

## Part 5 – C

### MEMBER/ OFFICER PROTOCOL

#### 1. Introduction

- 1.1 This protocol aims to provide guidance on the complex relationships between members and officers of the Council.
- 1.2 The Government is encouraging the changes already begun to modernise political management arrangements. These need to be effective, transparent and accountable as well as facilitating clear community leadership. As the Council enters into new executive arrangements this protocol is intended to support the new ways of working.
- 1.3 The protocol supplements the separate Codes of Conduct for members and for Employees of the Council, which should be read in conjunction with this document.
- 1.4 The seven principles of public life as stated by the “Nolan” Committee (the Committee on Standards of Conduct in Local Government), which are set out in the members’ Code of Conduct (selflessness, integrity, objectivity, accountability, openness, honesty and leadership) should inform the relationships between members and officers.

#### 2. The Role of Members

- 2.1 The roles of the councillor are set out in the members’ Code of Conduct. This states that a councillor may have a number of complex roles including politician, policy maker, representative, constituent advocate and council/ committee worker. It is not the role of the councillor to involve themselves in the day to day management of council services.
  - **Councillor** – in this capacity councillors will usually belong to particular groupings represented on the Council and will express political values and support the policies of the group to which they belong.
  - **Policy Maker** - Members may have personal, individual or collective responsibility depending on their role for the local authority organisation and its activities. They set the direction of the Council; are responsible for ensuring that adequate management arrangements are in place; develop and allocate the Council’s physical, financial and human resources and monitor the performance, development, continuity and overall well-being of the organisation.
  - **Ward Member** –in this capacity councillors interpret and express the wishes of the electorate, advocate on behalf of constituents and seek to account for service priorities, allocation of resources and ultimate performance of the Council. Councillors may also be appointed to outside

bodies and the role can vary from representing the views of the Council to acting according to individual judgement.

## **2.2 Members, collectively, therefore need to:**

- Determine vision and values and ensure staff commitment;
- Ensure standards are properly established and monitored;
- Link service and corporate objectives;
- Enable local people to resolve problems and issues faced by the community;
- Ensure community needs are fed into strategy formulation and service provision;
- Develop and support community leadership.

## **2.3 Cabinet Members and Leader of the Council**

In accordance with current legislation, the Leader and members of the Cabinet have executive legal powers as of 17 October 2001. Working closely with the Corporate Management Team, they will develop the policy framework and budget proposal to Council. The Leader and Cabinet are then responsible for implementing the approved policy framework by collectively and individually making decisions in keeping with the Council's scheme of delegation.

## **2.4 Opposition Members**

All members, not just those of the majority group are entitled to receive confidential, but not covert support and advice. All members shall be given timely access to information required in their role as councillors and shall have the same rights and obligations in their relationship with officers.

## **2.5 The Mayoralty**

The Mayor has a representative role of behalf of the Council and the borough to local residents and those who work or study in the borough. The position is non-political and this must be reflected when invitations to functions are accepted. It is reasonable for the Mayoralty to be supportive of local business, but the office should not be used for commercial promotions. The Mayor should not use his or her office, nor Council officers, to by-pass recognised systems of working.

## **3. The Role of Officers**

### **3.1 Officers of the Council have, in broad terms, the following main roles:**

- Initiate policy proposals;
- Implement all Council policies;
- Manage the services for which the Council has given them responsibility. They are accountable for the efficiency and effectiveness of those services and for proper professional practice in discharging their responsibilities and taking decisions, within agreed policy;

- Provide professional advice to the Council, its committees and members and the public in respect of their service;
- Ensure that the Council acts in a lawful way.

### 3.2 **Members can expect officers to:**

- maintain confidentiality;
- perform their duties effectively, efficiently and with political neutrality
- behave in a professional and courteous manner;
- be helpful to members and respect their role;
- avoid personal close familiarity with members and not use their relationship with members to advance their personal interests or to influence decisions improperly;
- report to their service heads any time that a member asks or pressurises the officer to deal with a matter outside of Council procedure or policy;
- demonstrate an understanding of and support for respective roles, workload and pressures;
- comply with the relevant Codes of Conduct.

### 3.3 **Officers can expect from members:**

- political leadership and direction;
- respect, dignity and courtesy;
- an understanding of and support for respective roles, workload and pressures;
- not to be subject to bullying or undue pressure;
- not to use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
- compliance with the relevant Codes of Conduct.
- Compliance with any formal standards investigation

3.4 Members and officers will wish to discuss policy issues and officers will often require political guidance in framing proposals. However, when officers write reports for member decisions they have a duty to give the advice dictated by their professional expertise and in accordance with their own professional codes of conduct. In some situations an officer will be under a duty to submit a report on a particular matter. Officers expect to have their professional integrity respected and not to be influenced or required to reduce options, withhold information or make recommendations to the Cabinet or a committee they cannot professionally support.

3.5 An officer's first duty is to the Council as a whole and not to an individual member, or to a political or other group of members. However, officers may be called upon to provide advice to the majority group or leading members. This should not preclude them offering a similar service to the opposition parties.

3.6 Directors and Heads of Service are likely to develop a close working relationship with their relevant portfolio members and committee chairs. They may meet on a regular basis to discuss current issues, reports to be considered by committee and budgets.

3.7 The Cabinet and/or members' complaints about council services or officers should be referred to the relevant Director or the Service Head in the first instance. If the matter is not resolved, the member should contact the Chief Executive. Further details on such complaints are contained in the Council's Code of Conduct for Councillors.

### **3.8 Officers with Specific Responsibilities**

3.8.1 A number of individual officers have specific roles including the Head of Paid Service (Chief Executive), the Chief Finance Officer (Director of Corporate Services), the Monitoring Officer (the Head of Legal Services), Proper Officers for particular functions (e.g. elections and licensing) and the statutory officers responsible for Children's Services and Adult Social Services.

3.8.2 The Monitoring Officer has a duty to provide advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all members of the Council. In addition, the Monitoring Officer gives advice to members on the application of Local Codes of Conduct, maintains a register of interests for Council members, and promotes high standards of conduct through support to the Standards Committee.

### **3.9 Politically Restricted Posts**

Section 2 of the Local Government and Housing Act 1989 introduced restrictions on the political activities of officers holding politically restricted posts. It prevents certain officers from being councillors in another council and restricts certain political activity such as canvassing. This includes all officers above PO4 and those who regularly advise members and speak to the media on behalf of the Council.

## **4. Other Officers**

4.1 Departmental officers should not go beyond the bounds of their delegated authority. If officers do not have regular contact with members they may be asked to inform their manager if they are asked to provide assistance to a member. Members must not request officers to carry out research for them covertly. Members' access to information will be on a 'need to know' basis. The 'need to know' must be decided by a Head of Service and members should not exert pressure on junior officers to circumvent the process.

4.2 Bullying or harassment of officers, including sexual and racial, by members is unacceptable. Members should not use their position and knowledge of the Council to place undue pressure on officers to take a different course of action than they would otherwise have done.

*(Workplace bullying is defined by Unison, the public sector union, as 'offensive, intimidating, malicious, insulting or humiliating behaviour, abuse of power or authority which attempts to undermine an individual or group of employees and which may cause them to suffer stress.' The Council has defined racial harassment as 'offensive conduct of a racial nature, or conduct based on race,*

*which is offensive to the recipient'. Sexual harassment has been defined as 'unwanted conduct of a sexual nature, or conduct based on sex, which is offensive to the recipient.'*)

*The following examples are given by the Advisory, Conciliation and Advocacy Service (ACAS)*

Behaviour that is considered bullying by one person may be considered firm management by another. Most people will agree on extreme cases of bullying and harassment but it is sometimes the 'grey' areas that cause most problems. It is good practice for employers to give examples of what is unacceptable behaviour in their organisation and this may include:

- spreading malicious rumours, or insulting someone by word or behaviour
- copying e mails that are critical about someone to others who do not need to know
- ridiculing or demeaning someone
- picking on them or setting them up to fail exclusion or victimisation unfair treatment
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances
- touching, standing too close, display of offensive materials, asking for sexual favours
- making decisions on the basis of sexual advances being accepted or rejected
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and
- constant criticism preventing individuals progressing by intentionally blocking promotion or training opportunities.

Bullying and harassment is not necessarily face to face, it may occur through written communications, visual images (for example pictures of a sexual nature or embarrassing photographs of colleagues), email, phone, and automatic supervision methods – such as computer recording of downtime from work, or recording of telephone conversations – if these are not universally applied to all workers.

## **5. At Meetings**

- 5.1 Officers and members will most frequently come into contact with each other at the variety of meetings held to conduct the Council's business. The respective roles of the participants may vary according to the purpose of the meeting and therefore their relationship to each other will also vary. The examples provided below are merely illustrative and not intended to be exhaustive.
- 5.2 At all times officers and members should show respect to one another and although members are entitled to question officers at meetings they should avoid personal attacks on officers and ensure that criticism is constructive and well-founded. Officers would expect to have the opportunity to explain what appears to be a performance failure or inconsistency.

5.3 Whenever a public meeting is organised to consider a local issue, all the members representing the ward(s) affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the ward members should be notified at the outset of the exercise. (For example, by being provided with a copy of the weekly list of planning applications.)

#### 5.4 **Council, Cabinet, Committee and Sub-Committee Meetings.**

These bodies have executive powers and as such are run in a formal manner. They are subject to the Council's rules and procedure which can only be amended or waived by decision of the Council. Members of the relevant body are required to consider and take decisions on the matters falling within the terms of reference of the body. Chief officers at Director level or their nominees attend meetings either on a regular basis if reports are written in their name or at the request of the Chair to answer any detailed questions and provide appropriate advice. Other officers attend to provide financial and legal advice and to act as record keeper. Questions and answers are dealt with via the Chair. Officers and members will generally address each other in terms of Councillor 'A' and Mr./Mrs./Ms. A '.

#### 5.5 **Working Groups/Consultative Committees.**

These are more informal bodies that have no executive powers, and may make recommendations to the relevant body, or advise an officer to whom delegated power has been given. Officers are likely to have a more participative role, joining in the debate and contributing their own views and comments.

## **5.6 Area Forum Meetings.**

These are to be held periodically throughout the year in various areas of the borough. Their aim is to improve communication with residents, provide a means for residents to express their views and for the Council to explain its policies. Ward councillors and the Leader of the Council and lead members attend as appropriate. Area Forum lead officers will attend these meetings which will be minuted.

## **5.7 Service Issue Consultation Meetings.**

These may be set up for a variety of reasons, for example a proposed traffic management scheme, or the introduction of charging for social services. The relationship of officers and members at such meetings may vary. There may be a 'top table' of members dealing with questions with the assistance of officers or the meeting may be more informal.

## **5.8 Appeals Panels.**

There are a variety of quasi-judicial bodies the Council is required to run. Quasi-judicial bodies are those where a decision 'affects the rights of subjects'<sup>1</sup> and there is usually a right for a person affected to appear before or make representations to the body which deliberates on the issues involved and takes a decision within legal guidance provided by officers. (There are other quasi-judicial bodies such as Planning & Licensing which are not appeal bodies.) Officers who have not previously been involved with the case in question must provide such advice. Some of these bodies must be seen to be operating at arms-length from the original decision-maker on the matter.

## **5.9 Group Meetings.**

Group meetings of the political parties are organised by members and have no executive powers, although the majority group will consider the political direction of the Council and as a result they will request officers to develop and pursue their policy initiatives.

## **5.10 Meetings with Outside Organisations and Meetings of Outside Bodies –**

Local authorities are often invited and in some instances have a right to be represented on other bodies, both statutory and voluntary and these may be executive, influential or advisory bodies and may involve agency arrangements. The role to be exercised by the representatives may be to represent the collective view of the nominating local authority or to act according to individual judgement. Members may also have to represent the Council at meetings with outside organisations where they may be negotiating or putting forward the Council's views. Officers may need to attend to provide professional advice to the member representative and may also be asked to provide appropriate

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<sup>1</sup> Ridge v. Baldwin [1964] A.C. 40

briefings. Members should note that declaration of interest requirements apply to their service on outside bodies. Further guidance is available for members and officers as issued by the Standards Committee.

## **6 Delegated Authority of Executive Functions**

- 6.1 The Council may delegate authority for executive functions to the Cabinet, an individual Cabinet member, a Cabinet committee or sub-committee and to one or more officers, but not to non-Cabinet members. There is a difference between one-off delegations to deal with a particular issue and permanent delegations which can only be agreed by the whole Council and need to be recorded in a document (the Scheme of Delegation) which is open to public inspection. Powers must be delegated to a single officer and if in practice they are sub-delegated by a scheme of management, this should be recorded and open to public inspection. In some cases authority is delegated to an officer in consultation with the chair. However, the officer must not act under the dictation of a member<sup>2</sup> and the officer remains accountable for the action taken.

## **7 Delegated Authority of Non-Executive Functions**

- 7.1 The delegation of non-executive functions will be determined by Full Council.

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<sup>2</sup> R v Port Talbot Borough Council, ex p Jones [1988] 2 All E. R 207