

PROTOCOL ON 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. It seeks to set a framework that assists positive working relationships between Members and Officers.
- 1.2 The Protocol is a written statement of current practice and convention but it seeks to promote greater clarity and certainty.
- 1.3 It also seeks to reflect the principles underlying the respective Codes of Conduct that apply to Members and Officers. Its purpose, therefore, is to enhance and maintain the integrity (real and perceived) of local government by demanding very high standards of personal conduct.
- 1.4 Members and Officers are all servants of the public and they depend on each other in carrying out the work of the Authority. Members are responsible to the electorate and serve only so long as their term of office lasts, while Officers are employees of and are responsible to the Council. Their job is to give advice to the Council, as well as to individual Members, and to carry out the Council's work under the direction and control of the Council.
- 1.5 Mutual respect between Members and Officers is essential to good local government. Whilst a strong and robust working relationship is beneficial close personal familiarity between individual Members and Officers could be damaging or could be perceived as damaging.

2. ROLES OF MEMBERS

Members undertake a range of different roles. Broadly these are:

- Members express political values and support the policies of the party or group to which they belong
- Members represent their wards 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 do not have power to individually direct Officers to take specific actions unless this is specifically delegated to them by Council.

3. ROLES OF OFFICERS

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
- Ensuring that an efficient response is given to Members' enquiries
- Initiating policy proposals
- Implementing agreed policy
- Ensuring that the Council always acts in a lawful and proper manner
- It will probably be the case that Officers, particularly Senior Officers will need to work closely with Executive Members but this should not lessen the need to be attentive to the needs of back bench Members of both ruling party and opposition groups. Impartiality is essential

4. **RESPECT AND COURTESY**

4.1 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Officers. This plays a very important part in the Council's reputation and how it is seen in public. It is very important that both Members and Officers remember their respective obligations to maintain the Council's reputation. A Member should not raise matters relating to the conduct or capability of an Officer at meetings held in public or before the press. This is a long-standing tradition in public service as an Officer has no means of responding to such criticisms in public. The Officer may however have grounds to make a complaint to the Monitoring Officer if the Member's conduct breached the Member's Code of Conduct. The Officer may also have grounds to bring a civil action against the member for defamation of character in such circumstances. If a Member feels they have not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, they should raise the matter with the Officer's line manager in accordance with the procedure set out in paragraph 5.1 below. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.

Undue Pressure

- 4.2 It is important in any dealings between Members and Officers that neither should seek to take unfair advantage of their position.
- 4.3. Members should be aware that Officers are constrained in the response that they may make to public comment by Members and should not abuse Officers, or question their impartiality, in public or through the press nor seek to undermine their position by abuse rudeness or ridicule. If a Member does so in an email or telephone conversation to an Officer then the Officer is justified in not responding to the email or in ending the telephone call.
- 4.4 In their dealings with Officers (especially junior Officers) Members need to be aware that it is easy for them to feel under pressure and to feel at

a disadvantage. Such feelings can be intensified where Members hold senior official and/or political office.

- 4.5 For the above reason, it is the responsibility of Chief Officers to identify within each department the Senior Officers who should have regular contact with members, and this will depend upon the nature of the service they provide and the nature of the Member contact envisaged. Approaches by Members to junior Officers are proper when casework is detailed and ongoing or matters are routine, but wherever appropriate Members should keep Chief Officers informed by copying to them correspondence, e-mails, etc., and routing general enquiries through them. Serious problems can arise if Members by-pass appropriate lines of communication to Chief Officers and their senior colleagues and, for example, deal with more junior members of staff to seek views on policy issues, non-routine business, or attempt to give instructions to staff. This has the effect of depriving Members of the formal, informed and accountable advice they have a right to expect from Chief Officers and which they have a duty to consider. It may also serve to undermine the formal accountability of staff to their line-manager.
- 4.6 Members should take care not to disrupt Council offices or unduly affect the work of the Council's Officers. For this reason, relevant Chief Officers should be advised in advance of Member visits to departments, unless the visits are of a statutory inspection nature in which case other well-established procedures apply. Members should make appointments with Officers in advance so that the relevant Chief Officer can ensure that the Member meets with the most appropriate Officer to answer the Member's query. Chief Officers may put in place arrangements for dealing with Members for the better/efficient running of services. Visits to schools should be arranged through the Headteacher.
- 4.7 A Member should not apply undue pressure on an Officer either to do anything that he is not empowered to do or that is outside Council policy 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.
- 4.8 Similarly, an Officer must neither seek to use undue influence on an individual Member to make a decision in his favour, nor raise personal matters to do with their job, nor make claims or allegations about other Officers.

Familiarity

- 4.9 For the effective conduct of Council business there must be mutual respect between Members and Officers. The basic rules of common courtesy apply in both formal and informal settings. Close personal familiarity between individual Members and Officers can damage the principle of mutual respect. It could also, intentionally or not lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.
- 4.10 Such familiarity could also cause embarrassment to other Members and/or other Officers and give rise to suspicions of a lack of impartiality

by Officers. For these reasons close personal familiarity should be avoided. Clearly though family relationships and close friendships do exist and these principles should be applied sensibly in those situations.

5 BREACH OF PROTOCOL

- 5.1 If a Member considers that an Officer has breached this Protocol he may raise the issue with that Officer's line manager. If direct discussion with the manager does not resolve the complaint it should be referred to the relevant Assistant Director responsible for the Officer concerned. Ultimately if the matter is not resolved reference can be made to the relevant Director. Breach of the Protocol may give rise to disciplinary proceedings against an Officer in accordance with the Council's employment policies if the circumstances warrant it.
- 5.2 If an Officer considers that a Member has contravened this Protocol he should consult his line manager who will if necessary involve the relevant Assistant Director. In certain circumstances breach of this Protocol may also constitute a breach of the Members' Code of Conduct. If the breach is sufficiently serious this may warrant a formal reference to the Council's Monitoring Officer.
- 5.3 Many complaints will be capable of informal resolution without the need for formal action. It is envisaged that relevant Assistant Director and Members will endeavour to resolve complaints without the need to escalate the complaint to involve statutory Officers. In this regard political groups should consider the appointment of a group member to lead and be a contact for the identification and resolution of any such problems. Officers should take all reasonable steps to keep Members informed of the structure of their Services and the responsibilities of Officers to enable Members to make appropriate enquiries. Each Service should have a named Officer to whom complaints can be directed by Members if Members cannot or prefer not to raise complaints with line managers.
- 5.4 Without seeking to limit the right of complaint it must be the case that the submission of numerous complaints of a minor or personally motivated nature can waste the time of both Members and Officers and the resources of the Council and these should be avoided.

6 PROVISION OF ADVICE AND INFORMATION TO MEMBERS

- 6.1 Members may approach Officers of the Council 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.
- 6.2 Officers should endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any appreciable delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed i.e. either a full response or, if this is not possible, an acknowledgement that fully explains what is happening within 10 working days of the

receipt of the enquiry. Every effort should, however, be made to respond within this period. It may also be appropriate to keep Members advised of how issues are progressed.

- 6.3 The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law. The Access to Information Rules within the Constitution explain the position with regard to access to papers relating to the business of the Council.
- 6.4 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. Nor can a Member seek to exercise the right for some improper or personal motive.
- 6.5 The information sought by a Member should only be provided by the respective Service as long as it is within the limits of the Service's resources. For their part, Members should seek to act reasonably in the number and content of the requests they make. Unnecessarily frequent and excessive requests can constitute an inappropriate and wasteful use of Council resources.
- 6.6 It is important for Services and their staff to keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the area that the Member represents. Members should be informed about proposals that affect their electoral ward and should also be invited to attend Council initiated events within their electoral ward
- 6.7 Members may be entitled under the Freedom of Information Act 2000 to receive information which falls outside their common law rights based on the "need to know". Officers are encouraged to supply documents to Members without the need for a formal FOI request if it is apparent from the Member's enquiry that any individual would be entitled to receive such documentation. The Council's Freedom of Information and Data Protection Officer will be able to advise in consultation if necessary with the Monitoring Officer on whether any request would fall within the Freedom of Information Act.

7. PROVISION OF SUPPORT SERVICES TO MEMBERS

- 7.1 The only basis on which the Council can lawfully provide support services (eg stationery, word processing, printing, photocopying, transport, 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 not specifically be used in connection with party political or campaigning activity or for private purposes.

Correspondence

- 7.2 Official letters on behalf of the Council should be sent in the name of the appropriate Officer, rather than over the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to that Member or where a Member has a specific delegation. Letters which, for example, create obligations or give

instructions on behalf of the Council should not be sent out in the name of a Member unless the Member has specific delegated authority in that respect.

- 7.3 Both Members and Officers should exercise reasonable caution to avoid the inappropriate use of emails both as to their tone, content and to who they are sent. Confidentiality can be breached in this way and unnecessary offence can be given. Emails should be relevant to the role of Members and Officers.

Media

- 7.4 Communication with the media can be an important part of a Member's workload. In general, Members provide comment and views while Officers provide factual information. If a Member is unsure about the circumstances of a particular issue he should contact the appropriate Director or the relevant Assistant Director concerned or ask the Public Relations Office to do so.
- 7.5 Members and Officers should observe the Council's recommended practice on publicity in dealings with the press. Members should where it is reasonable to do so seek the comments of the relevant Officers before raising matters critically in the press. To do otherwise can demonstrate a lack of respect particularly if Officers are criticised individually.

8. POLITICAL ACTIVITY

- 8.1 All Officers must act with political impartiality. Officers are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Directors/Assistant Director, and not to individual Members of the Council whatever office they hold.
- 8.2 There are a number of additional constraints that apply to an Officer who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989. In summary, such Officers are prevented from:
- being a Member of Parliament, European Parliament or local authority
- or
- acting as an election agent or sub-agent for a candidate for election as a member of these bodies.
 - being an Officer of a political party or any branch of a political party or if his duties would be likely to require him to participate in the general management of the party or branch or to act on behalf of the party or branch in dealings with persons other than members of the party;
 - canvassing on behalf of a political party or a candidate for election or speaking to the public with the apparent intent of affecting public support for a political party; and
 - publishing any work of which he is the author or acting in an editorial capacity in relation to such works, if the work appears to be intended to affect public support for a political party.
- 8.3 Officers cannot be required to advise any political group of the Council, either as to the work of the Group or as to the work of the Council, nor

can they be required to attend any meetings of any political groups. Arrangements may be made for an Officer to give advice to a Group provided that these include adequate safeguards to preserve the political neutrality of the Officer. Normally, only a Director or Assistant Director shall be expected to attend meetings or write reports for a party political group at the appropriate Director's discretion, other senior employees may on occasions be invited to attend or write reports. However, neither the Director nor any other Officer can be so instructed.

- 8.4 Officers shall only attend such meeting to give reports and give advice on major issues, they should attend for the relevant item, answer questions and leave prior to any decision being taken. This provision covers meetings of or reports to a party political group, or meetings designated for one party only. It is of course open to any Committee or Cabinet to require a report from a Director or Assistant Director on a matter within its terms of reference.
- 8.5 The principle above does not mean that it is not necessary for regular contact on matters affecting the Council between Directors, other Senior Officers, and the leadership of political groups, and between Directors, other Senior Officers, Cabinet Members and party spokespersons.

9. **CONCLUSION**

- 9.1 It is hoped that, by following good practice and securing sensible and practical working relationships between Members and Officers this 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 Wigan. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Officers.