

PART 4 – CODES AND PROTOCOLS

4. Officer/Member Relations Protocol

1 Introduction Scope and Purpose

- 1.1 The purpose of this protocol is to provide guidance to members and officers about how they should interact with each other and to outline some of the appropriate conventions in place within the Council. This protocol cannot cover every eventuality and is not intended to be prescriptive. Its intention is to offer guidance on some of the issues which commonly arise.
- 1.2 This protocol needs to be considered alongside the codes of conduct for members and officers.

Key Points

- 1.3 The following key points underpin the member/officer working relationship:
 - (a) Working relations between members and officers must be based on mutual trust and respect.
 - (b) Officers must remain politically neutral at all times and must not offer advice of a political nature.
 - (c) Officers have a duty to support all members and provide them with the level of information they need to carry out their roles.
 - (d) Officers will keep discussions with political groups and individual members confidential unless the group or member gives permission to discuss the matter with others.
 - (e) Ward members should be kept informed of relevant matters within their ward and should normally be invited to attend public meetings organised by the Council in their ward.
 - (f) Members have a right to access the information which they “need to know” in order to carry out their duties and responsibilities as a member.
 - (g) Members must understand and respect the competing pressures and workloads on officers’ time.
 - (h) Any request for officers to advise party group meetings must be made to the Chief Executive, Deputy Chief Executive, Chief Operating Officer or, in their absence, the appropriate Director.

2 Definition of the Role of Members and Officers Introduction

- 2.1 This protocol seeks to reflect the principles underlying the codes of conduct that apply to members and officers. The aim of those codes is to enhance and maintain the integrity of local government and they demand very high standards of personal conduct.

- 2.2 Members and officers are servants of the public. Members are responsible to the electorate and serve only so long as their term of office lasts.
- 2.3 For the effective conduct of council business, there should be mutual respect and courtesy in all meetings and contacts (both formal and informal) between members and officers. It is important that behaviour which could be viewed as conferring an advantage or disadvantage is avoided, as should close personal familiarity between members and officers, which could undermine public confidence in the Council.

Members

- 2.4 Members are accountable to the electorate who determine, every four years, the people they wish to represent them on the Council. Therefore, this protocol recognises that members are elected to serve the people of Cheshire West & Chester.
- 2.5 Members, as politicians, may express the values and aspirations of their party political groups but they must recognise that in their role as members they have a duty to always act in the public interest.
- 2.6 Members may have a number of roles within the Council and on external bodies or organisations and need to be alert to the possible conflicts of interest that may arise. Members should be aware at all times that the role they are performing may impact upon the nature of their relationship with officers and the expectations that officers may have of them.
- 2.7 Members are mainly responsible for:
- (a) the political direction and leadership of the Council
 - (b) determining policies, plans and strategies
 - (c) implementing those policies, plans and strategies
 - (d) discharging the Council's regulatory functions
 - (e) monitoring and reviewing, primarily through the Cabinet and Scrutiny functions, the Council's performance in implementing its policies, plans and strategies and delivering its services
 - (f) participating in partnership working
 - (g) representing the Council on national regional and local bodies and organisations
 - (h) representing the views of their communities and individual constituents
- 2.8 Some members will have additional responsibilities relating to their membership (and/or chairing) of the Cabinet, Overview & Scrutiny Committees/Panels or other committees and subcommittees. These roles may require different relationships with certain officers.
- 2.9 Officers can expect members:

- (a) to act within the policies, practices, processes and conventions established by the Council
- (b) to work constructively in partnership with officers acknowledging their separate and distinct roles and responsibilities
- (c) to understand and support the respective roles and responsibilities of officers and their workloads, pressures, scope of powers and management structures
- (d) to give political leadership and direction and to seek to further the Council's agreed policies and objectives with the understanding that, subject to the Scheme of Delegation to officers and the Council's core objective in decision making, members have the right to take the final decision on issues, based on advice
- (e) to treat them fairly and with respect, dignity and courtesy
- (f) to act with integrity, to give support and to respect appropriate confidentiality
- (g) to recognise that officers work to the instructions of their senior officers and not to individual members;
- (h) not to subject them to intimidation, harassment, or put them under undue pressure
- (i) have regard to the seniority of officers in determining what are reasonable requests, taking in to account the relationship between the member and officer, and the potential vulnerability of officers, particularly at junior levels
- (j) not to knowingly request them to exercise discretion which involves acting outside the Council's policies and procedures
- (k) not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a member without proper and lawful authority
- (l) not to use their position or relationship with officers to advance their personal interest or those of others or to influence decisions improperly
- (m) to comply at all times with the members' Code of Conduct, the law, the Constitution and such other policies, procedures, protocols and conventions agreed by the Council

Officers

- 2.10 Officers are employed by, and are responsible to the Council. Their job is to give advice to members and the Council and to carry out the Council's work under the direction and control of the Council, its Cabinet, committees and sub-committees.
- 2.11 The primary role of officers is to advise, inform and support all members and to implement the lawfully agreed policies of the Council.

- 2.12 Officers are responsible for day to day managerial and operational decisions within the Council. Members should avoid inappropriate involvement in such matters.
- 2.13 In performing their role officers will act professionally, impartially and with political neutrality. Whilst officers will report a member's view on an issue, the officer should not be influenced or pressured to make comments, or recommendations which are contrary to his professional judgement or views.
- 2.14 Officers should:
- (a) work in partnership with members in an impartial and professional manner
 - (b) implement decisions of the Council and its subordinate bodies which are lawful, which have been properly approved in accordance with the requirements of the law and the Constitution, and are duly recorded
 - (c) assist and advise all parts of the Council. officers must always act to the best of their abilities in the best interests of the Council as expressed in the Council's formal decisions
 - (d) respond to enquiries and complaints in accordance with the Council's standards
 - (e) be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for members, the media or other sections of the public
 - (f) act with integrity, honesty, respect, dignity and courtesy at all times
 - (g) provide support and learning and development opportunities for members to help them in performing their various roles
 - (h) not use their relationship with members to advance their personal interests or to influence decisions improperly
 - (i) comply, at all times, with the Officer Code of Conduct, and such other policies or procedures approved by the Council
- 2.15 Officers do not have to support members in any role other than that of member, and should not engage in actions incompatible with this protocol. In particular, there is a statutory limitation on officers' involvement in political activities.

3 Officer Advice to Party Groups

- 3.1 Officers cannot be instructed to attend party political group meetings, or write reports for such meetings. Any requests for advice or attendance shall be directed through the Group Leaders or Chairs/Spokespersons for the relevant committee or the Cabinet Member concerned.
- 3.2 The request shall be made to the Chief Executive, Deputy Chief Executive, Chief Operating Officer or, in their absence, to the next appropriate officer. An officer accepting an invitation to one group or individual shall not decline an invitation to advise another group or individual on the same subject. Any

request received and advice given shall be the subject of strict confidentiality, unless agreed otherwise.

4 Briefings for Cabinet and Committees

- 4.1 The principles outlined above do not obviate the necessity for regular contact on matters affecting the Council between senior officers and the leaders of political groups, or on matters affecting Cabinet Members' responsibilities or those of committee Chairs/Spokespersons.
- 4.2 It is recognised that groups may wish to give preliminary consideration to matters of council business in advance of such matters being considered by the relevant decision making body. Political groups may at their own discretion decide to engage jointly in such deliberations. Officers may properly be called upon to support and contribute to such deliberations, provided they maintain a stance of political neutrality.
- 4.3 Support includes briefings for the Cabinet and committees, and briefings for members related to their individual role, e.g. Cabinet Member or Scrutiny Chair. Officers should be asked to give advice on council business only, and not on matters which are of a party political nature. Support and advice on Council business is available to all political groups.
- 4.4 Usually, only the Deputy Chief Executive, Chief Operating Officer, Directors or Tier 4 officers may be asked to provide the support outlined in paragraphs 3 and 4. Requests for attendance should be made in sufficient time to allow proper preparation.
- 4.5 Due consideration shall be given to the timing of meetings to avoid onerous demands being made on officers. The time spent advising a group or individual shall be reasonable, given the demands on the time of all concerned.

5 Support Services for Members

- 5.1 The role of officers is only to assist members in discharging their role as members of the Council. Officers should not be used in connection with party political campaigning or for private purposes. Council resources (e.g. member services, stationery, photocopying) may only be used for council business or where such use is conducive or incidental to that role.

6 Members' Access to Information

- 6.1 All political groups are equally entitled to request copies of background information underpinning decisions including essential financial information. All such requests and the replies shall remain confidential to that group, although groups may at their discretion choose to share that information between political groups.
- 6.2 Members are reminded of the need to consider whether such information is likely to fall within the categories of Exempt information (as defined in this Constitution) and to treat it accordingly. Release of information to members will be subject to the laws on confidentiality and disclosure of information.

- 6.3 The common law right of members is based on the principle that any member has, on the face of it, a right to inspect council documents so far as their access to the documents is reasonably necessary to enable them to properly perform their duties as a member of the Council. This is referred to as the “need to know” principle.
- 6.4 The exercise of this common law right depends upon the member’s ability to demonstrate that they have the necessary “need to know”. A member has no right to a “roving commission” to go and examine documents of the Council, and what the law terms “mere curiosity” is not sufficient.
- 6.5 The question must initially be determined by the particular Chief Officer whose department holds the documents in question, with advice from governance. If the Chief Officer refuses to supply the information requested by the member, the member may refer the matter to the Director of Governance who will review the decision.
- 6.6 In some circumstances (e.g. a 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 may be required to do so in writing.
- 6.7 Draft Cabinet reports and working papers will be considered as work in progress and as such may not be requested under these rules.

7 Reports

- 7.1 The Deputy Chief Executive, Chief Operating Officer and Directors may initiate reports on any matter where they believe the Council, Cabinet, committee or sub-committee should make a decision or should be informed.
- 7.2 Where such a report affects another service, the appropriate Deputy Chief Executive, Chief Operating Officer and/or Director must be consulted. The appropriate Cabinet Member shall be consulted prior to the publication of a Cabinet report which concerns their portfolio. Reports shall communicate all relevant factual information and professional opinions, together with appropriate recommendations. The Cabinet Member may make suggestions as to the content and timing of the report, however the final decision on the contents of the report will be that of the officer in whose name the report is presented.
- 7.3 In exceptional circumstances, the Cabinet Member may submit their own report for consideration alongside that of the officer.

8 Overview & Scrutiny Committee

- 8.1 Overview & Scrutiny committees may require officers and members to attend and provide any information required to answer questions (other than those which they would be entitled to refuse to answer in a court of law). Detailed provisions are contained within the Procedure Rules (see Part 3 Section 4).

9 Ward members

- 9.1 Ward members (and, where appropriate, neighbouring Ward members) should be kept informed and consulted on relevant matters affecting their Ward. In the case of public meetings in a particular locality, Ward members will normally be invited to attend and can expect to be consulted on any form of consultation exercise on local issues.
- 9.2 So far as decision making is concerned, members remain accountable to the whole electorate of the Borough, and must make a personal decision on matters which come before them, balancing the interests of the electorate as a whole. Including those members of the public who did not vote for them.

10 Correspondence

- 10.1 Where an officer copies correspondence addressed from one member to another, it should be made clear to the originator and should not be sent to any member of another group without the originator's consent.
- 10.2 Members' correspondence with Chief Officers should not be copied to Cabinet Members or Overview & Scrutiny committee Chairs unless the originating member consents.
- 10.3 Official letters from the Council should normally be sent out in the name of the appropriate officer, rather than a member. It may be appropriate in certain circumstances (e.g. representations to a government minister) to address correspondence in the name of the member, but this is the exception rather than the rule. Letters which create obligations or give instructions should not be sent out in the name of a member.
- 10.4 Any members who receive correspondence in their capacity as Cabinet Members shall respond to the correspondence in their official capacity only. Such correspondence shall be copied to the Leader except when doing so would constitute a breach of professional confidence.

11 Press Releases

- 11.1 Members are reminded of the need to comply with the requirements of the Local Government Act 1986 and the Code of Recommended Practice on Local Authority Publicity which prohibits local councils from publishing any material which appears to be designed to reflect support for a political party.
- 11.2 Council publicity should not be used as a means to publicise individual members, except where they are acting to represent the Council as a whole.
- 11.3 Council resources cannot be used to publish any material of a party political nature.

Ceremonial Events

- 11.4 Ceremonial events would normally be attended by the Chair or Deputy Chair of the Council, unless they relate specifically to initiatives led by the Cabinet or in particular committee, in which case the Cabinet Member, Chair or Deputy Chair of that committee would attend.
- 11.5 In addition, local members should be informed and, where possible and appropriate, invited to participate.

Complaints

- 11.6 Where a member's conduct is considered inappropriate, contact should be made in the first instance with the Chief Executive or Director of Governance.
- 11.7 If it is a matter of party discipline, then the matter will be investigated by the party itself, otherwise such matters will be investigated by the Chief Executive or Director of Governance or a person duly authorised by them. In serious cases, or case where it appears that a member may have breached the Code of Conduct, a written complaint may be made to the Director of Governance (as Monitoring Officer).
- 11.8 Matters relating to Officer conduct are to be dealt with solely by the Chief Executive and or their nominated officer.