Officers may then state that they have no further additional advice or comment to make on their reports.*
- 4.10 *Both members and officers should be mindful that the presence of persons who are not members of the Council at political group meetings or pre-meeting briefings may limit any advice and information an officer may provide. Persons who are not members or co-opted members of the Council are not bound by the Members' Code of Conduct.*

5. Support Services to Members

- 5.1 Members will, except where arrangements are otherwise approved, use support services and resources provided by the Council only for Council business. Support services shall not be used for political or campaigning activity, or for private purposes.
- 5.2 *The Council provides support services to members (including stationery, typing, printing, photo-copying, personal computers, laptop computers, e-mail and internet facilities, travel, transport and parking arrangements, etc.) to assist members in discharging their role as members of the Council.*
- 5.3 *E-mail and internet facilities must not be used by members or officers on behalf of members to publish to the public at large or a section of the public any material which, in whole or part, appears designed to affect public support for a political party contrary to the Local Government Act 1986.*

- 5.4 *In using e-mail facilities for Council business, members should address communications only to appropriate named members, officers or other persons and should avoid the use of wider circulation lists, including those to Council employees, which may constitute a section of the public under the 1986 Act.*
- 5.5 *Members should seek guidance from the Assistant Director Corporate Services (City Solicitor) on any communication intended for wider circulation.*
- 5.6 *Support services are provided to the political group leaders by the Chief Executive's Office. Individual services may, in addition, provide support services to an executive member with portfolio, lead members and chairs of any committee or panel.*

6. Communications

- 6.1 Officers will not, without the agreement of the author, copy a letter marked as 'private' or 'confidential' or both from a member to another member.
- 6.2 Members shall not, within their communications, purport to make decisions on behalf of the Council.
- 6.3 *Most correspondence will be open and may be copied as a part of the normal arrangements for dealing with the matter within it. Members may, from time to time, raise matters confidentially with officers and such confidences shall be respected.*
- 6.4 *It may be necessary or appropriate for an officer to discuss the content of a confidential letter with another member, particularly where political consultation is required before action is taken under officer delegated powers. In these circumstances, the letter should not be copied or shown to another member or the identity of the author revealed.*
- 6.5 *Individual members (other than duly delegated executive members) have no power to make decisions on behalf of the Council. Members shall avoid suggesting or implying within their correspondence that they have made Council decisions. Members wishing to write correspondence relating to recent decisions should liaise with relevant officers in order to avoid any confusion.*
- 6.6 *Official communications letters and decision documents on behalf of the Council in relation to the Council's functions should be made by the relevant officer. In exceptional circumstances it may be appropriate for an official communication to be made by a member and this should only be undertaken in liaison with the relevant officer.*

7. Electronic Communications

- 7.1 Members and officers must not use to their advantage information that has been communicated to them in error.
- 7.2 *The use of e-mail and other electronic facilities is encouraged. Whilst electronic communications will tend to involve less formality than written communication, members and officers should avoid in e-mail and other electronic communication between them a level of informality that may be perceived as close personal familiarity.*
- 7.3 *Members and officers should only circulate e-mail communications to intended recipients and wide or general circulation should be avoided.*
- 7.4 *Members and officers are advised to include a caveat within e-mails on the following lines:*
- 7.4.1 *The information contained in this e-mail is intended for the individual or entity to whom it is addressed. It may contain privileged and confidential information and if you are not the intended recipient, please notify the sender and delete the message from your system immediately.*

8. Specific Member/Officer Working Relations

- 8.1 Members and officers will not allow a working relationship 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 and political groups.
- 8.2 *There should be close working relations between, on the one hand, executive members with portfolio, executive committee and other committee and panel chairs and other members designated as having a lead, link or shadow responsibility, and on the other hand relevant members of Top Management, and other senior officers.*
- 8.3 *Executive members with portfolio, executive committee and other committee and panel chairs may routinely be consulted by officers prior to them making decisions under delegated powers. The law only allows for decisions relating to the discharge of any of the Council's functions to be taken by full Council, the Executive, a committee or member of the Executive or a committee, sub-committee or an officer. It is important that it is clear who made a decision.*
- 8.4 *The Assistant Director Corporate Services (City Solicitor) is responsible for determining the agenda for a formally convened meeting of a committee or panel. The chair of the committee or panel will be consulted as a part of the agenda preparation for meetings.*

8.5 *Officers having delegated decision-making authority are entitled, where considered expedient, to refer a matter to the Executive, Executive Committee, Corporate Governance and Audit Committee, the Regulatory and Appeals Committee, Licensing Committee or appropriate sub-committee for decision. Top Management are responsible for the contents of all reports submitted in their name.*

8.6 *Members must acknowledge that officers within a department are accountable to their superior officer. Officers should always be prepared to assist members, but they cannot go beyond the bounds of the authority given to them by their superior officer and they should not be asked to do so.*

9. Overview and Scrutiny (Improvement Committees)

9.1 *When discharging their roles of overview and scrutiny and holding the executive to account, Improvement Committees may request or require executive members to attend meetings and answer questions. Executive members may require briefings from officers to assist them in responding to such questioning. In responding, officers must seek to ensure that the information provided is factually correct and complete. Officers must be mindful in providing support to executive members that such support does not undermine the integrity of the member or their own impartiality as an officer. Improvement committee members may question officers at committee meetings and when conducting a scrutiny. Whist questions may be challenging, members should seek to question officers in a positive and constructive way and should avoid any emotive or aggressive approach.*

9.2 *In responding officers should be open, constructive and helpful and should seek to provide full answers.*

10. Involvement of Ward Councillors

10.1 *Ward Members will be invited to attend any public meeting organised by the Council which relates to issues within their ward.*

10.2 *Ward Members must be appraised of local issues within their ward and involved in any public meeting or consultation exercise. They must be notified, at the outset, of any consultation on a local issue in their ward.*

11. Involvement on Other Bodies

11.1 *Members and officers are occasionally appointed as the Council's representative or nominee to another body. Members and officers may be members of other bodies other than by reason of their position in the Council. Where members or officers are in the capacity of company Strategic Director or trustee they must, in making decisions for that body, have regard to the interests of that body. There is the potential*

therefore for a conflict of interest between that of the Council and the other body to occur (for example, the provision of confidential information).

- 11.2 *Where members and officers are involved with other bodies, they must in their working relations with each other be mindful as to the possibility of a conflict of interest. In the case of any conflict, members and officers should seek advice from the Assistant Director Corporate Services (City Solicitor).*

12. Members Access to Information and to Council Documents

- 12.1 Officers will provide relevant information, access to documents, advice and explanation that members may reasonably request and is necessary for them to fulfil their responsibilities as a councillor. A request will only be refused for reasons clearly stated in accordance with the law.

- 12.2 Members will use any information provided only for the purposes of properly performing their duties as councillors and shall treat as confidential all information received unless made public by law or with the express or implied consent of the Council.

- 12.3 Members will not disclose or use confidential information for personal advantage or to the disadvantage or discredit of the Council or anyone else.

- 12.4 *Members are free to approach any Council department for information. A request may relate to one or more of the following:*

12.4.1 Information which is recorded or readily ascertainable.

12.4.2 Access to a specific document or documents.

12.4.3 Information which is not readily available without research.

- 12.5 *A request should be made to the appropriate officer in the first instance, normally the responsible manager. It is for the appropriate officer to determine what information ought reasonably to be provided in response to the request. A response should be provided within 5 working days, but if this proves not possible, the delay must be explained and a clear indication should be given when a substantive response will be provided.*

- 12.6 *A 'document' includes any document or recorded information produced with Council resources whether in electronic or physical form, but does not include any document that forms a part of the internal workings of a political group.*

- 12.7 *Members shall, on request, be provided with a copy of any document unless it contains exempt information within the meaning of Schedule 12A of the Local Government Act 1972.*

- 12.8 *Members who do not sit on the Executive, a relevant committee, sub-committee or panel may only see documents which contain exempt information within the meaning of Schedule 12A of the 1972 Act if they can demonstrate a clear 'need to know'.*
- 12.9 *Members should, before requesting information, consider whether the information is necessary for them to discharge their duties as a councillor. Members may be asked to demonstrate their 'need to know' where this is not clear to the appropriate officer by virtue of their membership of the Executive, committee or panel or their representational role. Information should not be sought simply because members are curious about a matter.*
- 12.10 *In the event of a refusal, the Executive, the relevant committee or panel may determine the question of access to documents.*
- 12.11 *Members will necessarily acquire much information that has not yet been made public and is still confidential. It is a betrayal of trust to breach such confidences. Members should never disclose or use confidential information for the personal advantage of themselves or of anyone known to them, or to the disadvantage or the discredit of the council or anyone else.*

13. Member Briefings

- 13.1 Officers will make arrangements for briefing the Political Group leaders, executive members with portfolio and committee and panel chairs and other members designated as having a lead, link or shadow responsibility, about business within their remit.
- 13.2 *The appropriate officer will, except in the case of the Improvement Committees, the Regulatory and Appeals Committee (including panels appointed by the Committee), area committees and the Standards Committee, arrange briefings having first consulted the Leader of Council, the appropriate executive member with portfolio or their nominee as may be appropriate.*
- 13.3 *In the interests of efficiency, briefings will normally be all-group with members meeting together. There shall be a facility for breaks to take place at the request of any political group to have consultations. At the request of a political group, briefings may take place separately with each political group making the request. When undertaken separately, the appropriate officer will provide the same information to each political group.*

14. Managing tension between Different Roles

- 14.1 Members and officers must recognise the different roles and responsibilities of bodies established within the constitution and the potential for tension between them.
- 14.2 Members and officers must seek to manage any such tension so as not to compromise the integrity of each other and the bodies involved.
- 14.3 *Members of bodies making requirements of officers, such as the production of a report, must acknowledge the need of officers to balance resources between competing demands of all bodies.*

15. Personal Interests

- 15.1 Officers must not through their relationships with members seek to advance their personal interests or to improperly influence decisions.
- 15.2 Members must not seek to use their position as members to advance the personal interests of officers.
- 15.3 A member must not give a reference on behalf of an officer if the member is in any way involved in the recruitment process.

16. Publicity

- 16.1 *The law prohibits the Council from publishing any material which, in whole or in part, appears to be designed to affect public support for a political party.*
- 16.2 *In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and, in particular, to the following matters:*
 - 16.2.1 *Whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another*
 - 16.2.2 *Where the material is part of a campaign, the effect which the campaign appears to be designed to achieve*
 - 16.2.3 *The Council may not give financial or other assistance to a person for publication of material which the Council is prohibited from publishing itself.*
- 16.3 Members must not use or seek to use council money or resources including officer time, office facilities and I.T. equipment for the

production or issue of any material that may contravene these requirements.

17. Criticism of Members and Officers

- 17.1 *Members and officers shall not engage in open criticism of each other.*
- 17.2 *Members will not comment openly or through the media on the conduct of officers and officers will not comment openly or through the media on the conduct of members. This rule is particularly applicable to comment by a member or officer in relation to any pending or ongoing complaint or disciplinary process involving a member or officer.*
- 17.3 *Members and officers may consider that criticism is from time to time justified. However, it is generally neither possible nor appropriate for officers or members to defend themselves in a public forum. Furthermore, open criticism may prejudice the bringing of disciplinary proceedings in circumstances where this might otherwise be appropriate. Open criticism is unlikely to be conducive to good member/officer working relations and may be damaging to morale within the Council.*
- 17.4 *Comment in relation to ongoing disciplinary proceedings may be used in the proceedings and prejudice their outcome.*
- 17.5 *Officer concern about the behaviour of members may be dealt with by reference to the appropriate provisions of this Code or under the Standards Committee Procedure Rules.*

18. Political Group Leaders and the Chief Executive

- 18.1 The political group leaders and the Chief Executive will seek to develop appropriate working relations.
- 18.2 *Regular briefing arrangements between the political group leaders and the Chief Executive are an essential part of the democratic machinery of the Council. It is important that the Chief Executive, as Head of the Paid Service, is accessible by all political groups represented on the Council through their respective leaders.*

19. Problems with Working Relations between Members and Officers

- 19.1 Members and officers will seek to resolve any problems arising within their working relations.
- 19.2 The relevant political group leader and the Chief Executive will seek to resolve by mediation and conciliation any unresolved problem or breakdown in working relationships between members and officers.

19.3 *It is the responsibility of both members and officers to tackle and resolve problems arising within their working relationship. If this is not possible, the member and officer concerned must inform their political group leader and Chief Executive respectively. The political group leader and Chief Executive will endeavour to establish arrangements whereby any breakdown can be resolved.*

20. Enforcement

- 20.1 The Standards Committee has responsibility for dealing with any breach of this Protocol.
- 20.2 Allegations of any breach must be made in writing to the Monitoring Officer.
- 20.3 The rules in this Protocol relating to officers are equivalent to disciplinary rules in respect of which the relevant disciplinary procedures may be applied, subject to the approval of the Chief Executive.
- 20.4 In the event that a problem in working relations between a member and an officer cannot be resolved under paragraph 19 above, the relevant political group leader will refer it to the Standards Committee and the Chief Executive will refer it to the appropriate disciplining officer of Senior Management.